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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–15–0009; NOP–15–01]

National Organic Program: USDA Organic Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of 2015 Sunset Review.

SUMMARY: This document addresses the 2015 Sunset Review submitted to the Secretary of Agriculture (Secretary) through the Agricultural Marketing Service's (AMS) National Organic Program (NOP) by the National Organic Standards Board (NOSB) following the NOSB's May and October 2014 meetings. The 2015 Sunset Review pertains to the NOSB's review of the need for the continued allowance for seven substances on the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List). Consistent with the NOSB's review, this publication provides notice on the renewal of three synthetic and two nonsynthetic substances on the National List, along with any restrictive annotations. For substances that have been renewed on the National List, this document completes the 2015 National List Sunset Process.

DATES: This document is effective June 22, 2015.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of this document should be sent to Jennifer Tucker, Ph.D., Associate Deputy Administrator, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2646–S., Ag Stop 0268, Washington, DC 20250–0268. Telephone: (202) 720–3252, email: *Jennifer.tucker@ams.usda.gov* or by accessing the Web site at *http://www.ams.usda.gov/nop.*

SUPPLEMENTARY INFORMATION: The National Organic Program (NOP) is authorized by the Organic Foods Protection Act (OFPA) of 1990, as amended (7 U.S.C. 6501—6522). The USDA Agricultural Marketing Service (AMS) administers the NOP. Final regulations implementing the NOP, also referred to as the USDA organic regulations, were published December 21, 2000 (65 FR 80548), and became effective on October 21, 2002. Through these regulations, the AMS oversees national standards for the production, handling, and labeling of organically produced agricultural products. Since becoming fully effective, the USDA organic regulations have been frequently amended, mostly for changes to the National List in 7 CFR 205.601–205.606.

This National List identifies the synthetic substances that may be used and the nonsynthetic (natural) substances that may not be used in organic production. The National List also identifies synthetic, nonsynthetic nonagricultural, and nonorganic agricultural substances that may be used in organic handling. The OFPA and the USDA organic regulations, as indicated in § 205.105, specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural substance, and any nonsynthetic nonagricultural substance used in organic handling appear on the National List.

As stipulated by OFPA, recommendations to propose or amend the National List are developed by the 15 member NOSB, organized under the Federal Advisory Committee Act (5 U.S.C. App. 2 *et seq.*) to assist in the evaluation of substances to be used or not used in organic production and handling, and to advise the Secretary on the USDA organic regulations. OFPA also requires a review of all substances included on the National List within 5 years of their addition to or renewal on the list. If a listed substance is not reviewed by NOSB and renewed by USDA within the five year period, its allowance or prohibition on the National List is no longer in effect. The NOSB sunset review includes considering any new information pertaining to a substance's impact on human health and the environment, its necessity, and its compatibility with organic production and handling.

To implement the sunset review requirement, AMS initially published an advanced notice of proposed rulemaking on the National List sunset review process on June 17, 2005 (70 FR 35177). This document described the process used by the NOSB to complete their responsibility to review National List substances within the OFPA required five year period. Since announcing the first sunset review process, the NOSB and the USDA completed five separate sunset reviews in 2007 (72 FR 58469), 2008 (73 FR 59479), 2011 (76 FR 46595), 2012 (77 FR 33290) and in 2013 (78 FR 61154).

AMS published a revised sunset review process in the **Federal Register** on September 16, 2013 (78 FR 56811). This provides public notice on the renewal of National List substances. This renewal occurs after the NOSB review.

At its May and October 2014 meetings, the NOSB considered seven substances that were added to the National List in 2010. AMS has reviewed and accepted the NOSB sunset review and recommendations. Substances in Table 1 having final actions of ''renew'' will continue to be listed on the National List and will be included in the 2020 sunset review.

TABLE 1—OVERVIEW OF FINAL ACTION FOR SUNSET 2015

National list section	Substance listing	Final action
Synthetic substances allowed for use in organic crop production		
§ 205.601(a)(8)	Sodium carbonate peroxyhydrate (CAS #–15630–89–4)—Federal law restricts the use of this substance in food crop production to approved food uses identified on the product label.	Renew.
§ 205.601(e)(2)	Aqueous potassium silicate (CAS #–1312–76–1)—the silica, used in the manufacture of potassium silicate, must be sourced from naturally occurring sand.	Renew.
§ 205.601(i)(1)	Aqueous potassium silicate (CAS #–1312–76–1)—the silica, used in the manufacture of potassium silicate, must be sourced from naturally occurring sand.	Renew.
§ 205.601(j)(9)	Sulfurous acid (CAS # 7782–99–2) for on-farm generation of substance utilizing 99% purity elemental sulfur per paragraph (j)(2) of this section.	Renew.
Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).''		
§ 205.605(a)	Gellan gum—(CAS # 71010–52–1)—high-acyl form only	Renew.
Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic.''		
§ 205.606(w)	Tragacanth gum (CAS #–9000–65–1)	Renew.

Authority: 7 U.S.C. 6501–6522.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–14865 Filed 6–18–15; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 430

[Docket No. FSIS–2014–0033]

RIN 0583–AD53

Control of Listeria monocytogenes in Ready-to-Eat Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Affirmation of the interim final rule with amendments; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is affirming, with changes and a request for comment, the interim final rule ''Control of *Listeria monocytogenes* in Ready-to-Eat Meat and Poultry Products,'' which was published in the **Federal Register** on June 6, 2003. FSIS is making minor changes to the regulatory provisions in response to comments that the Agency received, on the basis of experience in implementing the provisions, and because the way FSIS obtains establishment profile information electronically has changed. FSIS is clarifying in the regulations that establishments may not release into commerce product that has been in contact with *Listeria monocytogenes* (*Lm*)-contaminated surfaces without reprocessing the product. In addition, FSIS is removing the requirement for establishments to report production volume and related information to FSIS because the Agency now routinely collects this information through its Public Health Information System (PHIS).

DATES: Effective September 17, 2015. Comments must be received on or before August 18, 2015.

ADDRESSES: FSIS invites interested persons to submit comments on the changes. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2014–0033. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2001, FSIS proposed (66 FR 12589) to establish several new requirements for the processing of ready-to-eat (RTE) and other meat and poultry products. The Agency proposed food safety performance standards for all RTE and all partially heat-treated meat and poultry products. FSIS also proposed to eliminate its regulations that require both RTE and not-ready-to eat pork and products containing pork to be treated to destroy trichina (*Trichinella spiralis*).

Finally, FSIS proposed environmental testing requirements for establishments to verify whether their processes were addressing *Lm* in RTE meat and poultry products. Specifically, FSIS proposed to require establishments that produce RTE meat and poultry products to test food contact surfaces for *Listeria* species to verify that the establishments are controlling the presence of *Lm* within their processing environments. Under the proposal, establishments that developed and implemented Hazard Analysis and Critical Control Point (HACCP) controls for *Lm* would have been exempt from these testing requirements.

Interim Final Rule

On June 6, 2003, FSIS published the interim final rule ''Control of *Listeria monocytogenes* in Ready-to-Eat Meat and Poultry Products'' (68 FR 34208). In the interim final rule, FSIS amended its regulations only in regard to the control of *Lm* in RTE products. The Agency decided to adopt these regulations before completing action on the other

provisions of the proposed rule because of outbreaks of foodborne listeriosis, and because of recalls of meat and poultry products adulterated by *Lm.* FSIS plans to address the other proposed provisions in future **Federal Register** publications.

The interim final regulations remain in effect. Under these regulations, an establishment that manufactures post-lethality-exposed RTE meat or poultry products must control *Lm* in the processing environment through its HACCP plan or prevent contamination of products by the pathogen through sanitation standard operating procedures (Sanitation SOPs) or other prerequisite program. The regulations (9 CFR 430.4(b)(1)–(3)) identify three alternative means of controlling *Lm: Alternative 1*—use of a post-lethality treatment (*e.g.,* steam pasteurization, hot water pasteurization, radiant heating, high pressure processing (HPP), ultraviolet treatment, infrared treatment, or drying) that reduces or eliminates populations of the organism *and* use of an antimicrobial agent (*e.g.,* potassium lactate or sodium diacetate) or process (*e.g.,* freezing) that suppresses or limits growth of the organism; *Alternative 2*—use of either a post-lethality treatment that reduces or eliminates *Lm* or an antimicrobial agent (Alternative 2a) or process that suppresses or limits growth of the organism (Alternative 2b); *Alternative 3*—use of only sanitation to control the organism. The regulations require an establishment that uses a post-lethality treatment for controlling *Lm* to validate the treatment's effectiveness and incorporate it in its HACCP plan. Under the regulations (9 CFR 430.4(b)(1)-(3)), an establishment that uses an antimicrobial agent (Alternative 2a) or process that suppresses or limits growth of *Lm* (Alternative 2b), or that uses only a sanitation program (Alternative 3) for controlling the pathogen must include food-contact surface testing in its sanitation program.

Under the regulations, an establishment that produces hotdog or deli-meat products considered to be at high risk for *Lm* contamination and that uses only sanitation to control the pathogen must, after two tests of food-contact surfaces that are positive for *Lm* or an indicator organism under the conditions described in the regulation, withhold affected product from commerce until the food-contact surface contamination problem is corrected. The establishment may release the held product only after statistically valid sampling shows the product not to be adulterated with *Lm,* or after the product has been reworked using a process that destroys *Lm* (9 CFR 430.4 (b)(3)(ii)).

The regulations include requirements for proper documentation of an establishment's *Listeria* controls, the verification of those controls, and the availability of the documentation to FSIS personnel. In addition, the regulations require an establishment that produces post-lethality-exposed RTE products to provide FSIS, at least annually, with estimates of annual production volume and related information on the types of products it processes under each of the *Lm* control alternatives (9 CFR 430.4(d)).

FSIS decided to establish the regulatory requirements for preventing *Lm* contamination of RTE meat and poultry products based on two studies on the public health risk posed by the pathogen in RTE food products. The first study, an FSIS-Food and Drug Administration (FDA) risk ranking of RTE food products, placed hotdog and deli-meat products among products that pose the highest risk in terms of listeriosis cases per annum.[1] The second study, a quantitative risk assessment by FSIS of *Lm* in deli meats, identified combinations of in-plant control measures that showed the greatest potential for reducing the public health risks posed by *Lm.*[2] The second study enabled FSIS to determine that the first *Lm* control alternative identified in the interim final rule—post-lethality treatment plus growth limitation or suppression—provided the greatest risk reduction potential, while the third alternative—sanitation only—provided the least.

In the regulations, FSIS advised establishments that it would conduct more testing at establishments if their *Lm* control measures provide less potential risk reduction than other available control measures. Thus, the regulations provide that FSIS will conduct more testing at an establishment that chooses alternative 2 and uses a post-lethality treatment of product than if it had chosen Alternative 1. Similarly, FSIS will conduct more testing at an establishment that chooses alternative 2 and uses an antimicrobial agent or process that suppresses or limits the growth of *Lm* than at an establishment that uses a post-lethality treatment (9 CFR 430.4(b)(2)(iv)). FSIS conducts more testing at an establishment that chooses Alternative 3 than at an establishment that has chosen Alternative 1 or 2 (9 CFR 430.4(b)(3)(iii)).

Finally, the regulations allow establishments that use post-lethality treatments or antimicrobial agents or processes that are effective in destroying *Lm* or in limiting its growth to declare this fact on the labels of their products (9 CFR 430.4(e)). The purpose of the voluntary labeling is to inform consumers about measures that have been taken to ensure the safety of the products and thus to enable the consumers to select such products in preference to others.

On October 6, 2003, the Agency supplemented the interim final rule with the ''FSIS Compliance Guideline: Controlling *Listeria monocytogenes* in Post-lethality Exposed Ready-to-Eat Meat and Poultry Products'' (the Compliance Guideline). The Agency also conducted a series of workshops on the interim final rule at several locations around the country during the pre-implementation period before October 6, 2003, when the interim final rule became effective. On January 10, 2014, FSIS made available an updated version of the Compliance Guideline is available on FSIS's Web site at *http://www.fsis.usda.gov/wps/wcm/connect/d3373299-50e6-47d6-a577-e74a1e549fde/Controlling-Lm-RTE-Guideline.pdf?MOD=AJPERES.*

Based on available data, FSIS is confident that it is successfully carrying out its mission to protect public health by enforcing safeguards designed to control *Lm.* In the 10 years since FSIS issued the interim final rule described above, the percent positive in FSIS testing for *Lm* in RTE products has decreased from 0.76 percent in CY 2003 to 0.34 percent in CY 2013. The Agency considers the RTE regulatory results to be an excellent indicator of the trends in pathogen presence in RTE products over several years. This downward trend shows that the interim final rule has been effective in controlling *Lm* in RTE meat and poultry products. Therefore, FSIS is affirming the interim rule as final with only the minor changes discussed below.

Opportunities To Comment

Because some of the approaches to *Lm* control addressed in the interim final rule were novel, FSIS provided an 18-month comment period (69 FR 70051; December 2, 2004). FSIS also assembled a team of Agency experts to make a

[1] FDA/Center for Food Safety and Applied Nutrition; USDA/FSIS. September 2003. *Quantitative Assessment of the Relative Risk to Public Health from Foodborne Listeria Monocytogenes among Selected Categories of Ready-to-Eat Foods.* Washington, DC. *http://www.fda.gov/downloads/Food/FoodScienceResearch/UCM197329.pdf.*

[2] USDA/FSIS. May 2003. *FSIS Risk Assessment for Listeria monocytogenes in Deli Meats.* Washington, DC. *http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/97-013F/ListeriaReport.pdf.*

preliminary assessment of the interim final rule. FSIS announced in the **Federal Register** (69 FR 70051; December 2, 2004) that the report ''Assessing the Effectiveness of the *Listeria Monocytogenes* Interim Final Rule'' was available in the Agency's Docket Room and on line at *http://www.fsis.usda.gov/wps/wcm/connect/4174b07e-8b39-4617-acdf-adc38a249cd7/LM_Assessment_Report_2004.pdf?MOD=AJPERES.*

In addition, FSIS asked the National Advisory Committee on Meat and Poultry Inspection (NACMPI) to review the interim final rule and the assessment team's report and to make its own recommendations (69 FR 29124). NACMPI made recommendations on the assessment at its June 2–3, 2004, meeting. The Agency responded to the recommendations at the NACMPI meeting held on November 16–17, 2004 (69 FR 64902). NACMPI recommended that the assessment team focus on the differences among small, very small, and large plants and assess the economic impact on very small and large plants. NACMPI also recommended that FSIS conduct focus groups to determine whether consumers are confused by the provisions for labeling statements explaining that product has undergone post-lethality treatments or has been treated with an antimicrobial. Finally, NACMPI recommended that FSIS determine whether the assumptions on product risk made in the FDA/USDA Quantitative Risk Assessment are accurate.

FSIS agreed to consider variables such as product types and the frequency of production, which reflect differences among small, very small, and large plants. The Agency also agreed to review whether the rule has caused firms, particularly small firms, to go out of business. FSIS also continued to assess the effects of the informational labeling statements allowed under the rule. However, FSIS stated that the informational labeling provision should remain in the final version of the *Lm* rule as an encouragement to industry to declare that products have undergone post-lethality treatments or have been treated with anti-microbial agents or processes to destroy *Lm.* FSIS agreed to assess the three alternatives in the rule and evaluate their effectiveness for risk mitigation.

NACMPI's recommendations and FSIS's responses can be viewed at *http://www.fsis.usda.gov/wps/wcm/connect/d8be3905-5f3c-458d-a5e7-f5149457b20e/LM_Assessment_Response.pdf?MOD=AJPERES.*

Finally, FSIS received comments on the impact of the interim final rule on small businesses from the Office of Management and Budget (OMB) in response to OMB's 2004 Draft Report to Congress on the Costs and Benefits of Federal Regulation (69 FR 7987; February 20, 2004). The commenters stated that FSIS underestimated the costs and overestimated the benefits of the interim final rule. The commenters stated that the rule should be rescinded or amended to replace the regulatory requirements for small and very small processors with a pre-HACCP regulatory environment. In response, FSIS stated that the Agency would consider all comments and respond to them in a final rule.

A summary of the comments and FSIS's response is reflected in the March 2005 OMB report ''Regulatory Reform in the U.S. Manufacturing Sector,'' which is available at *http://www.whitehouse.gov/omb/inforeg_regpol_reports_congress.*

In developing this final rule, FSIS considered all comments received in response to the documents described above. Based on information provided by comments, FSIS's experience enforcing the interim final regulations, and analysis of available data, FSIS has decided to affirm the provisions in the interim final rule with two minor changes. The minor changes are explained below and are discussed in more detail in the Agency's responses to comments.

Summary of Amendments to the Interim Final Rule

FSIS is clarifying that product that has tested positive for *Lm* or that has been in contact with an equipment surface that has tested positive for *Lm* is adulterated and may not be released into commerce. FSIS is also making explicit in 9 CFR 430.4(a), however, that the product may be reprocessed using a method that destroys *Lm.*

9 CFR 430.4(a) clearly states that ''RTE product is adulterated if it contains *L. monocytogenes* or if it comes into direct contact with a food contact surface which is contaminated with *L. monocytogenes.*'' However, the wording of paragraphs 9 CFR 430.4(b)(2)(iii)(B), (b)(3)(i)(B), and (b)(3)(ii)(B) and (C) has led some establishments to question whether they may perform further confirmation testing after a finding of *Lm* in RTE product and then release the product into commerce. Therefore, FSIS removed from paragraphs 9 CFR 430.4(b)(2)(iii)(B), (b)(3)(i)(B), and (b)(3)(ii)(B) provisions concerning additional establishment testing in response to *Lm* results. As revised, the regulations will refer only to additional establishment testing in response to positive indicator organism results. In addition in paragraph 9 CFR 430.4(b)(3)(ii)(C), FSIS has removed provisions that may suggest that establishments may ''be able to release into commerce the lots of product that may have become contaminated with *L. monocotogenes*'' because, as is stated in 9 CFR 430.4(a), such product is adulterated and cannot be released into commerce.

FSIS is also removing the requirement that establishments report production volume and related information to FSIS because the Agency now collects this information through PHIS.

In accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553), the Agency finds good cause for making these changes effective September 17, 2015. This rule provides minor conforming amendments to FSIS's regulations and imposes no new or substantive requirements on the public. For these reasons, FSIS has determined that notice and opportunity for public comment on these changes are unnecessary. However, FSIS is providing the public with an opportunity to comment on these minor, conforming changes.

Comments and Responses

FSIS received comments from five trade associations that represent meat and poultry processors, two consumer organizations, an association that represents small businesses, an association that represents manufacturers, an organization that represents scientists, a very small establishment, and an individual consumer on the interim final and on the other opportunities for comment described above. Following are FSIS's responses to the issues that they raised.

Applicability of Rule; Exemption of Certain Products

Comment: Several commenters stated that certain classes of products should be exempt from the rule. For example, these commenters stated that products that are exposed to the environment but that receive a validated, post-packaging lethality, such as products that are cooked, repackaged, and then irradiated, thermally processed, or high-pressure processed in their final package, should be exempt from the requirements in the rule. These commenters stated that the fact that there was product exposure to the post-lethality processing environment during the repackaging operation that followed the initial cook should not subject such a product to the *Lm* control rule. In addition, the

commenters stated that, products that remain at a temperature lethal to *Lm* until the products are filled into the final packaging should be exempt.

Response: An establishment that produces post-lethality exposed RTE products is appropriately required to control *Lm* through HACCP or a sanitation program because an RTE product that is not free of pathogens, including *Lm,* can easily cause illness because it will not be subject to a lethality step before consumption. Therefore, FSIS is not exempting such post-lethality-treated products from the requirements in this rule.

Post-lethality exposed product may be at risk of contamination and thus needs to be subject to the requirements in this rule. However, a product that is not post-lethality exposed (not removed from the container in which it is processed) is not subject to the requirements in this rule.

Regarding HPP of RTE product, in most cases that FSIS is aware of, HPP is applied to an RTE product that was previously subject to a lethality treatment, such as cooking, and then was exposed to the environment before being packaged. Thus, HPP is considered a post-lethality treatment that is subject to the Alternative 1 or Alternative 2 requirements of 9 CFR 430.4.

There may be cases in which a treatment is applied to a post-lethality exposed RTE product in such a manner that the product could no longer be regarded as post-lethality exposed and thus would be exempt from the interim final rule. For example, if HPP is validated to achieve at least a 5-log reduction of *Lm* and other pathogens of concern (*e.g., Escherichia coli* O157:H7 and *Salmonella)* for cooked uncured meat patties or at least a 7-log reduction in cooked chicken strips, the process would be considered to achieve full lethality, and the product would not be considered to be post-lethality exposed (see 9 CFR 318.23).

FSIS has explained in its Compliance Guideline (*http://www.fsis.usda.gov/wps/wcm/connect/d3373299-50e6-47d6-a577-e74a1e549fde/Controlling-Lm-RTE-Guideline.pdf?MOD=AJPERES*) that it considers certain RTE products as not post-lethality exposed; that is, they are not exposed to the environment after the lethality treatment and before packaging. They include fully cooked ''cook-in-bag'' product that is shipped from the establishment in an intact cooking bag, thermally processed commercially sterile products, and products that receive a lethality treatment and are hot-filled at the lethality temperature.

A product that has undergone a lethality treatment and is hot-filled into packaging may be considered to be an RTE product that has not been post-lethality exposed if the temperature lethal to pathogens and the sanitary handling of the product are continuously maintained to the point where the product is packaged. In this situation, the establishment needs to have documentation on file showing that the lethality temperature and sanitary handling are maintained continuously from the point of lethality to the point of packaging.

Comment: A few commenters objected to the assessment team's statement that *Lm* is reasonably likely to occur in the production of RTE meat and poultry products. The commenters argued that the assessment team ignored the value of post-lethality treatments.

Response: In the assessment report, the assessment team was expressing a view that *Lm* is reasonably likely to occur in the absence of controls to eliminate or reduce it. Many in industry, Government, and academe share the view that *Lm* is ubiquitous in the RTE processing environment, and that a prudent establishment would maintain controls in its production process to prevent the contamination of its food products. Establishments use post-lethality treatments because the pathogen is reasonably likely to occur in the product in the absence of the treatment. For this reason, the regulations require that an establishment that uses a post-lethality treatment include the treatment in its HACCP plan or Sanitation SOP or other prerequisite program (9 CFR 430.4(b)(1)(i)).

Comment: A few commenters suggested that the statements in the questions and answers accompanying FSIS Form 10,240–1 should be reflected in the final rule. According to one such statement on the questions and answers accompanying FSIS Form 10,240–1, products intended for further processing and labeled for further processing are not subject to the rule. According to another, products that otherwise would be considered RTE, but that are shipped to another establishment for use in a non-RTE product (*e.g.* frozen entrée), should not be subject to the rule.

Response: FSIS has addressed these issues in the Compliance Guideline. A product that is intended for further processing at another FSIS inspected establishment and that is labeled ''for further processing'' is not considered RTE and, therefore, is not covered by the rule. However, products that are commonly understood to be RTE, such as cooked sausages subject to the standard of identity in 9 CFR 319.180, are commonly understood to be RTE and cannot be labeled for ''further processing'' as a non-RTE product. In addition, a product that otherwise would be considered RTE, but that is shipped to another FSIS inspected establishment for use in a non-RTE product, is not considered RTE and therefore, is not covered by the rule.

It should be noted that FSIS Form 10,240–1 was discontinued on September 30, 2011. As mentioned above, FSIS continues to collect the same information through PHIS.

Comment: One commenter asked FSIS to explain the criteria for determining when antimicrobial processes also act as post-lethality treatments. In particular, the commenter wanted FSIS to explain why products with a water activity (a_w) of less than 0.85 rather than of 0.92 or less will not support *Lm* growth.

Response: FSIS has addressed this issue in the Compliance Guideline. Low water activity limits the amount of water available to pathogens such as *Lm* and will not allow them to grow. An a_w less than or equal to 0.92 will not support the growth of *Lm,* and an a_w of 0.85 or less (the a_w for achieving shelf stability) can sometimes even reduce *Lm* numbers. FSIS will consider an a_w of $\leq$0.85 at the time the product is packed to be a post-lethality treatment and to be an antimicrobial treatment if the establishment provides supporting documentation that *Lm* is reduced by at least 1-log before the product leaves the establishment, and that no more than 2-logs of growth of *Lm* occurs over the shelf life of the product.

Comment: One commenter asked FSIS to clarify for establishments the distinction between RTE and not-RTE products. The commenter stated that documentation for making the determination is not available for a number of products.

Response: In Attachment 1.2 of the Compliance Guideline, FSIS provides a chart that distinguishes three types of products, two not-RTE and one RTE. One type of not-RTE product is a product that contains a meat or poultry product ingredient that has not received a full lethality treatment sufficient to destroy pathogens (*e.g.,* raw products, partially cooked products, or products that are irradiated or HPP-treated and do not achieve at least a 5-log reduction of *Lm* and other pathogens of concern). This type of not-RTE product could also be a product that has received an adequate lethality for *Salmonella* but is not defined by a standard of identity or bear a common or usual name that consumers understand to refer to RTE product. The product also does not meet

the definition of RTE in 9 CFR 430.1 (*e.g.,* not-RTE ham). The other type of not-RTE product is a product that contains a meat or poultry component that has received a full lethality treatment for pathogens and that also contains non-meat or non-poultry components to which the intended user must apply a lethality treatment (*e.g.,* a meal, dinner, or frozen entrée). An RTE product, on the other hand, may be a heat-treated or not-heat-treated shelf-stable product, a fully cooked, not-shelf-stable product (*e.g.,* hotdogs), or a not-shelf-stable product containing secondary inhibitors (*e.g.,* RTE sausage). The chart in the Compliance Guideline lists HACCP process categories for each product type, the applicability of safe handling labeling, and significant matters that the HACCP plan should address for the product and process.

Listeria Control Alternative Requirements

Comment: A few commenters recommended that the determination of which *Lm* control alternative is being used at a given establishment should take into account documented processes applied at the establishment to which its RTE product is shipped. For example, the commenters stated that if an Alternative-3 product is shipped to an establishment where it is subject to an Alternative 2-type of process, then FSIS should consider the product as an Alternative 2 product.

Response: The Compliance Guideline discusses situations in which an establishment implementing one type of *Lm* control to prevent contamination of its post-lethality exposed product ships the product to another establishment that applies the same or another type of *Lm* control. The determination of which *Lm* control Alternative requirements apply to the product would depend on the extent of documentation and documentation-sharing by each establishment, as well as on the product distribution controls actually applied by the establishments. If an Alternative-3 product is shipped to an establishment where it is subject to an Alternative 2-type of process, and this process is properly documented in the first establishment's HACCP system, FSIS would consider the product as an Alternative 2-type of product.

Verification Sampling and Testing

Comment: One commenter agreed with FSIS's recommendation that establishments hold all product tested by establishments until test results are known but urged FSIS to say more about when and how tests should be conducted (*e.g.,* before or during production). The commenter stated that FSIS needs to provide specific details and flow diagrams, with examples. FSIS also should provide a hold-and-test scenario flow chart.

Response: The Compliance Guideline includes recommendations on verification testing, methods to be used, recommended sampling plans, and a hold-and-test scenario flow chart. The Compliance Guideline also includes examples of verification sampling programs for the product classes that are subject to the interim final rule.

Establishments are required to hold or maintain control of RTE products that FSIS has tested for *Lm* and other pathogens, and RTE products that have passed over food-contact surfaces that FSIS has tested for *Lm* and other pathogens. In addition, establishments in Alternative 3 (who only use sanitation controls) are required to hold product after a second consecutive food-contact surface positive for *Lm* or an indicator organism until the establishment corrects the problem indicated by the test result (9 CFR 430.4(b)(3)(ii)(B)).

Establishments in Alternative 3 must sample and test the lots of product using a method that will provide a level of statistical confidence that the product is not adulterated (9 CFR 430.4(b)(3)(ii)(C)). FSIS recommends that establishments use the International Commission on Microbiological Specifications for Foods (ICMSF) Tables. The ICMSF Tables provide examples of statistically-based sampling plans that are commonly used for demonstrating lot acceptance. The ICMSF Tables are included in the Compliance Guideline. FSIS also recommends that establishments collect samples at least three hours after the start of operations, if possible, to allow *Lm* to work its way out to the surface of the equipment. If establishments typically produce RTE product for less than three hours, then the samples can be collected less than three hours after the start of operations.

FSIS recommends that establishments in Alternatives 1 and 2a hold and test product after multiple contact surface positives for an indicator organism. The finding of three consecutive positive food contact surface samples increases the risk that the product is contaminated with *Lm.* If the establishment does not hold and test the product after the third positive, it should provide other support demonstrating that the product is not likely to be contaminated. The establishment should take preventative steps such as: increase its routine sampling for *Lm;* collect intensified samples to find sources of harborage and cross contamination; reassess its Sanitation SOPs to determine whether sanitation issues could be leading to positive results; assess the effectiveness of its post-lethality treatment or antimicrobial agents and processes; or reassess its HACCP plan to determine whether the actions it is taking are effective in controlling *Lm.*

Comment: One commenter stated that FSIS verification sampling should be conducted after the use of *Lm* control techniques (such as Alternative 3 controls) that are more economically feasible than post-lethality treatments and the use of growth inhibitors. The commenter stated that FSIS should conduct risk-based inspection and data collection on risk factors in the establishment and should use sound statistical techniques in environmental sampling. The commenter also stated that intensified verification testing (IVT) is a return to the command-and-control mode of inspection that FSIS should avoid. (An IVT is an FSIS sample collection activity that the Agency may conduct when, in either FSIS or establishment testing, a surface that comes into contact with post-lethality exposed RTE product tests positive for a pathogen of public health concern. IVTs are performed with a ''for cause'' Food Safety Assessment (FSA) to provide an in-depth evaluation of food safety systems at the establishment. The FSA may find the vulnerability or the noncompliance that led to the positive result.)

Response: The regulations in 9 CFR part 430 state that products and the processing environment under Alternative 3 are likely to be subject to more frequent verification testing by FSIS than products and the processing environment under Alternative 1 or 2. In fact, Alternative 3 products are sampled at a higher rate in the FSIS risk-based sampling code RTEPROD_RISK (9 CFR 430.4(b)(2)(iv) and (b)(3)(iii)).

FSIS agrees that inspection should be risk-based. To that end, FSIS has developed risk-based verification sampling that focuses the Agency's testing on those products or environments in a process where a problem is most likely to occur. As of August 1, 2013, FSIS combined its random ALLRTE and risk-based RTE001 product sampling projects into a single project called RTEPROD. The RTEPROD sampling project uses two project codes: RTEPROD_RAND for product samples selected randomly, and RTEPROD_RISK for post-lethality-exposed product samples selected based on risk. Under the RTEPROD_RISK project code,

establishments are identified for sampling based on a risk-ranking algorithm, which takes into account the control alternative, the production volume, the type of product produced, and the establishment's sampling history.

FSIS also uses the Routine *Lm* Risk-based (RLm) sampling project. While RTEPROD involves sampling and testing of the RTE meat and poultry products themselves, the RLm program includes sampling and testing of products, product contact surfaces, and environmental surfaces. Thus, RLm provides a means of identifying establishments that present a higher risk of *Lm* contamination in the food processing environment before product contamination actually occurs.

A routine FSA is conducted at the establishment in conjunction with RLm sampling and testing. Under RLm, samples are scheduled using a FSA prioritization model, which takes into account levels of inspection, control alternative, and type of product produced. Starting in August 2009, RLm sampling was increased so that establishments that produce post-lethality exposed RTE product are sampled at least once every four years under this project.

FSIS also agrees that, to be successful, risk-based verification must be carried out on the basis of solid information. The IVT activity can be a valuable source of information for both the Agency and the inspected establishment when potentially serious problems are found in an establishment's food safety system. The results of an IVT can be used to help the Agency focus its inspection resources where they are most needed and can help the establishment plan improvements in its food safety system. In this regard, the IVT does not constitute a return to a command-and-control system of inspection in which FSIS told the establishment explicitly what it had to do to produce a safe product. Rather, the IVT provides the information on which an establishment may base its own decisions on the most effective control measures to take.

Comment: While conceding that IVT may be appropriate in some circumstances, such as multiple *Lm* positives on product or food-contact surfaces, a few commenters strongly opposed the assessment team's recommendation that an IVT be performed for multiple contact or product positives for *Listeria* spp. or *Listeria*-like organisms. The commenters also urged the Agency not to penalize establishments for trying to actively detect and eliminate potential harborage areas but to verify that appropriate corrective actions have been taken. The commenters also questioned whether the Agency would have the resources necessary to conduct IVT each time an establishment surpasses arbitrary yearly limits, as recommended by the Agency's assessment team.

Response: The FSIS assessment team addressed the actions that the Agency should take with regard to *Lm*-positive results from tests performed on official samples. It should be understood that every inspected establishment is required by regulation to operate under a HACCP plan and to take corrective actions whenever there is a deviation from critical limits for the CCPs identified in the plan. FSIS personnel are trained to take enforcement action only if there has been a violation of the regulations. If an establishment has found a deviation through its normal HACCP monitoring and verification activities and takes some corrective action based on its findings, the Agency has no regulatory grounds for taking enforcement action because of the deviation.

However, if the Agency has verification testing results or other information that an establishment may have shipped adulterated product, an IVT is one of a number of appropriate actions, including an enforcement action, that the Agency may take in the interest of protecting the public health. Repeated findings of *Listeria* spp. or *Lm* on food-contact surfaces or on product may lead to an enforcement action if FSIS determines that the establishment is not properly addressing insanitary conditions.

Comment: One commenter stated that the FSIS sampling program should be modified to provide baseline surveillance information to permit progress to be gauged. The comment said that verification sampling should target the riskiest products, and that there should be a properly designed and conducted annual survey of RTE establishments.

On the results that were available in 2004, when the FSIS assessment team prepared its report, the commenter questioned why FSIS had found no difference among the prevalence levels of *Lm* in randomly sampled RTE foods (3 of 345 or 0.9%) and in RTE foods for which sampling was targeted (11 of 1,349 or 0.8%). (The results are presented in the ''Agency Accomplishments'' section of the assessment team's report.) The commenter recommended the reevaluation of establishment HACCP plans and Sanitation SOPs and other prerequisite programs in the event of an FSIS positive *Lm* sample in a product that supports the growth of the organism. The commenter said that uniform criteria for such reevaluation should be developed.

Response: FSIS's verification sampling and testing program for *Lm* is designed to focus Agency resources on those products and processes that may pose higher risks of adulteration.

Regarding the apparent similarity in *Lm* prevalence among RTE products that were sampled randomly and RTE products that were sampled according to risk, the Agency found that, when both ALLRTE and RTE001 samples were scheduled in one month, often only the RTE001 products were collected. In addition, FSIS found that the highest-risk products produced by the establishment were often collected for the ALLRTE project, rather than products collected at random. FSIS determined that combining the ALLRTE and RTE001 sampling projects into the new RTEPROD project would reduce redundancy in sample scheduling and make the sample selection process more efficient. Under RTEPROD, the sampling project codes specify more clearly whether FSIS personnel should select samples randomly (RTEPROD_RAND) or based on risk (RTEPROD_RISK). In addition, FSIS personnel receive either a RTEPROD_RAND or a RTEPROD_RISK sampling request at most once per month per establishment (see FSIS Directive 10340.4, *Verification Activities for the Listeria monocytogenes Regulations and the Ready-to-Eat (RTE) Sampling Program*). FSIS personnel are not requested to collect both RTEPROD_RAND and RTEPROD_RISK samples in one month to avoid overlap and to increase sampling efficiency.

Regarding the suggestion that establishment HACCP plans and prerequisite programs be reevaluated in the event of an *Lm*-positive product test, such a reevaluation may be necessary depending on the circumstances of the positive test. If an establishment made such a finding in the course of testing that was part of its HACCP verification procedures, the establishment would follow the corrective actions procedures in its HACCP plan. If the establishment determined that a change affecting the validity of the hazard analysis had occurred, the establishment would reassess its HACCP plan. On the other hand, an *Lm*-positive test on an official FSIS RTE product sample might indicate that the establishment's HACCP system had failed to prevent the production of adulterated food. In that case, under the HACCP regulations, FSIS would have grounds for finding the establishment's HACCP system to be

inadequate. In addition, if the establishment failed to take appropriate corrective action, as required by 9 CFR 417.3, FSIS would have further grounds for finding the establishment's HACCP system to be inadequate.

In the Compliance Guideline, FSIS has listed and explained the elements of adequate validation for post-lethality treatments and growth-suppressing or limiting formulations or processes.

Comment: One commenter noted that the rule did not have a uniform recordkeeping requirement for the results of environmental sampling. Sanitation SOP records are required to be kept for only six months, HACCP records from one to two years. The commenter requested that FSIS explain that an effective environmental sampling program must provide for long-term trend analysis.

Response: Records that are generated under the *Lm* control regulations may be Sanitation SOP records, HACCP records, or other prerequisite program documentation and records. As the commenter points out, retention requirements apply to Sanitation SOP records and HACCP records. Prerequisite program documentation and records of activities conducted under the *Lm* control regulations affect hazard analysis decisions and are required to be maintained for at least two years under 9 CFR 417.5 because they are documents used to inform decisions in the establishment's hazard analysis.

FSIS agrees that it is important that an establishment analyze trends in product, food-contact surface, and environmental test results. In the Compliance Guideline, FSIS advises establishments to keep monitoring records, including test results, for use in evaluating their Sanitation SOPs. The monitoring records should be designed to show trends in the development of insanitary conditions. Establishments should review at least the previous month's testing results to determine whether a trend is emerging, or whether it is necessary to revise their sampling plans. Persistent problems may indicate the pathogen's presence in niches in the processing environment. FSIS also advises establishments to adjust their testing frequencies on the basis of data that they have collected over time. FSIS is not, however, proposing to change its record retention requirements because the Agency believes that the requirements are adequate.

Comment: One commenter stated that while the interim final rule required establishments to verify the effectiveness of their *Listeria* control program through testing, they have no obligation to conduct such testing at any particular frequency, even if they produce high-risk products such as deli meats and hot dogs. The commenter argued that, without mandatory minimum testing frequencies, establishments simply cannot be assured that their controls are working effectively every day to control *Listeria.*

Response: After reviewing comments on the 2001 proposed rule (66 FR 12589) and the results of the FDA/FSIS risk ranking and the FSIS risk assessment, FSIS concluded that a mandatory testing frequency was not well-founded. The FDA/FSIS risk ranking and FSIS risk assessment showed that post-lethality interventions and formulation of RTE meat and poultry products with growth inhibitors was much more effective in preventing listeriosis than testing product or food contact surfaces. Therefore, FSIS is not making changes to the regulations to require a minimum testing frequency for establishments.

Nevertheless, the Agency regards establishment verification testing of the processing environment and especially of food-contact surfaces to be important in monitoring the sanitary conditions under which post-lethality exposed RTE products are processed. Establishments that produce RTE products and that rely on sanitation procedures alone to control *Lm* (Alternative 3) should carry out effective verification procedures, including food-contact surface testing, to ensure that their controls are effective, and that the products are not contaminated. Such is the Agency's regard for the value of food-contact surface testing that the Agency has incorporated food-contact surface testing into its RLm sampling program that it is carrying out in RTE establishments.

Comment: One commenter stated that, even though the rule required establishments to make their own testing results available to FSIS inspection personnel upon request, nothing in the interim final rule imposed on establishments an affirmative obligation to disclose test results, particularly positive results, to FSIS *at the time the results are obtained.* The commenter argued that, without immediate access to these data when a problem is first identified, inspection personnel may be unaware that there is a sanitation problem at a facility, that interventions are not working properly, or that those problems may be persistent and uncorrected.

Response: As the comment acknowledges, when FSIS personnel request testing records, the establishment is required to make them available (9 CFR 430.4(e)) so that FSIS personnel can complete the required verifications. From the verification results FSIS can know whether there is a sanitation problem at the establishment, whether antimicrobial interventions are working properly, whether a corrective action was appropriately taken to address a non-recurring problem, or whether there is mounting evidence of a persistent problem that must be corrected.

Changing the regulations to require immediate notification of FSIS when a positive test is obtained would not affect what either the establishment or FSIS is required to do with respect to product safety in response to the positive test result. Therefore, FSIS is not proposing to change the regulations in this respect.

Compliance Guidance

Comment: A few commenters stated that the Agency should periodically update the Compliance Guideline. Also, commenters stated that the Agency should make available to the industry guidance on acceptable procedures for evaluating the effectiveness of new post-lethality treatments and antimicrobial agents or processes.

Response: FSIS has updated the Compliance Guideline four times since the interim final rule published. The first update in October 2004 responded to comments and questions that FSIS received about the rule and addressed questions that participants asked during the workshops that the Agency held in preparation for the implementation of the interim final rule. The second update in May 2006 included new information on FSIS's risk-based sampling algorithm and acceptable procedures for evaluating the effectiveness of new post-lethality treatments and antimicrobial agents or processes. The third update in September 2012 provided updated technical information on the control alternatives and on how establishments could take corrective actions in response to positive results and new information on developing a listeria control program. The fourth update in January 2014 responded to comments and questions that FSIS received in response to the previous version. FSIS will continue to update the Compliance Guideline as necessary.

Labeling; Consumer Education

Comment: One commenter stated that the labeling claims about treatments that eliminate, suppress, or limit the growth of *Lm* could be misleading. The commenter argued that allowing companies to provide information about

technologies, without also including safe handling instructions, may create further potential to mislead consumers, including susceptible groups, into a false sense of safety and lead to improper handling.

Response: Safe handling instructions are required if the meat or poultry component of a product is raw or partially cooked (*i.e.,* not considered RTE), and if the product is destined for household consumers or institutional users (9 CFR 317.2(1) or 381.125(b)). All food products, including shelf-stable RTE products, must be handled with appropriate care to prevent product adulteration. Findings of a survey conducted by the International Food Information Council (IFIC), which is described in more detail in the response to the next comment, do indicate that label statements about processing for improved product safety may cause some consumers to feel safe about eating product after a ''use-by'' date. This could be a concern if the ''use-by'' date were a safety-based date.

FSIS believes, nevertheless, that the processed-for-safety statements can be made if they are adequately supported. Also, as the Agency's own assessment team has recommended, the Agency should give industry flexibility to develop labeling statements that are truthful and not misleading. FSIS will review and approve labels that bear such statements before they are used, as it approves all labels that make special claims. The Agency also will ensure that its food safety education materials for consumers include information about the labels and about *Lm.*

Comment: IFIC submitted the results of a study that it conducted in collaboration with FSIS. In the study, IFIC tested several different informational statements to determine the impact such labeling has on consumer perceptions of food safety. The IFIC survey found that, while food-safety information can assist consumers in the purchase, preparation, and handling of foods, the food-safety labeling messages that were tested may not achieve this goal. None of the statements tested performed better than control product labeling. Only a very small segment of the population of consumers in the study felt that enhanced food safety was an important reason to purchase a product. Most statements did not enhance consumer perceptions of food safety, although the statements were likely to make consumers feel safe eating product after the ''use by'' date. Also, the results appeared to indicate that use of labels with certain food safety information may actually drive some consumers away from the product category.

Response: FSIS understands the challenge of providing consumers with useful and important food safety information on product labels. That is why the Agency is not requiring labeling statements about *Lm* controls but only permitting and encouraging their use.

Retail

Comment: A few commenters stated that FSIS should conduct research to determine the magnitude of retail-level contamination. A few commenters agreed with the assessment team finding that efforts to control *Lm* contamination at retail are warranted. The commenters stated that, in addition to training, there must be measurement, monitoring, and enforcement of best practices at retail. The commenters agreed with the assessment team's finding that regulatory strategies aimed at FSIS-inspected establishments may not be effective in reducing retail-level contamination. Another commenter strongly agreed with the assessment team's recommendation to educate and train retail and food service personnel but noted that this matter is usually outside USDA/FSIS jurisdiction.

One commenter stated that additional training for retail staff is appropriate for reducing *Lm* contamination of RTE products at that level. The commenter also recommended the use of antimicrobial agents in products sold at retail. The commenter recommended that FSIS investigate the practicality of freezing or other practices during transport of RTE products. In addition, the commenter stated that the FSIS *Lm* control strategy should focus on preventing cross-contamination at the deli counter.

Response: State and local governments have chief responsibility for the administration of inspections and regulation of retail facilities on a regular basis. Although FSIS does not inspect retail establishments, it may visit them to ensure that the meat, poultry, and egg products that they sell remain safe for human consumption and are not adulterated or misbranded.

FSIS provides information, materials, and assistance to help State and local agencies to achieve food safety goals and conducts outreach programs that are aimed at retail and food service personnel. FSIS also participates with FDA in the development of the *Food Code* model ordinance. The *Food Code* sets forth model standards that State and local public health authorities may adopt in their own regulatory programs for the retail sector.

To help minimize the public health burden of listeriosis, FSIS and the FDA conducted an interagency risk assessment to better understand the risk of foodborne illness associated with eating certain RTE foods prepared in retail delis and developed recommendations for changes in current practices that may improve the safety of those products. In 2013, FSIS and FDA made their findings available to the public in the ''Interagency Risk Assessment—Listeria monocytogenes in Retail Delicatessens'' (Interagency Retail Lm Risk Assessment), which is available on FSIS's Web site at *http://www.fsis.usda.gov/wps/portal/fsis/topics/science/risk-assessments*.

The agencies conducted the risk assessment to better understand how retail practices (*e.g.,* temperature control, sanitation, worker behavior) influence the risk of listeriosis associated with eating meat, cheeses, and salads sliced or prepared in retail delicatessens. The risk assessment also examines how effective various interventions are in limiting the survival, growth, or cross contamination of *Lm.*

The risk assessment is based on observations of deli employees' work routines; concentrations of Lm on incoming products and in the deli environment; studies on the ability of Lm to spread in retail delis, such as from a slicer to food; and an existing dose-response model. The study was designed to apply to a range of deli establishments, from small independent operations to the deli departments in large supermarkets.

FSIS agrees that care should be taken in storage, handling, and distribution of RTE meat and poultry products, and that strict temperature controls are important in preventing the outgrowth of any *Lm* that may be present in products. Using the key findings of the Interagency Retail *Lm* Risk Assessment along with available scientific knowledge, the FDA Food Code, and lessons learned from controlling *Lm* in FSIS-inspected meat and poultry processing establishments, FSIS developed the ''FSIS Best Practices Guidance for Controlling *Listeria monocytogenes* (*Lm*) in Retail Delicatessens,'' which provides practical recommendations that retailers can use to control *Lm* contamination and outgrowth in the deli. The best-practices guidance is available at *http://www.fsis.usda.gov/wps/wcm/connect/29d51258-0651-469b-99b8-e986baee8a54/Controlling-LM-Delicatessens.pdf?MOD=AJPERES*. FSIS encourages retailers to use the best-practices guidance to help ensure that

RTE meat and poultry products in the deli area are handled under sanitary conditions and are not adulterated.

Risk Assessment

Comment: One commenter noted that the draft of the second risk assessment, initiated in early 2001, was not completed until February 2003—two years after publication of the proposed rule, which addressed control of *Lm.* The commenter stated that the Agency limited the new assessment to deli meats only (ignoring hot dogs and other high-risk meat and poultry products) and did not include sampling of non-food contact surfaces in the risk model. The commenter also stated that the risk assessment excluded consideration of whether the risk would be reduced if, in addition to other steps, final product testing was required. The final version of FSIS's risk assessment,[3] released in May 2003, found that the minimal testing frequency in the proposed *Listeria* rule would result in a small reduction in *Listeria* levels, and that a combination of interventions (sanitation and testing of food-contact surfaces, lethality interventions, and growth inhibitors) appeared to be more effective than any single intervention.

Response: The focus of the risk assessment was narrowed on the basis of available data. The available data on hotdogs was not sufficient to be included in a plant-to-table risk assessment. Moreover, deli meat was believed to be the vehicle in most listeriosis cases. From the 2003 FDA–FSIS Quantitative Assessment of the Risk of Listeriosis due to Selected Food Categories (FDA, 2003), the median number of cases of listeriosis per annum from deli meats was estimated to be 1598.7. For frankfurters (reheated and not reheated combined) the number of cases was estimated to be less than 31. For pâté and meat spreads, the estimated number of illnesses was less than 4, and for dry/semi-dry fermented sausages, the estimated number of illness was less than 0.1. Clearly, this document pointed to deli meats as the high-risk food category in 2003.

While FSIS is aware of the limitations of its model, the Agency has concluded that the model is adequate to inform decision-making based on the specific risk management questions posed by FSIS risk managers. A more detailed model would require additional data. The Agency noted in the final version of the risk assessment that the data available in the published literature on *Listeria* in the processing plant environment are limited. In addition to data limitations, the limited time available and the intended use of the model dictated other restrictions on the scope of the assessment. While the risk model addressed only food-contact surfaces as the source of contamination by *Lm,* the Agency's risk assessors acknowledged that *Lm* contamination could arise from inadequate lethality treatment or from cross-contamination from non-food contact surfaces. The risk assessment also made simplifying technical assumptions, such as those regarding a generic food-contact surface, the distribution of *Listeria* on the surface, and the assumption of a generic product lot.

The comment that the model excluded the effect of product testing, however, is not accurate. The in-plant model incorporated, in addition to food-contact surface testing, product testing and pre- and post-packaging interventions and the effect of growth inhibitors (or product reformulation). The risk assessment describes the role of product testing in the model and discusses the probability of detecting *Lm* in product samples and the contribution of information from such testing to the development of risk reduction measures.

FSIS is affirming the 2003 risk assessment without updates or changes.

Economic Impact; Effect on Small Establishments; Regulatory Reform

Comment: One commenter disagreed with the assessment team's finding that the interim final rule was not disproportionately affecting small establishments because the number of noncompliance records (NRs) that FSIS issued related to this rule to very small plants was twice that for large plants. Similarly, the commenter stated that FSIS issued more NRs to small plants than large. Another commenter stated that the assessment team's finding that FSIS issued most NRs to very small establishments evidences the need for a much stronger effort at compliance assistance to the small processor.

A few comments that were submitted in response to OMB's February 2004 solicitation of nominations for regulatory reform (69 FR 7987) argued that the Agency greatly underestimated the costs and overestimated the benefits of the interim final rule.

One commenter that responded to the OMB request asserted that the economic analysis of the interim final rule understated the costs to small businesses, particularly to small and very small processing plants, and overstated the benefits of the rule. The commenter noted that FSIS estimated the annual cost of the rule to the industry in the range of $16.6 million, and that benefits were in the range of $44 million to $154 million. However, the commenter estimated that the actual costs were closer to $115 million per year. The commenter charged that for each of the ''10,000 plants'' (sic) that are subject to the rule, the true costs are closer to $11,500 per year and over $1.15 billion over ten years. According to the commenter, the costs reflect the purchase of new equipment, reconfiguration of plant facilities, accumulated interest of $50,000 per plant, and estimated annual costs of $6,500 for testing to ensure compliance and for consultants. The grand total then would be $115,000 per plant.

The commenter asserted that the rule puts American firms at a competitive disadvantage with foreign firms, and that the burden of the rule is so great that some small and very small plants may cease operations.

The commenter did not present an alternative benefit estimate in dollar terms but asserted that FSIS based its estimates on data that the Centers for Disease Control and Prevention (CDC) gathered through 1997, while CDC data for 1996 to 2000 show a 38 percent decrease in incidence of, and mortality from, *Lm.* Also the commenter asserted on the basis of the Q&A provided with the 2003 FDA/FSIS joint risk assessment that FSIS used for the interim final rule that it is likely that the annual total cases were less than 1,500, with 300 deaths.

Another commenter recommended that FSIS review the compliance costs of the rule and increase the calculation of those costs to a more reasonable figure.

Response: The commenters misstated the regulatory impact analysis of the interim final rule on key points. For example, rather than 10,000 plants, as one commenter stated, the rule was estimated to affect 2,930 total Federal establishments. In actual fact, the rule affected 2,473 Federal establishments in 2006 and 2,307 Federal establishments in 2013. Thus, the comment, on that basis alone, increased the arguable costs of the rule.

The comment stated that the costs of new equipment, plant reconfiguration, testing, and outside expert technical

[3] FSIS, FSIS Risk Assessment for *Listeria Monocytogenes* in Deli Meats (May 2003) available at *http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/97-013F/ListeriaReport.pdf.* A final version of the Joint FDA/FSIS risk assessment was released in September 2003. It included a number of revisions to and refinements of the draft assessment, but still classified both deli meats and unheated frankfurters as ''Very High Risk.'' See FSIS/FDA, Quantitative Assessment of the Relative Risk to Public Health from Foodborne *Listeria Monocytogenes* Among Selected Categories of Ready-to-Eat Foods (Sept. 2003) available at *http://www.fda.gov/downloads/Food/FoodScienceResearch/UCM197330.pdf.*

assistance are a substantial burden on small plants that the Agency ignored in its analysis. However, the interim final rule did not require these plants to upgrade their operations. For this reason, such costs are not a direct effect of the rule. The regulatory impact analysis estimated that the vast majority of very small plants, such as the one submitting the comment, would use Alternative-3 type controls (sanitation only) to control *Lm* instead of changing from Alternative 3 to Alternative 2 or 1. Costs for Alternative 3 are minimal because it only requires an establishment to control *Lm* through its sanitation program. An establishment would not need to purchase new equipment for post-lethality treatment or apply antimicrobial agents. Comparing FSIS PHIS data of calendar year (CY) 2013 and the baseline in the 2003 interim final rule, the Agency found that about 77 percent of the small and very small establishments that used alternative 3 still use alternative 3.[4] The percentage increases from the baseline to CY 2013 for small and very small establishments using Alternative 2b, Alternative 2a, and Alternative 1 are 17 percent, 1 percent and 1.5 percent, respectively. Therefore, the costs the small and very small establishments would incur would mostly be those attributable to initial and on-going compliance with the sanitation program requirements of the rule.

As to the benefit estimates in the economic analysis of the interim final rule, these were based on the potential risk reductions to be achieved through the adoption by industry of the *Listeria* control alternatives set out in 9 CFR 430.4. While the comment stated that the CDC data for 1996 to 2000 show a 38 percent decrease in incidence of, and mortality from, *Lm,* the comment did not take into account an ''up spike'' in listeriosis illness that occurred in 2002–2003 before the rule went into effect. Thus, when the rule was promulgated, there were a significantly higher number of illnesses to be averted than the comment considered. Finally, the benefit estimates in the interim final rule were based on the differences in the number of illnesses in the risk assessment model results under different scenarios. The risk assessment model estimated the number of illnesses using FSIS simulation models that assess how the in-plant contamination level transfers to the retail contamination level and then assessed the number of illnesses based on the dose-response relationship from the FDA/FSIS exposure retail-to-table model where all models were calibrated for deli meat.[5]

For these reasons, FSIS is affirming the basic conclusions reached by the Final Regulatory Impact Analysis that was submitted in support of the interim final rule.

Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 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 ''non-significant'' regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

FSIS is affirming the basic conclusions reached by the Final Regulatory Impact Analysis that was submitted in support of the interim final rule. The two changes do not affect the basic conclusions reached by the Final Regulatory Impact Analysis that was submitted with the interim final rule. FSIS is making two changes in this document, making clear in the regulation that products that have been in contact with a Lm contaminated surface would be adulterated if not reprocessed (9 CFR 430.4(a)) and removing the requirement for establishments to report production volume and related information to FSIS because the Agency now routinely collects this information through PHIS (9 CFR 430.4(d)). Neither change will cause establishments to change their practices to comply with the regulation. Therefore, there is no need to conduct a cost or benefit analysis to affirm the interim final rule.

Regulatory Flexibility Act Assessment

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–602), the rule will not have a significant economic impact on a substantial number of small entities in the United States.

Paperwork Reduction Act

There are no paperwork or recordkeeping requirements associated with this rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 12988

This rule has been reviewed under the Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 13175

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

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the Food Safety and Inspection Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

USDA Nondiscrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/

[4] Note that the composition, and the relative statistics of the RTE establishments subject to this rule changed somewhat between 2003 and 2013, So the comparisons are approximate, not exact.

[5] For details of these models, see footnote 3.

parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

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.

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

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects in 9 CFR Part 430

Food labeling, Meat inspection, Poultry and poultry products inspection.

For the reasons set forth in the preamble, FSIS is adopting as final the interim final rule that amended Title 9, Chapter III, of the Code of Federal Regulations and that was published at 68 FR 34208 on June 6, 2003, with the following amendments:

PART 430—REQUIREMENTS FOR SPECIFIC CLASSES OF PRODUCT

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 7 U.S.C. 450; 7 U.S.C. 1901–1906; 21 U.S.C. 451–470, 601–695; 7 CFR 2.18, 2.53.

■ 2. Amend § 430.4 by:
■ a. Revising paragraph (a).
■ b. Revising paragraph (b)(2)(iii)(B).
■ c. Revising paragraph (b)(3)(i)(B).
■ d. Revising paragraphs (b)(3)(ii)(B) and (C).
■ e. Removing and reserving paragraph (d).

The revisions read as follows:

§ 430.4 Control of Listeria monocytogenes in post-lethality exposed ready-to-eat products.

(a) *Listeria monocytogenes* can contaminate RTE products that are exposed to the environment after they have undergone a lethality treatment. *L. monocytogenes* is a hazard that an establishment producing post-lethality exposed RTE products must control through its HACCP plan or prevent in the processing environment through a Sanitation SOP or other prerequisite program. RTE product is adulterated if it contains *L. monocytogenes,* or if it comes into direct contact with a food contact surface that is contaminated with *L. monocytogenes.* Establishments must not release into commerce product that contains *L. monocytogenes* or that has been in contact with a food contact surface contaminated with *L. monocytogenes* without first reworking the product using a process that is destructive of *L. monocytogenes.*

(b) * * *

(2) * * *

(iii) * * *

(B) Identify the conditions under which the establishment will implement hold-and-test procedures following a positive test of a food-contact surface for an indicator organism;

* * * * *

(3) * * *

(i) * * *

(B) Identify the conditions under which the establishment will implement hold-and-test procedures following a positive test of a food-contact surface for an indicator organism;

* * * * *

(ii) * * *

(B) During this follow-up testing, if the establishment obtains a second positive test for an indicator organism, the establishment must hold lots of product that may have become contaminated by contact with the food contact surface until the establishment corrects the problem indicated by the test result.

(C) In order to release into commerce product held under this section, the establishment must sample and test the lots for *L. monocytogenes* or an indicator organism using a sampling method and frequency that will provide a level of statistical confidence that ensures that each lot is not adulterated with *L. monocytogenes.* The establishment must document the results of this testing. Alternatively, the establishment may rework the held product using a process that is destructive of *L. monocytogenes* or the indicator organism.

* * * * *

Done, at Washington, DC: May 29, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–13507 Filed 6–18–15; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1238

[No. 2015–N–04]

Orders: Reporting by Regulated Entities of Stress Testing Results as of September 30, 2014

AGENCY: Federal Housing Finance Agency.

ACTION: Orders.

SUMMARY: In this document, the Federal Housing Finance Agency (FHFA) provides notice that it issued Orders dated June 10, 2015, with respect to reporting under section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

DATES: Effective June 19, 2015. Each Order is applicable beginning June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Naa Awaa Tagoe, Senior Associate Director, Office of Financial Analysis, Modeling and Simulations, (202) 649–3140, *naaawaa.tagoe@fhfa.gov;* Stefan Szilagyi, Examination Manager, FHLBank Modeling, FHLBank Risk Modeling Branch, (202) 649–3515, *Stefan.szilagy@fhfa.gov;* or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054 (these are not toll-free numbers),

mark.laponsky@fhfa.gov. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is responsible for ensuring that the regulated entities operate in a safe and sound manner, including the maintenance of adequate capital and internal controls; that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets; and that they carry out their public policy missions through authorized activities. *See* 12 U.S.C. 4513. This Order is being issued under 12 U.S.C. 4514(a), which authorizes the Director of FHFA to require by Order that the regulated entities submit regular or special reports to FHFA and establishes remedies and procedures for failing to make reports required by Order. The Order directs the Banks to use a revised public disclosure template for publicly disclosing the severely adverse stress testing scenario results as of September 30, 2014. The revised template replaces the template initially issued on November 14, 2014 and will enhance the transparency of each Bank's public disclosure.

II. Orders

For the convenience of the affected parties, the text of the Order, without the accompanying Summary Instructions and Guidance and appendices, follows below in its entirety. You may access this Order with all of the accompanying material from FHFA's Web site at: *http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Issues-Scenarios-and-Guidance-to-FannieMae,-Freddie-Mac-and-the-Federal-Home-Loan-Banks-Regarding-Annual-Dodd-Frank-St.aspx.* The Order, new public disclosure template (Attachment 1), and Summary Instructions and Guidance will be available for public inspection and copying at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh St. SW., Washington, DC 20024. To make an appointment, call (202) 649–3804.

The text of the Order is as follows:

Federal Housing Finance Agency

Order No. 2015–OR–B–1

Supplemental Order on Reporting by Regulated Entities of Stress Testing Results as of September 30, 2014

Whereas, pursuant to the Federal Housing Finance Agency's (FHFA) regulation implementing section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act requiring each regulated entity to conduct stress tests to determine whether it has the capital necessary to absorb losses resulting from adverse economic conditions and report the results ''in the manner and form established by FHFA,'' 12 CFR 1238.5(b); and

Whereas, FHFA's rule implementing section 165(i)(2) of the Dodd-Frank Act is codified as 12 CFR part 1238 and requires that ''[e]ach regulated entity must file a report in the manner and form established by FHFA,'' 12 CFR 1238.5(b); and

Whereas, FHFA's regulation requires that each regulated entity ''disclose publicly a summary of the stress test results for the severely adverse scenario,'' 12 CFR 1238.7; and

Whereas, on November 14, 2014, FHFA issued to each regulated entity scenarios for stress testing as of September 30, 2014, and on December 1, 2014, issued Orders to each regulated entity together with Summary Instructions and Guidance with prescribed templates for completing, reporting, and disclosing the stress test results; and

Whereas, each Federal Home Loan Bank timely filed its report of stress test results on or before April 30, 2015, as required by 12 CFR 1238.5; and

Whereas, after analyzing the results of each Federal Home Loan Bank's stress testing and the methodologies and practices used therein, FHFA has determined that the original template designed for public disclosure of the summary of each Bank's severely adverse scenario results that accompanied the Orders of December 1, 2014, should be revised; and

Whereas, section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act, as amended, 12 U.S.C. 4514(a), authorizes the Director of FHFA to require regulated entities, by general or specific order, to submit such reports on their management, activities, and operations as the Director considers appropriate.

Now therefore, it is hereby Ordered as follows:

Each Federal Home Loan Bank shall publicly disclose and report, as required by 12 CFR part 1238, a summary of the severely adverse scenario results of its stress testing using the template provided herewith as the attachment entitled ''FHLBank Dodd-Frank Stress Test Template—SEVERLY ADVERSE (Disclosure to the Public).''

It is so ordered, this 10th day of June 2015.

This Order is effective immediately.

Signed at Washington, DC, this 10th day of June, 2015.

Melvin L. Watt,
Director, Federal Housing Finance Agency.

Dated: June 10, 2015.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

BILLING CODE 8070–01–P

FHLBank Dodd-Frank Stress Test Template - SEVERELY ADVERSE (Disclosure to the Public)

		Cumulative Projected Financial Metrics (Q4 2014 - Q4 2016)
1	Net interest income + other non-interest income, net	
2	(Provision) benefit for credit losses on mortgage loans	
3	OTTI credit losses	
4	Mark-to-market gains (losses)	
5	Global market shock impact on trading securities	
6	Counterparty default losses	
7	AHP assessments	
8	Net income (loss)	
9	Other comprehensive income (loss)	
10	Total comprehensive income (loss)	
11	Total capital (GAAP) - starting	
12	Total capital (GAAP) - ending	
13	Regulatory capital ratio - starting	
14	Regulatory capital ratio - ending	

[FR Doc. 2015–15194 Filed 6–18–15; 8:45 am]
BILLING CODE 8070–01–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0266; Directorate Identifier 2015–NE–03–AD; Amendment 39–18185; AD 2015–12–10]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Division Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Pratt & Whitney Division (PW) PW6122A and PW6124A turbofan engines. This AD requires initial and repetitive borescope inspections (BSIs) of the high-pressure compressor (HPC) 7th stage integrally bladed (IB) rotor aft integral arm for cracks until replacement of the HPC 7th stage IB rotor using non-silver-plated nuts. This AD was prompted by reports of crack finds in the HPC 7th stage IB rotor. We are issuing this AD to prevent HPC 7th stage IB rotor fractures, which could lead to uncontained engine failure and damage to the airplane.

DATES: This AD is effective July 6, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 6, 2015.

We must receive comments on this AD by August 3, 2015.

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

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

For service information identified in this AD, contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; phone: 860–565–8770; fax: 860–565–4503. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0266.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0266; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We received reports of cracks in the PW6122A and the PW6124A HPC 7th stage IB rotor aft integral arm. The root cause is the presence of silver-plated nuts reacting with hot titanium in a high sulfur/high chlorine environment. This AD requires initial and repetitive BSIs of the HPC 7th stage IB rotor. This AD also requires, as terminating action, replacement of the HPC 7th stage IB rotor and HPC 7th stage IB rotor silver-plated nuts with non-silver-plated nuts. This condition, if not corrected, could result in HPC 7th stage IB rotor fractures. We are issuing this AD to prevent HPC 7th stage IB rotor fractures, which could lead to uncontained engine failure and damage to the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed PW Engineering Authorization (EA) No. 15MM008, Revision A, dated March 24, 2015. We also reviewed PW Service Bulletin (SB) No. PW6ENG 72–46, dated March 5, 2015. The EA describes procedures for BSIs of the HPC 7th stage IB rotor aft integral arm for cracks using the split-case method. The SB describes removal and replacement of the HPC 7th stage IB rotor, removal of the HPC 7th stage IB rotor silver-plated nuts, and the installation of non-silver plated nuts. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

FAA's Determination

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

AD Requirements

This AD requires initial and repetitive BSIs of the HPC 7th stage IB rotor. This AD also requires as terminating action to replace the HPC 7th stage IB rotor and HPC 7th stage IB rotor silver-plated nuts with non-silver-plated nuts.

FAA's Justification and Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0266; Directorate Identifier 2015–NE–03–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

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

estimate the total cost of this AD to U.S. operators to be $0.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–12–10 Pratt & Whitney Division: Amendment 39–18185; Docket No. FAA–2015–0266; Directorate Identifier 2015–NE–03–AD.

(a) Effective Date

This AD is effective July 6, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Pratt & Whitney Division (PW) PW6122A and PW6124A turbofan engines with high-pressure compressor (HPC) 7th stage integrally bladed (IB) rotor, part number (P/N) 5495637, installed.

(d) Unsafe Condition

This AD was prompted by reports of crack finds in the HPC 7th stage IB rotor. We are issuing this AD to prevent HPC 7th stage IB rotor fractures, which could lead to uncontained engine failure and damage to the airplane.

(e) Compliance

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

(1) Within 180 cycles after the effective date of this AD or within 6,500 cycles accumulated on the HPC 7th stage IB rotor, whichever occurs later, borescope inspect the HPC 7th stage IB rotor for cracks. Use Appendix 1, paragraphs 5 and 6 of PW Engineering Authorization 15MM008, Revision A, dated March 24, 2015, to do your inspection. Thereafter, repeat the inspection at every 1,000 cycles since last inspection.

(2) If any crack is detected on the HPC 7th stage IB rotor, then before further flight, replace the HPC 7th stage IB rotor with a part eligible for installation.

(f) Mandatory Terminating Action

(1) At the next shop visit after the effective date of this AD:

(i) Replace the affected HPC 7th stage IB rotor, P/N 5495637, with a new, zero-time, HPC 7th stage IB rotor, P/N 5495637, and

(ii) Remove the HPC 7th stage IB rotor silver-plated nuts, P/N 4301682, and replace with non-silver-plated nuts. Use the Accomplishment Instructions of PW Service Bulletin No. PW6ENG 72–46, dated March 5, 2015 to perform the removal and replacement.

(g) Definition

For the purposes of this AD an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges. The separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance, is not an engine shop visit.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(i) Related Information

For more information about this AD, contact Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) Pratt & Whitney Division (PW) Engineering Authorization No. 15MM008, Revision A, dated March 24, 2015.

(ii) PW Service Bulletin No. PW6ENG 72–46, dated March 5, 2015.

(3) For PW service information identified in this AD, contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; phone: 860–565–8770; fax: 860–565–4503.

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

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

Issued in Burlington, Massachusetts, on June 9, 2015.

Ann C. Mollica,

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

[FR Doc. 2015–14992 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0492; Directorate Identifier 2013–NM–134–AD; Amendment 39–18187; AD 2015–12–12]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This AD was prompted by a report of two cases of heavy (hard to move) aileron control caused by aileron cables stuck in a clump of ice in the wheel bay. This AD requires installing drain tubes on the center wing rear spar. We are issuing this AD to prevent accumulated water near or on the aileron control cables, which could freeze and result in reduced control of the airplane.

DATES: This AD becomes effective July 24, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 24, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0492;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88–6280–350; fax: +31 (0)88–6280–111; email: *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0492.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1137; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. The NPRM published in the **Federal Register** on August 4, 2014 (79 FR 45137). The NPRM was prompted by a report of two cases of heavy (hard to move) aileron control caused by aileron cables stuck in a clump of ice in the wheel bay. The NPRM proposed to require installing drain tubes on the center wing rear spar. We are issuing this AD to prevent accumulated water near or on the aileron control cables, which could freeze and result in reduced control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2013–0140, dated July 12, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. The MCAI states:

> Two cases have been reported of heavy aileron control caused by aileron cables stuck in a clump of ice in the wheel bay. Investigation results revealed that, in case of water accumulation on the top of the center wing torsion box inside the cabin (zones 171 and 172), the water drains through the existing drain holes/gaps in the web plates on top of the center wing rear spar. The water could then accumulate in the area where the aileron control cables are situated. With the freezing temperatures normally encountered during flight, ice accretion could occur near or even on the aileron control cables.
>
> This condition, if not corrected, could result in reduced control of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires the installation of drain tubes on the center wing rear spar.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0492-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 45137, August 4, 2014) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 45137, August 4, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 45137, August 4, 2014).

Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–51–021, dated April 23, 2013, including the following attachments:

- Fokker Parts List Local SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013.
- Fokker Parts List Supply SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013.
- Fokker Parts List Local SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.
- Fokker Parts List Supply SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.
- Fokker Manual Change Notification MCNM F100–160, dated April 23, 2013.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD affects 4 airplanes of U.S. registry.

We also estimate that it will take about 8 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $1,380 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $8,240, or $2,060 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will

not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0492;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–12–12 Fokker Services B.V.: Amendment 39–18187. Docket No. FAA–2014–0492; Directorate Identifier 2013–NM–134–AD.

(a) Effective Date

This AD becomes effective July 24, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 51, Standard Practices/Structures.

(e) Reason

This AD was prompted by a report of two cases of heavy (difficult to move) aileron control caused by aileron cables stuck in a clump of ice in the wheel bay. We are issuing this AD to prevent accumulated water near or on the aileron control cables, which could freeze and result in reduced control of the airplane.

(f) Compliance

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

(g) Modification

Within 36 months after the effective date of this AD, install water drain tubes on the center wing rear spar, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–51–021, dated April 23, 2013, including the attachments identified in paragraphs (g)(1) through (g)(5) of this AD.

(1) Fokker Parts List Local SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013.

(2) Fokker Parts List Supply SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013.

(3) Fokker Parts List Local SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.

(4) Fokker Parts List Supply SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.

(5) Fokker Manual Change Notification MCNM F100–160, dated April 23, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1137; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker Services B.V.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2013–0140, dated July 12, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0492-0002.*

(j) Material Incorporated by Reference

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

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

(i) Fokker Service Bulletin SBF100–51–021, dated April 23, 2013, including the attachments identified in paragraphs (j)(2)(i)(A) through (j)(2)(i)(E) of this AD.

(A) Fokker Parts List Local SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013.

(B) Fokker Parts List Supply SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013.

(C) Fokker Parts List Local SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.

(D) Fokker Parts List Supply SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.

(E) Fokker Manual Change Notification MCNM F100–160, dated April 23, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88–6280–350; fax: +31 (0)88–6280–111; email: *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.*

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

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

Issued in Renton, Washington, on June 10, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–14994 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 140429382–4382–01]

RIN 0694–AG16

Addition of Certain Persons to the Entity List

Correction

In rule document 2014–17196, beginning on page 42452 in the issue of Tuesday, July 22, 2014, make the following correction:

Supplement No. 4 to Part 744—Entity List [Corrected]

On page 42458, in Supplement No. 4 to Part 744, in the table, beginning with the row in which the entry in the first column reads ''UKRAINE'', the table should appear as follows:

UKRAINE	*	*	*	*	*	*
	Donetsk People's Republic, Donetsk Region, Ukraine	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7/22/14.
	*	*	*	*	*	*
	Feodosiya Enterprise, a.k.a., the following four aliases: Feodosia Oil Products Supply Co.; *and* —Feodosiya Enterprise on Providing Oil Products; *and* —Feodosiyske Company for the Oil; *and* —Theodosiya Oil Terminal. Feodosiya, Geologicheskaya str. 2, Crimea 98107, Ukraine; *and* Feodosia, Str. Geological 2, Crimea 98107, Ukraine (See alternate addresses under Crimea (Occupied)).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7/22/14.
	*	*	*	*	*	*
	Luhansk People's Republic, a.k.a., the following two aliases: —Lugansk People's Republic —People's Republic of Luhansk. Luhansk Region, Ukraine.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7/22/14.
	*	*	*	*	*	*
*	*	*	*	*	*	*

[FR Doc. C1–2014–17196 Filed 6–18–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 300

[Docket No. 140724618–5506–02]

RIN 0648–BE41

Pacific Halibut Fisheries; Revisions to Charter Halibut Fisheries Management in Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations that revise Federal regulations regarding sport fishing guide services for Pacific halibut in International Pacific Halibut Commission Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). The regulations remove the requirement that a guided sport (charter) vessel guide be on board the same vessel as a charter vessel angler to meet the definition of providing sport fishing guide services. This final rule clarifies that all sport fishing for halibut in which anglers receive assistance from a

compensated guide would be managed under charter fishery regulations, and all harvest (except halibut harvested under the Guided Angler Fish Program) would accrue toward charter allocations. This final rule aligns Federal regulations with State of Alaska regulations. This final rule makes additional minor changes to the regulatory text pertaining to the charter halibut fishery to maintain consistency in the regulations with these new definitions. This action is necessary to achieve the halibut fishery management goals of the North Pacific Fishery Management Council.

DATES: Effective July 20, 2015.

ADDRESSES: Electronic copies of the Categorical Exclusion and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* A Final Regulatory Flexibility Analysis (FRFA) was prepared and is included in the Classification section of this final rule.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the above address and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Julie Scheurer, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS published a proposed rule for this action in the **Federal Register** on December 3, 2014 (79 FR 71729), and public comments were accepted through January 2, 2015.

Authority for Action

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC adopts regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). For the United States, regulations developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. After acceptance by the Secretary of State and the Secretary of Commerce, NMFS publishes the IPHC regulations in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. The final rule implementing IPHC regulations for the 2015 fishing season published on March 17, 2015 (80 FR 13771). IPHC regulations affecting sport fishing for halibut and vessels in the charter fishery in Areas 2C and 3A may be found in sections 3, 25, and 28 of that final rule.

The Halibut Act, at sections 773c(a) and (b), provides the Secretary of Commerce with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary of Commerce is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating, currently the Department of Homeland Security.

The Halibut Act, at section 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary of Commerce. The Council has exercised this authority in the development of subsistence halibut fishery management measures, and sport halibut fishery management measures in Convention waters off Alaska, codified at 50 CFR 300.61, 300.65, 300.66, and 300.67. The Council also developed the Individual Fishing Quota Program for the commercial halibut fishery, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act.

Background

This final rule aligns Federal regulations for charter halibut fishing with State of Alaska regulations for sport fishing to clarify the Council's and NMFS' intent for management of charter halibut fisheries in Areas 2C and 3A in Convention waters off Alaska. The regulatory clarifications also will facilitate enforcement and clarify recordkeeping and reporting requirements for the charter halibut fishery. This final rule does not revise regulations for unguided sport halibut fishing in Alaska found in sections 3, 25, and 28 of the IPHC annual management measures; however, the 2015 IPHC annual management measures for charter halibut fishing were modified to maintain consistency with this final rule. A general description of the halibut fisheries in Alaska was provided in the proposed rule for this action (79 FR 71729, December 3, 2014) and is briefly summarized here.

Description of Halibut Fisheries

Sport fishing activities for Pacific halibut in Areas 2C and 3A are subject to different regulations, depending on whether those activities are guided or unguided. Guided sport fishing for halibut is subject to charter restrictions under Federal regulations. These regulations apply if a charter vessel guide is providing assistance for compensation, or sport fishing guide services, to an angler during a fishing trip. Unguided anglers typically use their own vessels and equipment, or they may rent a vessel and fish with no assistance from a guide.

The charter halibut fisheries in Areas 2C and 3A are managed under the Charter Halibut Limited Access Program (CHLAP) and the Catch Sharing Plan (CSP). The CHLAP limits the number of operators in the charter fishery, while the CSP establishes annual allocations to the charter and commercial fisheries and describes a process for determining annual management measures to limit charter harvest to the allocations in each management area. The proposed rule and Section 1.3 of the RIR/IRFA prepared for this action provide additional detail on the charter halibut management programs that have been implemented in Areas 2C and 3A.

The CHLAP established Federal charter halibut permits (CHPs) for operators in the charter halibut fishery in Areas 2C and 3A. Since 2011, all vessel operators in Areas 2C and 3A with charter anglers on board must have an original, valid permit on board during every charter vessel fishing trip on which Pacific halibut are caught and retained. CHPs are endorsed for the appropriate regulatory area and the number of anglers that may catch and retain halibut on a charter vessel fishing trip. Complete regulations for the CHLAP are published at §§ 300.65, 300.66, and 300.67.

The CSP established sector allocations that vary proportionally with changing levels of annual halibut abundance and that balance the differing needs of the charter and commercial halibut fisheries over a wide range of halibut abundance in each area. The CSP describes a public process by which the Council develops recommendations to the IPHC for charter angler harvest restrictions that are intended to limit harvest to the annual charter halibut fishery catch

limit in each area. The CSP also authorizes limited annual leases of commercial individual fishing quota for use in the charter fishery as guided angler fish (GAF). GAF authorizes individual charter operators in Area 2C and Area 3A to offer anglers the opportunity to retain additional halibut when charter vessel anglers are subject to a more restrictive daily harvest limit than unguided sport anglers in the same area. Complete regulations for the CSP are published at §§ 300.65 and 300.66. Additional detail on the development and rationale for the CSP can be found in the final rule implementing the program (78 FR 75844, December 12, 2013).

Each year, based on recommendations from the Council, the IPHC annually adopts charter halibut management measures designed to keep charter harvest in Area 2C and Area 3A to the catch limits specified under the CSP. Once accepted by the Secretary of State with the concurrence of the Secretary of Commerce, NMFS publishes in the **Federal Register** the charter halibut management measures for each area as part of the IPHC annual management measures. The 2015 IPHC annual management measures were published on March 17, 2015 (80 FR 13771).

The Alaska Department of Fish and Game (ADF&G) monitors and estimates charter halibut harvests using the Saltwater Charter Logbook (hereafter, logbook). The logbook is the primary reporting requirement for operators in the charter fisheries for all species harvested in saltwater in Areas 2C and 3A. Logbook data are compiled to show where fishing occurs, the extent of participation, and the species and the numbers of fish caught and retained by individual charter anglers. This information is essential to estimate harvest for regulation and management of the charter halibut fisheries in Areas 2C and 3A. ADF&G collects logbook information from charter vessel guides on halibut harvested by charter vessel anglers to accommodate the information requirements for implementing and enforcing Federal charter halibut fishing regulations, such as daily bag limits and the CHLAP.

Purpose of This Final Rule

This final rule is primarily intended to clarify that (1) compensated assistance to an angler to catch halibut during a fishing trip will be managed under Federal charter fishery regulations, whether or not the person providing that compensated assistance is on board the vessel with the angler, and (2) halibut harvested by an angler receiving compensated assistance will accrue toward charter allocations. These clarifications are necessary to apply Federal charter fishing regulations to a small number of businesses that offer services in which guides provide assistance to halibut anglers for compensation, from adjacent vessels or shore. Under previous Federal regulations, a person providing assistance to an angler during a fishing trip, and who was not on board the vessel with the angler, was not providing sport fishing guide services. As a result, an operator was not required to have a CHP on board the vessel, as required by the CHLAP regulations at § 300.67, if the compensated assistance provided to an angler during a fishing trip was by a person who was not on board the vessel with the angler. In addition, an angler receiving assistance during the fishing trip from a guide that was not on board the vessel with the angler was not subject to regulations that limit a guided angler to more restrictive daily bag and size limits that are intended to limit charter harvest to allocations specified by the Council's CSP for Area 2C and Area 3A.

In recommending the revisions to Federal regulations implemented by this final rule, the Council specified that providing compensated assistance to an angler from an adjacent vessel or from the shore is a *de facto* form of charter fishing and should be managed under charter fishing regulations. A guide who is not on the same vessel with an angler and who provides assistance for compensation to an angler will be included in the definition of sport fishing guide services under this final rule. The Council was concerned that guide-assisted sport fishing services might increase if no action was taken to define these fishing activities as charter fishing.

This final rule also implements regulations recommended by the Council clarifying that halibut harvests by an angler receiving compensated assistance from a person not on board the vessel with the angler (except GAF, which is an alternative use of commercial halibut individual fishing quota) should accrue to the charter sector allocation under the CSP. This final rule clarifies logbook reporting requirements and will improve harvest estimates by aligning the Federal and State definitions of sport fishing guide services so that halibut harvested by an angler who receives compensated assistance are required to be recorded in the logbook, whether the person providing the assistance is physically present on board the vessel or not. Aligning State and Federal definitions of sport fishing guide services will provide the public with clear and consistent management between management agencies.

Regulations Implemented by This Final Rule

This final rule aligns Federal regulatory text regarding sport fishing guide services for Pacific halibut with State regulations in a manner that is consistent with the Council's intent for management of charter halibut fisheries. The revisions will enhance enforcement of sport fishing regulations by an authorized officer by clearly defining when a person is providing sport fishing guide services. This regulatory clarity will also aid anglers and operators providing sport fishing guide services to comply with regulations for the charter halibut fisheries.

This final rule implements clear and consistent regulations that apply to all businesses providing, and all anglers receiving, sport fishing guide services. This final rule will improve the accuracy of the data collected on sport fishing harvest. Specifically, this final rule requires anglers receiving sport fishing guide services, whether or not a charter vessel guide is on board, to comply with the restrictions in place for charter vessel anglers. This final rule requires businesses that provide sport fishing guide services for halibut from separate vessels to obtain CHPs for the vessels on which the anglers are fishing and comply with the restrictions in place for the charter halibut fishery. This final rule does not increase the number of CHPs issued under the CHLAP.

As described in the proposed rule and in Section 1.2 of the RIR/IRFA, this final rule is intended only to address fishing activities for the charter halibut sector, not businesses that provide equipment for unguided (or self-guided) sport fishing. The proposed rule provided a detailed description of the proposed regulatory changes and a brief summary is provided in the following sections. This final rule implements three categories of regulatory changes: (1) Revisions to definitions at § 300.61; (2) revisions to CHLAP and CSP regulations; and (3) other regulatory revisions. The last section describes changes made to the 2015 IPHC annual management measures to aid the implementation of this rule.

Revisions to Definitions at § 300.61

Most critically, this final rule revises the definition of ''sport fishing guide services,'' and adds definitions for ''compensation'' and ''charter vessel'' at § 300.61. This final rule also makes technical revisions to the definitions of

''charter vessel angler,'' ''charter vessel fishing trip,'' ''charter vessel guide,'' and ''charter vessel operator'' at § 300.61 for added clarity and consistency among definitions. These changes are described in detail in Section 2.7 of the RIR/IRFA and in the proposed rule for this action.

The revision to the definition of ''sport fishing guide services'' removes the requirement that a charter vessel guide be on board the same vessel as the charter vessel angler. This final rule also revises the definition to clarify that services provided by a crew member working directly under the supervision of, and on the same vessel as, a charter vessel guide are not sport fishing guide services for purposes of CHLAP and CSP regulations. This revision clarifies the Council's and NMFS' intent that crew member services will continue to be excluded from the definition of sport fishing guide services for purposes of CHLAP and CSP regulations, to clearly identify that the charter vessel guide, and not a crew member, is the person responsible for complying with the regulations.

The definition of sport fishing guide services in this final rule includes the phrase ''accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip.'' This phrase is consistent with the State definition for sport fishing guide services. The Federal definition of charter vessel fishing trip at § 300.61 specifies that a charter vessel fishing trip begins when fishing gear is first deployed into the water and ends when one or more charter vessel anglers or any halibut are offloaded from that vessel. The proposed rule and Section 1.3.6 of the RIR/IRFA provides additional detail on this revision to the definition of sport fishing guide services.

This final rule adds a definition for ''compensation'' to § 300.61 that matches the State's definition (5 AAC 75.995(b)). The Council and NMFS intend for sport fishing for halibut to be considered charter fishing for halibut only if a person providing assistance to a sport angler is receiving compensation. This final rule defines compensation as, ''direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source . . . 'benefits' includes wages or other employment benefits given directly or indirectly to an individual or organization, and any dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides sport fishing guide services; and does not include reimbursement for the actual daily expenses for fuel, food, or bait.'' This definition of compensation also means that payments made by a third party, and non-monetary exchanges of goods and services for taking someone halibut fishing, may also be considered compensation, as well as payments or non-monetary exchanges from a person aboard the charter vessel. The Federal definition does not consider reimbursement for ''actual'' daily expenses (*e.g.,* bait, fuel, food) to be compensation as explained in the proposed rule and Section 1.3.6.2 of the RIR/IRFA.

This final rule adds a definition for ''charter vessel'' to Federal regulations at § 300.61. A charter vessel is defined as ''a vessel used while providing or receiving sport fishing guide services for halibut.'' Under this definition, a charter vessel guide will not be required to be on board the same vessel as the charter vessel angler to be providing sport fishing guide services. If an angler receives sport fishing guide services during a charter vessel fishing trip (*i.e.,* the time between when gear is deployed and when one or more charter anglers or any harvested halibut are offloaded), even if it is from an adjacent or nearby vessel, that angler would be considered to be fishing from a charter vessel.

Under State of Alaska regulations (5 AAC 75.075), charter vessels are required to be registered with the State and are issued identification decals and logbooks. Under this final rule, all charter vessels, including those that will not have charter vessel guides on board, will need to register with the State, display the charter vessel decal while operating as a charter vessel, and have the logbook on board during all charter vessel fishing trips. Each charter vessel from which an angler may catch and retain halibut will also need to have an original CHP on board during charter vessel fishing trips.

Revisions to CHLAP and CSP Regulations

The primary responsibility for compliance with charter halibut fishery CHLAP and CSP regulations will continue to be with the charter vessel guide. However, some Federal regulations governing the charter halibut fishery put the burden of compliance on the charter vessel operator. Under this final rule, if no charter vessel guide is on board the vessel with the charter anglers, the charter vessel operator could also be a charter vessel angler. To facilitate compliance in these instances, this final rule implements regulations at § 300.66(s) and (v) to hold the charter vessel operator and the charter vessel guide jointly or severally responsible for compliance with the requirement to have a valid CHP and a logbook on board the charter vessel with the charter vessel anglers if no charter vessel guide is on board the vessel with the charter anglers. If the charter vessel guide is on a separate vessel, or on the shore, the charter vessel operator will be the person on board the charter vessel with the angler (hereafter, ''angler vessel'') that could be held jointly responsible with the charter vessel guide to ensure that a valid CHP and the logbook are on the angler vessel. An authorized officer will evaluate the specific circumstances of a fishing trip to determine whether to hold the charter vessel operator and the charter vessel guide jointly or severally responsible for compliance with the requirement to have a valid CHP and a logbook on board the vessel.

Charter vessel guides will remain responsible for complying with the CHLAP and CSP reporting requirements at § 300.65(d), and the person whose business was assigned a logbook will remain responsible for ensuring that the charter vessel guide complies with those requirements. This final rule also implements regulations at § 300.65(d) to require that the logbook remain on the charter vessel with the anglers during the charter vessel fishing trip, even if the guide is on a separate vessel or on shore.

When halibut are retained by charter vessel anglers, the charter vessel guide will remain responsible under regulations at § 300.65(d) for completing the remainder of the logbook data fields by the end of the calendar day, or by the end of the charter vessel fishing trip, whichever comes first. The charter vessel guide is also responsible for ensuring that charter vessel anglers who retained halibut sign the logbook.

Under this final rule, charter vessel guides will remain responsible for complying with the provisions of the GAF program at § 300.65. A GAF permit authorizes a charter vessel angler to retain GAF, and GAF permits are assigned to a single CHP. This final rule implements regulations at § 300.65(c)(5)(iii)(A)(*5*), to require the guide maintain control of a legible copy of the GAF permit to enable an authorized officer to verify that any GAF retained on the charter vessel were authorized by a valid GAF permit. As described above, regulations at § 300.65(d) require that the CHP and logbook remain on the same charter vessel as the charter vessel anglers.

Regulations at § 300.65(c)(5)(iv)(G) require that upon retention of a GAF halibut, the guide must immediately

remove the upper and lower tips of the tail fin lobes to mark and identify that fish as a GAF halibut. This final rule adds a requirement that the guide must be physically present when the GAF is harvested to mark the fish. NMFS anticipates that charter vessel anglers without a guide on board will need to summon the guide (*e.g.,* by cell phone or radio) to be in proximity of the charter vessel before any GAF are harvested. Regulations at § 300.65(d)(4)(iii)(A)(*1*) require the charter vessel guide to immediately measure and record the total length of the GAF halibut in the GAF permit log on the back of the GAF permit. This final rule does not change this requirement, but adds a reference at § 300.65(d)(4)(iii)(A)(*1*) to an additional requirement at § 300.65(d)(4)(iii)(A)(*5*) that the charter vessel guide must immediately record in the logbook the GAF permit number under which the GAF was caught and retained, and the number of GAF retained by the charter vessel angler who caught and retained GAF, if GAF are retained on a charter vessel without a guide on board. The term ''immediately,'' for enforcement purposes, means that the stated activity (*e.g.,* marking the fish or recording the GAF in the logbook) must occur before the guide or angler moves on to another activity or resume fishing. For example, if a charter vessel angler harvests a GAF, the guide will need to mark and record it before the angler could continue fishing, or transit to another location. If the guide cannot be physically present at the time the GAF is caught, the charter vessel angler will not be authorized to retain that fish.

Regulations at § 300.65(d)(4)(iii)(B) through (E) require a charter vessel guide to electronically report GAF harvests at the end of a charter vessel fishing trip in which GAF is retained. This rule does not revise these regulations and the charter vessel guide will continue to be responsible for electronically reporting GAF harvests.

Regulations at § 300.65(c)(5)(iv)(G) require that if GAF halibut are filleted on board a charter vessel, the carcasses of those GAF halibut must be retained until the end of the charter vessel fishing trip to enable an authorized officer to verify the recorded lengths. This final rule revises CSP regulations at § 300.65(c)(5)(iv)(G) to specify that if any GAF are harvested and filleted on board the charter vessel, those carcasses will also need to be retained on the charter vessel on which the GAF halibut were harvested until the end of the charter vessel fishing trip. In other words, if GAF halibut were harvested on a charter vessel without a guide on board, it will need to stay on the vessel with the angler who harvested it until the end of the fishing trip; it may not be transferred to the vessel that the guide is on for filleting, storage, or otherwise. Similarly, the 2015 IPHC annual management measures at section 28(2)(d) and 28(3)(d) require that the carcasses of size-restricted halibut harvested in the charter fishery in Areas 2C and 3A be retained, if those size-restricted halibut are filleted on board the charter vessel. This final rule adds the same carcass retention requirement to Federal regulations at § 300.65(d)(5) and, once implemented, could be removed from the IPHC annual management measures in future years.

Other Regulatory Changes

Charter vessel guides, operators, and crew are prohibited from harvesting halibut in Areas 2C and 3A during charter vessel fishing trips under regulations at § 300.65(d)(3). Under this final rule, the charter vessel operator could potentially be a charter vessel angler who is operating a vessel without a charter vessel guide onboard (*e.g.,* the charter vessel guide is on a separate vessel). The Council and NMFS do not intend to prohibit charter vessel anglers who are operating charter vessels without a charter vessel guide onboard from harvesting halibut. Therefore, this final rule revises § 300.65(d)(3) to specify that ''a charter vessel guide, charter vessel operator, or crew member may not catch and retain halibut during a charter vessel fishing trip in Commission regulatory area 2C or 3A, except that charter vessel operators who are charter vessel anglers may catch and retain halibut during a charter vessel fishing trip if the charter vessel guide is on a separate charter vessel.''

This final rule makes minor additional changes to regulations at §§ 300.61, 300.65, 300.66, and 300.67 to maintain existing regulatory responsibilities applicable to specific persons and ensure consistency in the charter halibut regulations to meet the intent of this final rule. These changes and the rationale for them are outlined in detail in the proposed rule and in Section 2.7 of the RIR/IRFA for this action and are briefly summarized here.

On January 1, 2015, several Alaska Statutes (A.S. 16.40.260 through 16.40.299) pertaining to sport fishing business and guide licensing and reporting through ADF&G expired. For 2015, there is no ADF&G guide license, fee, or insurance requirement; however, guides are still required to register with ADF&G and to hold an Alaska business license. State of Alaska vessel registration and logbook requirements still apply in 2015. This final rule implements revisions to Federal regulations at § 300.65(d)(4)(ii)(B)(*1*) and (d)(4)(ii)(D)(*4*), the definition of ''charter vessel guide'' at § 300.61, and § 300.67(a)(1) to refer to ADF&G sport fishing guide ''licenses or registrations.'' NMFS is retaining the word ''licenses'' in regulations because draft legislation has been submitted to the Alaska State Legislature to reinstate the sport fishing business and guide licensing statutes for future years.

Regulations at § 300.66(h) prohibit subsistence fishing for halibut while commercial fishing or sport fishing. The regulation was intended to prohibit only subsistence fishing for halibut and commercial or sport fishing for halibut from the same vessel on the same day. This final rule revises the prohibition at § 300.66(h) to clarify that it only prohibits subsistence fishing for halibut while commercial or sport fishing for halibut.

IPHC Annual Management Measures

The proposed rule (79 FR 71729, December 3, 2014) and Section 2.7 of the RIR/IRFA (see **ADDRESSES**) for this action described several changes to the IPHC Annual Management Measures that NMFS recommended for consistency among regulations, to improve compliance, and to facilitate enforcement. The IPHC convened in January 2015 and approved NMFS' recommendations. The 2015 IPHC Annual Management Measures were published on March 17, 2015 (80 FR 13771) and reflect the following changes for consistency with this final rule:

(1) Minor technical revisions to management measures at sections 3(1)(c), 28(2)(c), and 28(3)(e) to maintain consistency with revisions to the Federal definition of ''charter vessel'' and with State of Alaska sport fishing regulations.

(2) Revised section 25(7) to clarify that the charter vessel guide shall be held liable for any violations of annual management measures committed by an angler on a charter vessel, whether the guide is on board the vessel with the angler or on a separate vessel.

(3) Added management measures to section 28(1) to require that all halibut retained by a charter vessel angler remain on the vessel on which they were caught until the end of the charter vessel fishing trip. This revision will facilitate enforcement of daily bag and possession limits by prohibiting anglers on a charter vessel without a guide on board from transferring their harvested halibut to the guide's vessel for processing.

Changes From the Proposed Rule

Four minor changes were made to paragraphs (c)(5)(iii)(A)(*5*) and (c)(5)(iv)(A) of § 300.65 for consistency in wording. These paragraphs describe on which vessel the GAF permit and CHP must be held, depending on whether or not a guide is onboard. In the proposed rule, the language referring to the GAF permit was inconsistent. In one instance it referred to ''a legible copy of a GAF permit,'' in another it referred to simply ''the GAF permit,'' and in paragraph (c)(5)(iv)(A) it referred to a ''valid GAF permit.'' This language has been standardized for consistency in all instances to read ''a legible copy of a valid GAF permit.''

Comments and Responses

The proposed rule for this action was published on December 3, 2014 (79 FR 71729), and public comments on it were accepted until January 2, 2015. NMFS received 8 comment submissions containing 10 unique comments. No comment resulted in a change to the regulatory text from the proposed rule. NMFS summarized and responded to the comments as follows:

Comment 1: The commenter disagrees with the proposed regulations at § 300.66(s) and (v) to hold the charter vessel operator and the charter vessel guide jointly or severally responsible for ensuring that a valid CHP and a logbook are on board the charter vessel with the charter vessel anglers if no charter vessel guide is on board the vessel with the charter anglers. The commenter recommends that, similar to charter halibut operations in which the guide is on board the charter vessel, only the charter vessel guide is responsible for ensuring that the CHP and logbook are on the charter vessel. Considering that enforcement staff would still need to find the charter vessel guide in the case of a violation if he or she is jointly responsible, making the charter vessel angler responsible seems both infeasible and unnecessary.

Response: In the proposed rule for this action, NMFS discussed the rationale for holding the guide, the operator, or both parties responsible for compliance with certain regulations when charter fishing without a guide onboard. In most instances the primary responsibility for compliance with charter halibut fishery regulations is with the charter vessel guide. However, the Federal regulations at § 300.66(s) and (v) put the burden of compliance on the charter vessel operator to have a valid CHP and logbook on board the vessel with the anglers.

The CHP and logbook are critical enforcement tools used by an authorized officer to verify when anglers are on a charter vessel fishing trip and subject to CHLAP, CSP, and other restrictions applicable to charter vessel anglers. If the charter vessel guide is on a separate charter vessel or on the shore, or is not in the vicinity of the charter vessel with anglers aboard (*i.e.,* ''angler vessel''), an authorized officer must be able to identify a person on board the angler vessel that is responsible for ensuring that a valid CHP and the logbook are on the vessel to authorize that charter vessel fishing trip. If the charter vessel guide is on a separate vessel, or on the shore, the charter vessel operator should be the person on board the angler vessel that could be held jointly responsible with the charter vessel guide to ensure that a valid CHP and the logbook are on the angler vessel. NMFS notes that enforcement of this provision will depend on the circumstances of a fishing trip. Authorized officers will evaluate the specific circumstances to determine whether to hold the charter vessel operator and the charter vessel guide jointly or severally responsible for compliance with the requirement to have a valid CHP and a logbook on board the vessel.

Charter vessel guides will remain responsible for complying with the CHLAP and CSP reporting requirements at § 300.65(d), and the person whose business was assigned a logbook remains responsible for ensuring that the charter vessel guide complies with those requirements. Before a charter vessel fishing trip begins, the charter vessel guide is required to record in the logbook the first and last names and license numbers of each charter vessel angler who will fish for halibut (exceptions apply for youth, senior, and disabled charter vessel anglers); ensure that the cover of the logbook lists the person named on the CHP(s) and the CHP number(s) being used during that charter vessel fishing trip; and ensure the name and State-issued vessel registration (AK number) or U.S. Coast Guard documentation number of the charter vessel is listed. This final rule implements regulations at § 300.65(d) to require that the logbook remain on the charter vessel with the anglers during the charter vessel fishing trip, even if the guide is on a separate vessel or on shore. With this change, an authorized officer will be able to verify that all anglers are licensed and listed in the logbook, and that the angler endorsement on the CHP has not been exceeded.

NMFS notes that the regulations at § 300.66(s) and (v) are consistent with the IPHC annual management measure at section 25(7) which states, ''The operator of a charter vessel shall be liable for any violations of these Regulations committed by an angler on board said vessel. In Alaska, the charter vessel guide, as defined in § 300.61 and referred to in §§ 300.65, 300.66, and 300.67, shall be liable for any violation of these Regulations committed by an angler on board a charter vessel.''

Comment 2: NMFS proposed to define sport fishing guide services as ''accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip.'' The term ''physically directing'' is not defined and may be difficult to interpret by both charter guides and NOAA Office of Law Enforcement staff. For example, it is unclear whether providing a chart or GPS coordinates identifying specific fishing locations or contacting a guide or lodge owner for instructions via cell phone or UHF radio would be considered ''physically directing.''

Response: Section 1.3.6 of the RIR/IRFA describes that the Council and NMFS contemplated identifying a list of activities that would qualify as ''physically directing'' under this action. The Council concluded, and NMFS agrees, that defining assistance as ''accompanying or physically directing the sport fisherman in sport fishing activities'' eliminates the need to list all potential activities that could be considered as providing assistance to an angler. This is consistent with the State of Alaska's definition that does not specifically define ''physically directing'' as it is used in the definition for ''sport fishing guide service'' (5 AAC 75.995(a)(42)). One goal of this final rule is to align State and Federal regulations for consistency and improved compliance.

The commenter notes that it is unclear whether providing a chart or GPS coordinates or contacting a guide or lodge owner for instructions via cell phone or UHF radio would be considered ''physically directing.'' While ''physically directing'' could imply that the guide must be in proximity to the angler, certain technologies, such as cellular video calls, could allow a person to physically direct an angler to fish without being in proximity to the angler. Therefore, the nature of the activity will be evaluated as needed to determine if it is ''physically directing.'' We describe this in greater detail in the following paragraphs. The definition of sport fishing guide services implemented by this final rule applies only to assistance

provided during any part of a charter vessel fishing trip.

A charter vessel fishing trip is defined as ''the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel.'' Assistance, under the definition of sport fishing guide services implemented by this final rule, will therefore be restricted to activities that occur after gear has been deployed. Assistance provided before gear is deployed would not be considered sport fishing guide services.

NMFS notes that determination of assistance for purposes of Federal regulations likely would depend on a combination of factors that, taken together, would indicate that a charter vessel guide was compensated for assisting an angler in a manner intended to result in the taking of halibut. Providing a description, or even a map or GPS coordinates of a fishing location, before a charter vessel fishing trip begins, would not in itself be considered as providing sport fishing guide services because it was not assistance during a charter vessel fishing trip. According to a recent decision in *United States* v. *Dutton,* assistance includes, but is not limited to the following activities: anchoring and drifting the vessel on the fishing spots, rigging gear, baiting hooks, changing lures, suggesting use of a different lure and providing it, explaining how to operate the manual downrigger and cranking it up, identifying bottom fish caught, helping land halibut, and netting and bringing fish on board. According to the decision, these activities could reasonably be expected to result in the catching or taking of halibut, and that by performing these activities for compensation, the respondent was providing sport fishing guide services.

Comment 3: The definition of charter vessel fishing trip should be broadened to encompass the initial trip period when clients and fishing gear are aboard the vessel and the vessel is underway to the fishing grounds. A ''charter vessel fishing trip'' does not begin until an angler deploys gear into the water and ends when one or more charter vessel anglers or any halibut are offloaded from the vessel. Under this definition, a guide could still legally tow or direct clients out to specific, productive fishing locations and show them when, where, or how to fish because the trip would not technically start until the angler deployed his or her gear. These activities should be considered part of a charter vessel fishing trip.

Response: This final rule does not restrict a person from directing clients to fishing grounds or instructing them in how to fish before the clients deploy fishing gear. Once an angler deploys fishing gear, however, the guide may not assist, accompany, or physically direct the angler for that trip to be considered unguided. Determining which activities might be considered fishing before gear is deployed is difficult. The Council determined, and NMFS agrees, that the activity of fishing (*i.e.,* deploying fishing gear) is what defines a charter vessel fishing trip. Therefore, the current definition is consistent with the Council's intent to manage charter halibut fishing in Areas 2C and Area 3A.

Comment 4: The summary section of the preamble of the proposed rule states that ''sport fishing for halibut in which anglers receive assistance from a compensated guide would be managed under charter fishery regulations, and all harvest would accrue toward charter allocations'' (79 FR 71729). However, GAF do not accrue toward charter allocations. The final rule should clarify that GAF do not accrue toward charter allocations.

Response: NMFS agrees and notes the clarification to the preamble to the proposed rule in this response. The Catch Sharing Plan authorizes transfers of commercial halibut individual fishing quota (IFQ) as guided angler fish (GAF) to qualified charter halibut permit holders for harvest by charter vessel anglers in Areas 2C and 3A. Using GAF, qualified charter halibut permit holders may offer charter vessel anglers the opportunity to retain halibut up to the limit for unguided anglers when the charter management measure in place limits charter vessel anglers to a more restrictive harvest limit. GAF is an alternative use of commercial halibut IFQ and all harvests of GAF accrue toward the commercial catch limit. NMFS has modified the preamble to this final rule to clarify that all charter harvests, except GAF, will accrue toward the charter sectors' allocations.

Comment 5: The proposed definition of sport fishing guide services excludes services provided by a crew member working on a charter vessel. If vessel crew are not covered by these regulations, charter businesses could continue to avoid the charter fishing regulations by placing a crew member on board the angler vessel and a licensed guide on a separate vessel.

Response: NMFS disagrees. A charter vessel guide is defined at § 300.61 as follows: ''Charter vessel guide, for purposes of §§ 300.65, 300.66 and 300.67, means a person who holds an annual sport guide license or registration issued by the Alaska Department of Fish and Game, or a person who provides sport fishing guide services.'' A crew member is defined at § 300.61 as follows: ''Crew member, for purposes of §§ 300.65 and 300.67, means an assistant, deckhand, or similar person who works directly under the supervision of, and on the same vessel as, a charter vessel guide or operator of a vessel with one or more charter vessel anglers on board.'' According to these definitions, a crew member must be on the same vessel as the charter vessel guide to be considered a crew member. If an assistant or deckhand is not on the vessel with the charter vessel guide, that person does not meet the definition of crew member at § 300.61. If the assistant or deckhand is providing assistance for compensation, or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip, that person would be considered a charter vessel guide, not a crew member, and charter fishing regulations would apply.

The Council and NMFS do not intend for an assistant, deckhand, or other crew member that works directly under the supervision of a charter vessel guide to be the person responsible for compliance with CHLAP and CSP regulations. This final rule maintains current requirements specifying that a person providing sport fishing guide services from a charter vessel is responsible for complying with CHLAP and CSP regulations, whether or not that person has an ADF&G sport fishing guide license or registration on board that vessel. Therefore, this final rule revises the final sentence of the definition of sport fishing guide services to specify that ''sport fishing guide services do not include services provided by a crew member, as defined at § 300.61.'' The revision implemented by this final rule cites the definition of a crew member for added clarity.

Comment 6: NMFS should consider carefully defining what will be considered ''private'' (*i.e.,* unguided) sport fishing and what will be ''charter'' sport fishing and prohibit any practices that do not fit these two descriptions.

Response: This final rule clarifies specific types of fishing activities that are defined and managed as unguided sport fishing and those that are considered to be charter fishing. This final rule is intended to clarify that all sport fishing for halibut in which anglers receive assistance from a compensated guide will be managed under charter fishery regulations. To do

that, this final rule aligns State of Alaska and Federal definitions pertaining to sport fishing guide services for Pacific halibut. This final rule requires businesses that currently provide sport fishing services in which a charter vessel guide is not on board the vessel with the anglers to either obtain CHPs and comply with regulations for the charter halibut fishery, or refrain from accompanying or physically directing anglers during a fishing trip, thereby creating a clearer distinction between guided (*i.e.,* charter) and unguided anglers. See also response to Comment 7.

Comment 7: Data from the ''self-guided'' commercial sport anglers are not distinguished from data from private anglers in the statewide harvest survey (SWHS). The SWHS is mailed in the fall to a sample of sport fishing license holders. The SWHS is not a reliable method to collect data from such a large sector of the harvest. NMFS and ADF&G need to improve data collection to distinguish between anglers who use commercial sport fishing operations and anglers who do not.

Response: The Council and NMFS manage two categories of sport halibut anglers: guided (charter) and unguided (self-guided). The Council and NMFS do not distinguish between unguided anglers who fish using their own boats and gear (what the commenter refers to as ''private'' anglers) and those who may rent boats and gear from a lodge or outfitter but do not use the services of a charter vessel guide (what the commenter refers to as ''self-guided commercial sport'' anglers). Both of these types of anglers are considered by NMFS to be unguided. As described in the proposed rule and Section 1.2 of the RIR/IRFA, this final rule is intended only to address fishing activities for the charter halibut sector; no action is proposed to further regulate businesses that do not provide sport fishing guide services.

Sport halibut harvests are estimated from logbooks for the charter sector, and from the SWHS for unguided anglers. In developing and recommending this final rule, the Council did not identify a conservation concern with regard to sport halibut harvest accounting because all harvests are estimated based on information submitted in the logbooks and SWHS. NMFS anticipates this final rule will improve harvest estimates between the charter sector and unguided anglers by clarifying logbook reporting requirements and aligning the Federal and State definitions of sport fishing guide services so that halibut harvested by an angler who receives compensated assistance are required to be recorded in the logbook, whether the person providing the assistance is on board the vessel or not. The Council and NMFS have determined that the recordkeeping and reporting regulations currently in place provide for effective monitoring and enforcement of halibut harvested by charter vessel anglers in Area 2C and Area 3A.

Comment 8: The proposed action will not curtail angling that occurs when a charter vessel guide is not onboard the vessel with the anglers. There are several modes of angling that could develop or expand including (1) allowing clients to run boats themselves after a day or two of fishing with a guide to learn the ropes; (2) sending anglers out in skiffs with GPS coordinates and other guidance; (3) charter businesses or lodges converting from guided to ''self-guided'' operations; and (4) offering catch and release halibut fishing trips.

Response: The Council recommended this final rule to clarify that all sport fishing for halibut in which anglers receive assistance from a compensated guide will be managed under the CHLAP and the CSP. This final rule is not intended to curtail businesses that provide equipment for unguided sport fishing (*e.g.,* self-guided fishing or bare boat rentals) (see also response to Comment 7). The Council and NMFS recognized and considered the alternative fishing scenarios listed by the commenter in developing Federal regulations for the charter halibut fisheries in Areas 2C and 3A and this final rule. Anglers who feel confident to fish without a guide after fishing with a guide for one or more trips may do so under charter halibut fishing regulations. Anglers may receive advice on where and how to fish before a fishing trip begins (see also response to Comment 2). The proposed rule and Section 1.3.7 of the RIR/IRFA describe that businesses currently providing sport fishing services where the charter vessel guide is not on board a vessel with the anglers may modify those services so that they comply with regulations for guided and unguided anglers. Finally, while catch and release fishing for halibut does not require a charter halibut permit, IPHC regulations at section 25(3) (80 CFR 13771, March 17, 2015) specify that any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

Comment 9: The guideline harvest level regulations that preceded the CSP, the CSP, and this proposed rule are all based on the false premise that charter fishing is a commercial harvesting activity. This proposed rule should be addressing the definition of what constitutes commercial uses of halibut, not what constitutes guiding services.

Response: This final rule is intended to clarify that all sport fishing for halibut in which anglers receive assistance from a compensated guide will be managed under charter fishery regulations and to align State of Alaska and Federal definitions pertaining to sport fishing guide services for Pacific halibut. The Council did not recommend, and NMFS is not implementing changes to commercial halibut fishing regulations as part of this action. Therefore, changing the definition of commercial uses of halibut is beyond the scope of this final rule.

Comment 10: NMFS should insist that charter businesses establish business models that enable managers to establish allocations instead of ''guidelines'' for the charter sector and that provide for verifiable landing statistics.

Response: The primary objective of this final rule is to clarify the sport fishing activities defined as charter fishing, not to modify the allocations that are assigned to the charter fishery under the CSP. As described in the proposed rule and Section 1.3.3 of the RIR/IRFA, the Council approved and NMFS implemented the CSP in 2014. The CSP established a method by which allocations are set for the charter and commercial halibut fisheries in Areas 2C and 3A. This final rule clarifies that all sport fishing for halibut in which anglers receive assistance from a compensated guide would be managed under charter fishery regulations, and all harvest (except halibut harvested under the GAF Program) would accrue toward charter allocations under the CSP. As described in the response to Comment 7, the Council and NMFS have determined that the recordkeeping and reporting regulations currently in place for sport halibut fisheries provide for effective monitoring of the charter fishery allocation and enforcement of regulations applicable to the charter fishery in Area 2C and Area 3A.

OMB Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, OMB, for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule revises and adds data elements within a collection-of-

information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the sections resulting from this final rule.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing fishing for halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. The Halibut Act at section 773c(a) and (b) provides the Secretary of Commerce with the general responsibility to carry out the Convention with the authority to, in consultation with the Secretary of the department in which the U.S. Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. This final rule is consistent with the Halibut Act and other applicable laws.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule also complies with the Secretary of Commerce's authority under the Halibut Act to implement management measures for the halibut fishery.

Regulatory Flexibility Act (RFA)

A final regulatory flexibility analysis (FRFA) is required by the Regulatory Flexibility Act. This FRFA incorporates the initial regulatory flexibility analysis (IRFA) prepared for the proposed rule and addresses the applicable requirements of section 604(a) of the RFA. A statement of the need for and objectives of, this final rule has already been provided in the preamble to this final rule (see Purpose of this Final Rule) and is not repeated here.

The proposed rule was published in the **Federal Register** on December 3, 2014 (79 FR 71729). An initial regulatory flexibility analysis (IRFA) was prepared and described in the Classification section of the proposed rule. The comment period ended on January 2, 2015. NMFS received 8 comment submissions containing 10 unique comments. No comments were received on the IRFA or on the small entity impacts of this action. No comments on the proposed rule were filed with NMFS by the Chief Counsel for Advocacy of the Small Business Administration.

Number and Description of Small Entities Regulated by the Proposed Rule

On June 12, 2014, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The new size standards were used to prepare the FRFA for this final rule.

The Small Business Administration (SBA) specifies that for charter fishing vessel operations, a small business is one with annual receipts less than $7.5 million. The largest of these charter vessel operations, which are lodges, may be considered large entities under SBA standards, but that cannot be confirmed because NMFS does not have or collect economic data on lodges necessary to definitively determine total annual receipts. Thus, all charter vessel operations are considered small entities, based on SBA criteria, because NMFS cannot confirm if any entities have gross revenues greater than $7.5 million on an annual basis.

This final rule would directly regulate all CHP holders, and businesses offering sport fishing guide services that the regulations require to have CHPs. As of July 7, 2014, the date of the most recent information available, there were 975 CHPs issued to 580 permit holders in Areas 2C and 3A. Data on business affiliations among permit holders are not available; therefore, the number of CHP holders that are directly regulated cannot be accurately determined, but would not exceed 580. NMFS notes that because there is little incentive for a business that already holds one or more CHPs to offer sport fishing guide services without a guide on board to anglers, the number of current CHP holders (*i.e.,* small entities) affected by this proposed regulation is likely to be very small. The final rule is not expected to adversely impact small entities that possess CHPs.

The final rule, however, may adversely impact those entities that do not hold CHPs and who provide sport fishing guide services using guides that are not on board the vessel with the anglers. A review of logbook data suggests that only a few such entities can be documented. For Area 2C, a minimum of one to three businesses are estimated from logbook data to have routinely offered sport fishing services for halibut that did not meet the Federal definition of sport fishing guide services between 2009 and 2013. Logbook data for Area 3A did not clearly identify any businesses that routinely reported trips in which halibut were harvested and no CHP was recorded as used for the charter vessel fishing trip. It is difficult to estimate how many businesses may be providing sport fishing services where the guide is not on board the vessel with the anglers because some of these businesses may not be registered as charter businesses with the State and may not be completing logbooks. Under the final rule, businesses that provide sport fishing services where the guide is not on board the vessel with the anglers, but do not hold CHPs, would have to either purchase CHPs or change the services they provide so that they refrain from having guides accompany or physically assist anglers in the taking of halibut during any part of a charter vessel fishing trip. Information on availability and price of CHPs is presented in Section 1.3.1.2 of the RIR/IRFA. NMFS does not have or collect data to determine the exact number of businesses offering sport fishing services where the guide is not on board the vessel with the anglers or total annual receipts for these entities. NMFS considers all sport fishing services as small entities, based on SBA criteria, because NMFS cannot confirm if any of these entities have gross revenues greater than $7.5 million on an annual basis.

Community quota entities may apply for and receive community CHPs; therefore, this final rule may directly regulate entities representing small, remote communities in Areas 2C and 3A. There are 20 communities in Area 2C and 14 in Area 3A eligible to receive community CHPs. Of these 34 communities, 21 hold community CHPs. The action is not expected to adversely impact communities that hold CHPs.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of the Halibut Act and other applicable statues, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected.

The status quo alternative (Alternative 1) would continue to require that a guide be on board a charter vessel with a charter vessel angler to be providing sport fishing guide services. Maintaining these regulations is believed to result in an unknown, but

relatively small number of anglers fishing under unguided sport fishing regulations, rather than the more restrictive charter fishing regulations. The status quo may result in potential inaccuracies in accounting of sport removals by sector and continued confusion by the angling public as to how to report their halibut harvest. The status quo alternative would not accomplish the Council's objective that receiving compensated assistance while fishing for halibut be managed under charter halibut fishery regulations, whether or not the person providing the compensated assistance is on the same vessel as the person fishing for halibut.

The Council considered one alternative with three options to the status quo. The first option under Alternative 2 would change the definition of ''sport fishing guide services'' to remove the requirement that a guide be on board the charter vessel with the charter vessel angler to be providing those services. The second option would add a Federal definition for ''compensation'' and contained two suboptions. The first suboption would add a Federal definition for compensation that matches the State definition. The second suboption would add a Federal definition that substitutes the word ''reasonable'' for ''actual'' expenses from the State definition. These suboptions are described in more detail in Section 1.3.6.2 of the RIR/IRFA. The third option under Alternative 2 would add a Federal definition for ''assistance'' to describe which types of activities fall under sport fishing guide services. Alternative 2 would better align Federal regulations regarding sport fishing guide services for Pacific halibut with State regulations, would incorporate sport fishing services whether or not the person providing the compensated assistance in on the same vessel as the person fishing for halibut under the umbrella of charter regulations, and would improve the accuracy of unguided sport and charter halibut harvest estimates.

The Council recommended a preferred alternative (*i.e.,* this final rule) that would better align the State and Federal definitions of ''sport fishing guide services'' (Alternative 2, Option 1), and add a definition for ''compensation'' (Alternative 2, Option 2) to Federal regulations. Instead of separately defining ''assistance'' as described in Alternative 2, Option 3, the preferred alternative would add language to the definition of sport fishing guide services to define assistance as ''accompanying or physically directing the sport fisherman in sport fishing activities.'' The preferred alternative incorporates the recommendations developed cooperatively by State and NMFS enforcement and management staff and supported by the discussion of the effects of Alternative 2, Options 1, 2, and 3 in Section 1.3.6 of the RIR/IRFA. The preferred alternative incorporates a description of assistance consistent with State regulations without specifying a list of fishing activities. Broadly defining assistance in this way would eliminate the need to identify all potential activities that could be considered as providing assistance to an angler and the risk that a relevant activity would be inadvertently excluded from the list.

NMFS proposed the Council's preferred alternative, with one exception. Instead of proposing the suboption to Alternative 2, Option 2 that would have added a Federal definition for ''compensation'' that differs from the State's definition by referring to ''reasonable'' expenses rather than ''actual'' expenses, NMFS proposed the suboption that would add a Federal definition that matches the State's definition. The preferred alternative for this option initially incorporated the recommendations developed cooperatively by State and NMFS enforcement and management staff, but upon further discussion, these entities determined that matching the State and Federal definitions for compensation would be more enforceable. Additionally, adopting matching definitions would further the Council's objectives of aligning Federal and State of Alaska regulations.

The entities directly regulated under this action are assumed to be small under the SBA definition. Because the rule serves to benefit the small entities that are directly regulated under the rule by clarifying Federal fishery regulations to better align with Council intent and State fishery regulations, no significant negative economic impacts are expected on directly regulated entities who are CHP holders; however, charter vessel guides who provide sport fishing guide services and are not on board the same charter vessel as the charter vessel angler will be required to change their fishing practices under this final rule. These directly regulated entities are also assumed to be small entities. Thus, NMFS is not aware of any alternatives, in addition to the alternatives considered, that would more effectively meet these Regulatory Flexibility Act criteria at a lower economic cost to directly regulated small entities.

Reporting, Recordkeeping Requirements, and Other Compliance Requirements

This action does not impose any additional reporting requirements on the participants of the charter halibut fishery. Although the public reporting burden will not change, additional participants would be required to comply with existing requirements. The new participants would be subject to the same recordkeeping and reporting requirements as existing participants.

Duplicate, Overlapping, or Conflicting Federal Rules

NMFS has not identified other Federal rules that may duplicate, overlap, or conflict with this final rule.

Paperwork Reduction Act Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), which have been approved by the Office of Management and Budget (OMB). The collections are presented below by OMB control number.

OMB Control No. 0648–0575

The ADF&G Saltwater Sport Fishing Charter Trip Logbook, GAF Electronic Landing Report, and GAF Permit Log are mentioned in this final rule. This final rule may require a few more businesses that currently do not complete reports and logbooks to do so; however, the public reporting burden for these items in this collection-of-information are not directly affected by this final rule.

OMB Control No. 0648–0592

Applications for CHPs and applications for GAF transfers are mentioned in this final rule. This final rule may result in a few more businesses that currently do not have CHPs and GAF transfers to purchase and apply for them, respectively; however, the public reporting burden for these applications in this collection-of-information are not directly affected by this final rule.

Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–5806.

Notwithstanding any other provision of the law, no person is required to

respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

This final rule is consistent with Executive Order 12962 as amended September, 26, 2008, which required Federal agencies to ensure that recreational fishing is managed as a sustainable activity and is consistent with existing law.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

Dated: June 10, 2015.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 300 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'':

■ a. Remove the entries for ''300.65 introductory text; (h)(1)(ii) and (iii); and (i)''; ''300.65(h)(1)(i)''; ''300.65(j), (k), and (l)''; and ''300.67(h) and (i)''.

■ b. Add entries in alphanumeric order for ''300.65(h) through (l)''; and ''300.67(a) through (j)''.

■ c. Revise the entry for ''300.65(c)(5)'';

The additions and revision read as follows:

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

* * * * *

(b) * * *

CFR Part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * * *	
50 CFR:	
* * * * *	
300.65(c)(5)	−0575, −0592, −0665
* * * * *	
300.65(h) through (l)	−0512
* * * * *	
300.67(a) through (j)	−0592
* * * * *	

Title 50—Wildlife and Fisheries

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

■ 3. The authority citation for part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773–773k.

■ 4. In § 300.61:

■ a. Add a definition for ''Charter vessel'' in alphabetical order;

■ b. Revise the definitions of ''Charter vessel angler'', ''Charter vessel fishing trip'', ''Charter vessel guide'', ''Charter vessel operator'';

■ c. Add a definition for ''Compensation'' in alphabetical order; and

■ d. Revise the definition of ''Sport fishing guide services''.

The additions and revisions read as follows:

§ 300.61 Definitions.

* * * * *

Charter vessel, for purposes of §§ 300.65, 300.66, and 300.67, means a vessel used while providing or receiving sport fishing guide services for halibut.

Charter vessel angler, for purposes of §§ 300.65, 300.66, and 300.67, means a person, paying or non-paying, receiving sport fishing guide services for halibut.

Charter vessel fishing trip, for purposes of §§ 300.65, 300.66, and 300.67, means the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel.

Charter vessel guide, for purposes of §§ 300.65, 300.66 and 300.67, means a person who holds an annual sport fishing guide license or registration issued by the Alaska Department of Fish and Game, or a person who provides sport fishing guide services.

Charter vessel operator, for purposes of § 300.65, means the person in control of the charter vessel during a charter vessel fishing trip.

* * * * *

Compensation, for purposes of sport fishing for Pacific halibut in Commission regulatory areas 2C and 3A, means direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source; for this definition, ''benefits'' includes wages or other employment benefits given directly or indirectly to an individual or organization, and any dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides sport fishing guide services; and does not include reimbursement for the actual daily expenses for fuel, food, or bait.

* * * * *

Sport fishing guide services, for purposes of §§ 300.65(d) and 300.67, means assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. Sport fishing guide services do not include services provided by a crew member, as defined at § 300.61.

* * * * *

■ 5. In § 300.65,

■ a. Revise paragraphs (c)(5)(iii)(A)(*5*); (c)(5)(iv)(A) and (G); (d)(3); (d)(4)(i); (d)(4)(ii)(B) introductory text; (d)(4)(ii)(B)(*1*) through (*4*); and (d)(4)(iii)(A)(*1*);

■ b. Add paragraph (d)(4)(iii)(A)(*5*);

■ c. Revise paragraph (d)(4)(iii)(D)(*4*); and

■ d. Add paragraph (d)(5).

The revisions and addtions read as follows:

§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(A) * * *

(*5*) If a charter vessel angler harvests GAF from a charter vessel with a charter vessel guide on board, a legible copy of a valid GAF permit and the assigned charter halibut permit, community charter halibut permit, or military charter halibut permit appropriate for

the Commission regulatory area (2C or 3A) must be carried by the charter vessel operator on board the charter vessel used to harvest GAF at all times that such fish are retained on board and must be presented for inspection on request of any authorized officer. If a charter vessel angler harvests GAF from a charter vessel without a charter vessel guide on board, the charter vessel guide must retain the legible copy of the GAF permit and the assigned charter halibut permit, community charter halibut permit, or military charter halibut permit must be on the charter vessel with the charter vessel angler.

* * * * *

(iv) * * *

(A) If a charter vessel angler harvests GAF from a charter vessel with a charter vessel guide on board, the charter vessel guide must have on board a legible copy of a valid GAF permit and the valid charter halibut permit, community charter halibut permit, or military charter halibut permit assigned to the GAF permit for the area of harvest. If a charter vessel angler harvests GAF from a charter vessel without a charter vessel guide on board, the legible copy of the valid GAF permit must be on board the same vessel as the charter vessel guide, and the original charter halibut permit, community charter halibut permit, or military charter halibut permit assigned to the GAF permit for the area of harvest must be on the charter vessel with the charter vessel angler.

* * * * *

(G) The charter vessel guide must be physically present when the GAF halibut is harvested and must immediately remove the tips of the upper and lower lobes of the caudal (tail) fin to mark all halibut caught and retained as GAF. If the GAF halibut is filleted, the entire carcass, with head and tail connected as a single piece, must be retained on board the charter vessel on which the halibut was caught until all fillets are offloaded.

* * * * *

(d) * * *

(3) *Charter vessel guide and crew restriction in Commission regulatory areas 2C and 3A.* A charter vessel guide, charter vessel operator, or crew member may not catch and retain halibut during a charter vessel fishing trip in Commission regulatory area 2C or 3A, except that charter vessel operators who are charter vessel anglers may catch and retain halibut during a charter vessel fishing trip if the charter vessel guide is on a separate charter vessel.

(4) * * *

(i) *General requirements.* Each charter vessel angler and charter vessel guide in Commission regulatory area 2C or 3A must comply with the following recordkeeping and reporting requirements, except as specified in paragraph (d)(4)(iii)(C) of this section, by the end of the calendar day or by the end of the charter vessel fishing trip, whichever comes first, unless otherwise specified.

(ii) * * *

(B) *Charter vessel guide requirements.* If halibut were caught and retained in Commission regulatory area 2C or 3A, the charter vessel guide must record the following information (see paragraphs (d)(4)(ii)(B)(*1*) through (*10*) of this section) in the Alaska Department of Fish and Game Saltwater Charter Logbook:

(*1*) *Guide license number.* The Alaska Department of Fish and Game sport fishing guide license or registration number held by the charter vessel guide who certified the logbook data sheet.

(*2*) *Date.* Month and day for each charter vessel fishing trip taken. A separate logbook data sheet is required for each charter vessel fishing trip if two or more trips are taken on the same day. A separate logbook data sheet is required for each calendar day that halibut are caught and retained during a multi-day trip. A separate logbook sheet is required if more than one charter halibut permit is used on a trip.

(*3*) *Charter halibut permit (CHP) number.* The NMFS CHP number(s) authorizing charter vessel anglers on that charter vessel fishing trip to catch and retain halibut.

(*4*) *Guided Angler Fish (GAF) permit number.* The NMFS GAF permit number(s) authorizing charter vessel anglers on that charter vessel fishing trip to harvest GAF.

* * * * *

(iii) * * *

(A) * * *

(*1*) Upon retention of a GAF halibut, the charter vessel guide must immediately record on the GAF permit log (on the back of the GAF permit) the date that the fish was caught and retained and the total length of that fish as described in paragraphs (d)(4)(iii)(D)(*5*) and (*7*) of this section. If GAF halibut are retained on a charter vessel without a charter vessel guide on board, the charter vessel guide must also comply with the reporting requirements in paragraph (d)(4)(iii)(A)(*5*) of this section.

* * * * *

(*5*) If a GAF is retained on a charter vessel without a charter vessel guide on board, the charter vessel guide must immediately record in the ADF&G Saltwater Charter Logbook the GAF permit number under which GAF were caught and retained, and the number of GAF kept under the corresponding charter vessel angler's name.

* * * * *

(D) * * *

(*4*) Alaska Department of Fish and Game sport fishing guide license or registration number held by the charter vessel guide who certified the logbook data sheet.

* * * * *

(5) *Carcass retention requirement for size-restricted halibut.* If a size-restricted halibut is filleted on board the charter vessel, the entire carcass, with head and tail connected as a single piece, must be retained on board the charter vessel on which it was caught until all fillets are offloaded.

* * * * *

■ 6. In § 300.66:

■ a. Revise paragraph (h) introductory text and paragraphs (s) and (t);

■ b. Remove paragraph (u);

■ c. Redesignate paragraphs (v) and (w) as (u) and (v), respectively; and

■ d. Revise newly redesignated paragraphs (u) and (v).

The revisions read as follows:

§ 300.66 Prohibitions.

* * * * *

(h) Conduct subsistence fishing for halibut while commercial fishing or sport fishing for halibut, as defined in § 300.61, from the same vessel on the same calendar day, or possess on board a vessel halibut harvested while subsistence fishing with halibut harvested while commercial fishing or sport fishing, except that persons authorized to conduct subsistence fishing under § 300.65(g), and who land their total annual harvest of halibut:

* * * * *

(s) Be a charter vessel guide with charter vessel anglers on board, or a charter vessel operator if the charter vessel guide is not on board, in Commission regulatory area 2C or 3A without an original valid charter halibut permit for the regulatory area in which the charter vessel is operating during a charter vessel fishing trip.

(t) Be a charter vessel guide in Commission regulatory area 2C or 3A with more charter vessel anglers catching and retaining halibut during a charter vessel fishing trip than the total angler endorsement number specified on the charter halibut permit(s) or community charter halibut permit(s) in use for that trip.

(u) Be a charter vessel guide of a charter vessel on which one or more charter vessel anglers are catching and retaining halibut in both Commission

regulatory areas 2C and 3A during one charter vessel fishing trip.

(v) Be a charter vessel guide or a charter vessel operator during a charter vessel fishing trip in Commission regulatory area 2C or 3A with one or more charter vessel anglers that are catching and retaining halibut without having on board the vessel with the charter vessel anglers a State of Alaska Department of Fish and Game Saltwater Charter Logbook in which the charter vessel guide has specified the following:

(1) The person named on the charter halibut permit or permits being used during that charter vessel fishing trip;

(2) The charter halibut permit or permits number(s) being used during that charter vessel fishing trip; and

(3) The name and State-issued vessel registration (AK number) or U.S. Coast Guard documentation number of the charter vessel.

■ 7. In § 300.67, revise paragraphs (a)(1) and (3) to read as follows:

§ 300.67 Charter halibut limited access program.

* * * * *

(a) * * *

(1) In addition to other applicable permit, licensing, or registration requirements, any charter vessel guide of a charter vessel during a charter vessel fishing trip with one or more charter vessel anglers catching and retaining Pacific halibut on board must have on board the vessel an original valid charter halibut permit or permits endorsed for the regulatory area in which the charter vessel is operating and endorsed for at least the number of charter vessel anglers who are catching and retaining Pacific halibut. Each charter halibut permit holder must ensure that the charter vessel operator and charter vessel guide of the charter vessel comply with all requirements of §§ 300.65, 300.66, and 300.67.

* * * * *

(3) *Charter vessel angler endorsement.* A charter halibut permit is valid for up to the maximum number of charter vessel anglers on a single charter vessel for which the charter halibut permit is endorsed.

* * * * *

[FR Doc. 2015–15085 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–22–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 230, 232, 239, 240, 249 and 260

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

RIN 3235–AL39

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

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the designation of a paragraph in Item 6 of Part I to Form 1–A in a final rule published in the **Federal Register** of April 20, 2015, regarding the Amendments for Small and Additional Issues Exemptions under the Securities Act (Regulation A).

DATES: This correction is effective June 19, 2015.

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

SUPPLEMENTARY INFORMATION: In FR Document No. 2015–07305 beginning on page 21806 for Monday, April 20, 2015, the following correction is made:

Form 1–A [Corrected]

On page 21906, in the first column, third line, paragraph (e) of Form 1–A is redesignated as paragraph (d).

Dated: June 16, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–15146 Filed 6–18–15; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9723]

RIN 1545–BM73

Suspension of Benefits Under the Multiemployer Pension Reform Act of 2014

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to multiemployer pension plans that are projected to have insufficient funds, at some point in the future, to pay the full benefits to which individuals will be entitled under the plans (referred to as plans in ''critical and declining status''). The Multiemployer Pension Reform Act of 2014 (''MPRA'') amended the Internal Revenue Code to incorporate suspension of benefits provisions that permit these multiemployer plans to reduce pension benefits payable to participants and beneficiaries if certain conditions are satisfied. MPRA requires the Secretary of the Treasury, in consultation with the Pension Benefit Guaranty Corporation and the Secretary of Labor, to approve or deny applications by these plans to reduce benefits. As required by MPRA, these temporary regulations, together with proposed regulations being published at the same time, provide guidance implementing these statutory provisions. These temporary regulations affect active, retired, and deferred vested participants and beneficiaries of multiemployer plans that are in critical and declining status as well as employers contributing to, and sponsors and administrators of, those plans. The text of these temporary regulations also serves, in part, as the text of the proposed regulations (REG–102648–15) set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on June 19, 2015.

Applicability Date: For date of applicability, see § 1.432(e)(9)–1T(j).

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury MPRA guidance information line at (202) 622–1559 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–2260.

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 control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden,

please refer to the preamble to the cross-referenced notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

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.

Background

Overview

Section 432(e)(9) [1] of the Internal Revenue Code (Code) permits the plan sponsor of a multiemployer plan that is projected to have insufficient funds, at some point in the future, to pay the full benefits to which individuals will be entitled under the plan (referred to as a plan in ''critical and declining status'') to reduce the pension benefits payable to participants and beneficiaries under the plan if certain conditions are satisfied (referred to as a ''suspension of benefits''). MPRA requires the Secretary of the Treasury, in consultation with the Pension Benefit Guaranty Corporation and the Secretary of Labor (generally referred to in this preamble as the Treasury Department, PBGC, and Labor Department, respectively), to issue appropriate guidance to implement the provisions of section 432(e)(9). This document contains temporary regulations under section 432(e)(9) that, together with proposed regulations that are being published elsewhere in this issue of the **Federal Register** and a revenue procedure being published in the Internal Revenue Bulletin, Rev. Proc. 2015–34, implement section 432(e)(9) as required by the statute. The Treasury Department consulted with the PBGC and the Labor Department on these temporary regulations.

The temporary regulations in this document, which are applicable immediately, provide sufficient guidance to enable a plan sponsor that wishes to apply for approval of a suspension of benefits to prepare and submit such an application, and to enable the Department of the Treasury to begin the processing of such an application. The temporary regulations provide general guidance regarding section 432(e)(9), including guidance regarding the meaning of the term ''suspension of benefits,'' the general conditions for a suspension of benefits, and the implementation of a suspension after a participant vote. The notice of proposed rulemaking, published elsewhere in this issue of the **Federal Register**, includes the proposed regulations and requests comments on the provisions of the proposed regulations as well as these temporary regulations. The provisions of the temporary regulations and proposed regulations are expected to be integrated and issued as a single set of final regulations with any changes that are made following consideration of the comments.

The proposed regulations, which are not applicable immediately, contain additional provisions with respect to which the Department of the Treasury intends to consider public comments before finalizing a decision to approve an application for suspension of benefits. The proposed regulations also provide additional guidance regarding section 432(e)(9), including guidance relating to the standards that will be applied in reviewing an application for suspension of benefits and the statutory limitations on a suspension of benefits.

The regulations implementing the statutory suspension of benefits provisions have been divided, as described, into temporary regulations and proposed regulations in order to balance the interest in considering public comments on rules before they apply with the evident statutory intent, reflected in MPRA, to implement the statutory provisions without undue delay. Although the Department of the Treasury is issuing proposed and temporary regulations under section 432(e)(9), it is expected that no application proposing a benefit suspension will be approved prior to the issuance of final regulations. If a plan sponsor chooses to submit an application for approval of a proposed benefit suspension in accordance with the proposed and temporary regulations before the issuance of final regulations, then the plan sponsor may need to revise the proposed suspension (and potentially the related notices to plan participants) or supplement the application to take into account any differences in the requirements relating to suspensions of benefits that might be included in the final regulations.

Rev. Proc. 2015–34 prescribes the specifics of the application process for approval of a proposed benefit suspension. The revenue procedure also provides a model notice that a plan sponsor proposing a benefit suspension may use to satisfy the statutory notice requirement.

Statutory Background

Code section 412 contains minimum funding rules that generally apply to pension plans. Code section 431, added by section 211 of PPA '06, sets forth the funding rules that apply specifically to multiemployer defined benefit plans. Code section 432, added by section 212 of PPA '06, sets forth additional rules that apply to certain multiemployer plans in endangered or critical status, and permits plans in critical status to be amended to reduce certain otherwise protected benefits (referred to as adjustable benefits). Section 202 of PPA '06 amended section 305 of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), to prescribe parallel rules. PPA '06 provided that Code section 432 and ERISA section 305 would sunset for plan years beginning after December 31, 2014. However, section 101 of MPRA made them permanent, with certain modifications.

Section 201 of MPRA amended Code section 432 to add a new status, called critical and declining status, for multiemployer defined benefit plans. Section 432(b)(6) provides that a plan in critical status is treated as being in critical and declining status if the plan satisfies the criteria for critical status and in addition is projected to become insolvent within the meaning of section 418E during the current plan year or any of the 14 succeeding plan years (or 19 succeeding plan years if the plan has a ratio of inactive participants to active participants that exceeds two to one or if the funded percentage of the plan is less than 80 percent). Section 201 of MPRA also amended Code section 432(e)(9) to prescribe benefit suspension rules for plans in critical and declining status.[2]

MPRA was enacted on December 16, 2014. Section 201(b)(7) of MPRA provides that, not later than 180 days after the date of enactment, the Treasury Department, in consultation with the PBGC and the Labor Department, is required to publish appropriate guidance to implement section 432(e)(9). Section 201(c) of MPRA provides that the amendments made by section 201 will take effect on the date of enactment.

[1] Section 432(e)(9) was added to the Internal Revenue Code by the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06) and amended by the Multiemployer Pension Reform Act of 2014, Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (128 Stat. 2130 (2014)) (MPRA).

[2] Section 201 of MPRA makes parallel amendments to section 305 of ERISA and the Department of the Treasury has interpretive jurisdiction over the subject matter of these provisions under ERISA as well as the Code. See also section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713).

On February 18, 2015, the Department of the Treasury issued a Request for Information on Suspensions of Benefits under the Multiemployer Pension Reform Act of 2014 in the **Federal Register** (80 FR 8578). The Request for Information included questions focusing on certain matters to be addressed in guidance implementing section 432(e)(9) and indicated that multiemployer plans should not submit applications for suspensions of benefits prior to a date specified in such future guidance. These temporary regulations, and the proposed regulations published elsewhere in this issue of the **Federal Register**, reflect consideration of comments received in response to the Request for Information.

Definition of Suspension of Benefits and General Rules Under Section 432(e)(9)(A) and 432(e)(9)(B)(i) Through (iv)

Section 201 of MPRA prescribes benefit suspension rules for multiemployer defined benefit plans in critical and declining status. Section 432(e)(9)(A) provides that notwithstanding section 411(d)(6) and subject to section 432(e)(9)(B) through (I), the plan sponsor of a plan in critical and declining status may, by plan amendment, suspend benefits that the sponsor deems appropriate.

The statute defines suspension of benefits as the temporary or permanent reduction of any current or future payment obligation of the plan to any participant or beneficiary under the plan, whether or not in pay status at the time of the suspension of benefits. Any suspension will remain in effect until the earlier of when the plan sponsor provides benefit improvements in accordance with section 432(e)(9)(E) or when the suspension expires by its own terms. Thus, if a suspension does not expire by its own terms, it continues indefinitely.

Under the statute, a plan will not be liable for any benefit payments not made as a result of a suspension of benefits. All references to suspensions of benefits, increases in benefits, or resumptions of suspended benefits with respect to participants will also apply with respect to benefits of beneficiaries or alternative payees [3] of participants. See section 432(e)(9)(B)(iv).

Retiree Representative

In the case of a plan with 10,000 or more participants, section 432(e)(9)(B)(v) requires the plan sponsor to select a plan participant in pay status to act as a retiree representative. The retiree representative is required to advocate for the interests of the retired and deferred vested participants and beneficiaries of the plan throughout the suspension approval process. The plan must provide for the retiree representative's reasonable expenses, including reasonable legal and actuarial support, commensurate with the plan's size and funded status.

Conditions for Suspensions

Section 432(e)(9)(C) sets forth conditions that must be satisfied before a plan sponsor of a plan in critical and declining status for a plan year may suspend benefits. Under one of the conditions, the plan actuary must certify, taking into account the proposed suspension of benefits (and, if applicable, a proposed partition of the plan under section 4233 of ERISA (partition)), that the plan is projected to avoid insolvency within the meaning of section 418E, assuming the suspension of benefits continues until it expires by its own terms or if no such expiration date is set, indefinitely.

Another condition requires a plan sponsor to determine, in a written record to be maintained throughout the period of the benefit suspension, that although all reasonable measures to avoid insolvency have been taken (and continue to be taken during the period of the benefit suspension), the plan is still projected to become insolvent unless benefits are suspended. In making this determination, the plan sponsor may take into account factors including a specified list of 10 statutory factors.[4] See section 432(e)(9)(C)(ii).

Limitations on Suspensions

Section 432(e)(9)(D) contains limitations on the benefits that may be suspended, some of which apply to plan participants and beneficiaries on an individual basis and some of which apply on an aggregate basis. Under the statute, an individual's monthly benefit may not be reduced below 110 percent of the monthly benefit that is guaranteed by the PBGC under section 4022A of ERISA on the date of the suspension. In addition, no benefits based on disability (as defined under the plan) may be suspended.

In the case of a participant or beneficiary who has attained age 75 as of the effective date of a suspension, section 432(e)(9)(D)(ii) provides that the suspension may not exceed the applicable percentage of the individual's maximum suspendable benefit (the age-based limitation). The maximum suspendable benefit is the maximum amount of an individual's benefit that would be suspended without regard to the age-based limitation. The applicable percentage is a percentage that is calculated by dividing (i) the number of months during the period that begins with the month after the month in which the suspension is effective and ends with the month in which that participant or beneficiary attains the age of 80 by (ii) 60 months.

Section 432(e)(9)(D) also requires the aggregate benefit suspensions (considered, if applicable, in connection with a partition) to be reasonably estimated to achieve, but not materially exceed, the level that is needed to avoid insolvency.

Under the statute, any suspension of benefits must be equitably distributed across the participant and beneficiary population, taking into account factors that may include one or more of a list of 11 statutory factors.[5] Finally, with regard to a suspension of benefits that is made in combination with a partition, section 432(e)(9)(D)(v) provides that the suspension may not occur before the effective date of the partition.

Benefit Improvements

Section 432(e)(9)(E) sets forth rules relating to benefit improvements made while a suspension of benefits is in effect. Under this provision, a benefit improvement is defined as a resumption of suspended benefits, an increase in benefits, an increase in the rate at which benefits accrue, or an increase in the rate at which benefits become nonforfeitable under the plan.

[3] The Department of the Treasury and the IRS understand this provision to refer to alternate payees.

[4] These 10 factors are current and past contribution levels; levels of benefit accruals (including prior reductions in the rate of benefit accruals); prior adjustable benefit reductions and suspensions of benefits; the impact on plan solvency of the subsidies and ancillary benefits available to active participants; compensation levels of active participants relative to employees in the participants' industry generally; competitive and other economic factors facing contributing employers; the impact of benefit and contribution levels on retaining active participants and bargaining groups under the plan; the impact of past and anticipated contribution increases under the plan on employer attrition and retention levels; and measures undertaken by the plan sponsor to retain or attract contributing employers.

[5] These 11 factors are age and life expectancy; length of time in pay status; amount of benefit; type of benefit; extent of a subsidized benefit; extent of post-retirement benefit increases; history of benefit increases and reductions; years to retirement for active employees; any discrepancies between active and retiree benefits; extent to which participants are reasonably likely to withdraw support for the plan, resulting in accelerated employer withdrawal; and the extent to which the benefits are attributed to service with an employer that failed to pay its withdrawal liability.

The statute also provides that, while a suspension of benefits is in effect, a plan sponsor generally has discretion to provide benefit improvements. However, a sponsor may not increase plan liabilities by reason of any benefit improvement for any participant or beneficiary who is not in pay status (in other words, those who are not yet receiving benefits, such as active employees or deferred vested employees) unless (1) this benefit improvement is accompanied by an equitable distribution of benefit improvements for those who have begun to receive benefits (typically, retirees), and (2) the plan actuary certifies that, after taking those benefit improvements into account, the plan is projected to avoid insolvency indefinitely.[6] Whether an individual is in pay status for this purpose is generally based on whether the individual's benefits began before the first day of the plan year for which the benefit improvement took effect.

Notice of Proposed Suspension

A plan sponsor may not suspend benefits unless notice is provided in accordance with section 432(e)(9)(F). Under this section, concurrently with an application to suspend benefits under section 432(e)(9)(G), the plan sponsor must give notice to plan participants and beneficiaries who may be contacted by reasonable efforts, each employer that has an obligation to contribute (within the meaning of section 4212(a) of ERISA) under the plan, and each employee organization that represents plan participants employed by those employers for purposes of collective bargaining. The notice must contain sufficient information to enable individuals to understand the effect of any suspension of benefits, including an individualized estimate, on an annual or monthly basis, of the effect on each participant or beneficiary. The notice must also contain certain other specified information.[7] Notice must be provided in a form and manner prescribed in agency guidance, written in a manner so as to be understood by the average plan participant, and provided in written, electronic, or other appropriate form to the extent it is reasonably accessible to those to whom notice must be furnished.

Any notice provided under section 432(e)(9)(F)(i) will satisfy the requirement for notice of a significant reduction in benefits described in section 4980F. See section 432(e)(9)(F)(iv).

Suspension Applications

Section 432(e)(9)(G) describes the process for approval or rejection of a plan sponsor's application for a suspension of benefits. Under the statute, the Treasury Department, in consultation with the PBGC and the Labor Department, must approve an application upon finding that the plan is eligible for the suspensions and has satisfied the criteria of sections 432(e)(9)(C), (D), (E), and (F) (each described earlier). In evaluating whether a plan sponsor has met the criteria in section 432(e)(9)(C)(ii) (a plan sponsor's determination that, although all reasonable measures have been taken, the plan will become insolvent if benefits are not suspended), the plan sponsor's consideration of factors under that clause must be reviewed. The statute also requires that the plan sponsor's determinations in an application for a suspension of benefits be accepted unless they are clearly erroneous.

Section 432(e)(9)(G) also requires an application for a suspension of benefits to be published on the Web site of the Department of the Treasury and requires the Treasury Department to publish a **Federal Register** notice within 30 days of receiving a suspension application, soliciting comments from contributing employers, employee organizations, and participants and beneficiaries of the plan for which a suspension application was made, as well as other interested parties.

Within 225 days after an application for a suspension of benefits is submitted, the statute requires the Treasury Department, in consultation with the PBGC and the Labor Department, to approve or deny the application. If the plan sponsor is not notified that it has failed to satisfy one or more applicable criteria within that 225-day period, the application is deemed approved. If the application is denied, a notice to the plan sponsor must detail the specific reasons for the rejection, including reference to the specific requirement not satisfied. Approval or denial of an application is treated as final agency action for purposes of 5 U.S.C. 704 (that is, the approval or denial is treated as final agency action for purposes of the Administrative Procedure Act, Public Law 79–404, 60 Stat. 237, as amended (APA)).

Participant Vote on Proposed Benefit Reduction

If a suspension application is approved, it then goes to a vote of plan participants and beneficiaries. See section 432(e)(9)(H). The vote will be administered by the Treasury Department, in consultation with the PBGC and the Labor Department, within 30 days after approval of the suspension application. The plan sponsor is required to provide a ballot for a vote (subject to approval by the Treasury Department, in consultation with the PBGC and the Labor Department). The statute specifies information that the ballot must include.[8] If a majority of plan participants and beneficiaries do not vote to reject the suspension, the statute requires the Treasury Department to issue a final authorization to suspend benefits within seven days after the vote.

If a majority of plan participants and beneficiaries vote to reject the suspension, the statute requires the Treasury Department, in consultation with the PBGC and the Labor Department, to determine whether the plan is a systemically important plan. A systemically important plan is a plan for which the PBGC projects the present value of projected financial assistance payments to exceed $1.0 billion, as indexed, if suspensions are not implemented.

If a majority of plan participants and beneficiaries vote to reject the

[6] Avoidance of insolvency is determined by reference to section 418E under which a plan is insolvent if it is unable to pay scheduled benefits for a year. Pursuant to section 432(e)(9)(E)(iv), this restriction does not apply to certain benefit improvements if the Treasury Department determines either that the benefit improvements are reasonable and provide for only de minimis increases in plan liabilities or that the benefit improvements are required as a condition of qualification or to comply with other applicable law.

[7] The specified information includes a description of the factors considered by the plan sponsor in designing the benefit suspension; a statement that the application for suspension of benefits will be available on the Web site of the Department of the Treasury and that comments on the application will be accepted; information on the rights and remedies of plan participants and beneficiaries; if applicable, a statement about the appointment of a retiree representative, the date of appointment of the retiree representative, identifying information about the retiree representative (including whether the representative is a plan trustee) and how to contact the representative; and information on how to contact the Department of the Treasury for more information and assistance where appropriate.

[8] This information includes a statement from the plan sponsor in support of the suspension; a statement in opposition to the suspension compiled from comments received in response to the **Federal Register** notice issued by Treasury within 30 days of receiving the suspension application; a statement that the suspension has been approved by the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor; a statement that the plan sponsor has determined that the plan will become insolvent unless the suspension takes effect; a statement that insolvency of the plan could result in benefits lower than benefits paid under the suspension; and a statement that insolvency of the PBGC would result in benefits lower than benefits otherwise paid in the case of plan insolvency.

suspension and the plan is not a systemically important plan, a final authorization to suspend benefits will not be issued. In such a case, the statute provides that the plan sponsor may submit a new application for approval of a suspension of benefits to the Treasury Department.

Within 30 days after a plan is determined to be a systemically important plan, the Participant and Plan Sponsor Advocate selected under ERISA may submit recommendations to the Treasury Department with respect to the suspension that was rejected by the vote or recommendations for any revisions to that suspension. Notwithstanding the vote rejecting the suspension, the statute requires the Treasury Department, in consultation with the PBGC and the Labor Department, to permit the plan sponsor to implement either the proposed benefit suspension or a modification by the Treasury Department, in consultation with the PBGC and the Labor Department, of that suspension. The Treasury Department must complete this requirement within 90 days after the results of a vote rejecting a suspension for a systemically important plan are certified, and a modification of the suspension by the Treasury Department is only permitted if the plan is still projected to avoid insolvency under the modification.

If the Treasury Department is required to permit the suspension or a modified suspension to go into effect in the case of a systemically important plan with respect to which there has been a vote rejecting the suspension, the statute requires the Treasury Department to issue the final authorization to suspend at a time sufficient to allow the suspension to be implemented by the end of the 90-day period following certification of the results of that vote.

Judicial Review

Section 432(e)(9)(I)(i) allows a plan sponsor to challenge a denial of an application for suspension only after the application is denied. Under the statute, an action challenging the approval of a suspension may be brought only following the issuance of a final authorization to suspend. The statute also provides that a court will review an action challenging approval of a suspension of benefits in accordance with 5 U.S.C. 706 (that is, the standard of review applicable for purposes of the APA) and will not grant a temporary injunction with respect to a suspension unless it finds a clear and convincing likelihood that the plaintiff will prevail on the merits. Under section 432(e)(9)(I)(iii), participants and beneficiaries affected by a suspension ''shall not have a cause of action under this title.'' An action challenging either the approval of a suspension of benefits or the denial of an application for a suspension of benefits may not be brought more than one year after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of the cause of action. See section 432(e)(9)(I)(iv).

Explanation of Provisions

I. Overview

These temporary regulations provide guidance on certain requirements under section 432(e)(9) regarding suspension of benefits for multiemployer defined benefit plans in critical and declining status. The temporary regulations do not address certain other requirements that are addressed in the text of the proposed regulations (REG–102648–15) set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**. The provisions of these temporary regulations are cross referenced in the proposed regulations so that comments on these provisions may be included with comments on the proposed regulations. In addition to the proposed and temporary regulations, the procedural requirements for submitting an application to suspend benefits, as well as a model notice, are set forth in Rev. Proc. 2015–34.

II. General Rules on Suspension of Benefits

These temporary regulations provide that, subject to section 432(e)(9)(B) through (I), the plan sponsor of a multiemployer plan that is in critical and declining status within the meaning of section 432(b)(6) for a plan year may, by plan amendment, implement a suspension of benefits that the plan sponsor deems appropriate. Such a suspension is permitted notwithstanding the generally applicable anti-cutback provisions of section 411(d)(6). The plan amendment implementing a suspension of benefits must be adopted in a plan year in which the plan is in critical and declining status.

Under the regulations, once a plan is amended to suspend benefits, a plan may pay or continue to pay a reduced level of benefits pursuant to a suspension only if the terms of the plan are consistent with the requirements of section 432(e)(9) and the regulations.

III. Definitions

The temporary regulations include definitions for the terms pay status and plan sponsor. A person is in pay status under a multiemployer plan if, as described in section 432(j)(6), at any time during the current plan year, the person is a participant, beneficiary, or alternate payee under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit).

The term plan sponsor means the association, committee, joint board of trustees, or other similar group of representatives of the parties that establishes or maintains the multiemployer plan. However, in the case of a plan described in section 404(c), or a continuation of such a plan, the term plan sponsor means the association of employers that is the employer settlor of the plan.

IV. Definition of Suspension of Benefits and Related Rules

The temporary regulations provide that the term suspension of benefits means the temporary or permanent reduction, pursuant to the terms of the plan, of any current or future payment obligation of the plan with respect to any participant under the plan. A suspension of benefits can apply with respect to a participant of the plan regardless of whether the participant, beneficiary, or alternate payee has commenced receiving benefits before the effective date of the suspension of benefits. If a plan pays a reduced level of benefits pursuant to a suspension of benefits that complies with the requirements of section 432(e)(9), then the plan is not liable for any benefits not paid as a result of the suspension.

A suspension of benefits may be of indefinite duration or may expire as of a certain date. Under the regulations, if the suspension of benefits has an expiration date, that date must be specified in the plan amendment implementing the suspension.

The temporary regulations provide that a plan sponsor may amend the plan to eliminate some or all of a suspension of benefits, provided that the amendment satisfies the requirements that apply to benefit improvements in the proposed rules under section 432(e)(9)(E).

The temporary regulations clarify that, except as otherwise specified, all references to suspensions of benefits, increases in benefits, or resumptions of suspended benefits with respect to participants also apply with respect to benefits of beneficiaries or alternate payees (as defined in section 414(p)(8)) of participants.

V. Retiree Representative

A retiree representative must be selected for a plan with 10,000 or more

participants. The temporary regulations implement this condition by requiring that a retiree representative be selected if 10,000 or more participants were reported on the most recently filed Form 5500, ''Annual Return/Report of Employee Benefit Plan.'' [9] The plan sponsor must select the retiree representative at least 60 days before the plan sponsor submits an application to suspend benefits. The retiree representative must be a plan participant who is in pay status and may or may not be a plan trustee.

The role of the retiree representative is to advocate for the interests of the retired and deferred vested participants and beneficiaries of the plan throughout the suspension approval process. However, in the discretion of the plan sponsor, the retiree representative may continue in this role throughout the period of the benefit suspension. This would enable the retiree representative to monitor compliance with the ongoing requirements during the period of the suspension, such as the requirement that the plan sponsor make annual determinations that all reasonable measures to avoid insolvency have been taken and that a suspension is necessary to avoid insolvency as well as to monitor compliance with the rules relating to benefit improvements. The regulations refer to section 432(e)(9)(B)(v)(III) for rules relating to the fiduciary status of a retiree representative, but do not provide additional guidance with respect to this provision.

The plan must pay reasonable expenses incurred by the retiree representative, including reasonable legal and actuarial support, commensurate with the plan's size and funded status. Upon request, the plan sponsor must promptly provide the retiree representative with relevant information, such as plan documents and data, that is reasonably necessary to enable the retiree representative to perform the representative's role, described earlier under this paragraph V.

The temporary regulations permit a plan sponsor of a plan that has reported fewer than 10,000 participants to select a retiree representative in connection with an application for approval of a suspension of benefits in order to encourage such a plan sponsor to do so. If a retiree representative is selected for such a plan, the rules that apply to retiree representatives for plans with 10,000 or more participants (other than the rule concerning the size of the plan and the timing of the appointment) will apply.

VI. Conditions for Suspensions

A plan sponsor of a plan in critical and declining status [10] may suspend benefits only if the actuarial certification requirement in section 432(e)(9)(C)(i) and the plan-sponsor determinations requirements in section 432(e)(9)(C)(ii) are satisfied.

A. Actuarial Certification

Under the temporary regulations, the actuarial certification requirement in section 432(e)(9)(C)(i) is satisfied if, taking into account the proposed suspension of benefits (and, if applicable, a proposed partition of the plan), the plan's actuary certifies that the plan is projected to avoid insolvency within the meaning of section 418E, assuming the suspension of benefits continues until it expires by its own terms or if no such expiration date is set, indefinitely. The temporary regulations do not provide guidance on this topic. However, the proposed regulations provide rules for the comparable requirement that the suspension (in combination with a partition, if applicable) be reasonably estimated to avoid insolvency under section 432(e)(9)(D)(iv).

B. Plan-Sponsor Determinations

A plan may not suspend benefits unless the plan sponsor makes initial and annual determinations that the plan is projected to become insolvent unless benefits are suspended, although all reasonable measures to avoid insolvency have been taken and continue to be taken.

Under the temporary regulations, a plan satisfies the initial-plan-sponsor determinations requirement only if the plan sponsor determines that (1) all reasonable measures to avoid insolvency, within the meaning of section 418E, have been taken, and (2) the plan is projected to become insolvent within the meaning of section 418E unless the proposed suspension of benefits (or another suspension of benefits under section 432(e)(9)) is implemented for the plan.

In making its determination that all reasonable measures to avoid insolvency have been taken, the plan sponsor may take into account the non-exclusive list of factors set forth in section 432(e)(9)(C)(ii). In making the initial determination that the plan is projected to become insolvent without the proposed suspension of benefits (or another suspension under section 432(e)(9)), a plan sponsor may rely on the actuarial certification made pursuant to section 432(b)(3)(A)(i) that the plan is in critical and declining status for the plan year.

The rules relating to the annual-plan-sponsor determinations are included in the proposed regulations.

VII. Limitations on Suspensions

The proposed and temporary regulations reflect the individual and aggregate limitations on a suspension of benefits under section 432(e)(9)(D).[11] The temporary regulations provide that after applying the individual limitations, the overall size and distribution of the suspension is subject to the aggregate limitations.

The temporary regulations provide that the monthly benefit payable to a participant, beneficiary, or alternate payee may not be reduced below 110 percent of the monthly benefit that would be guaranteed by the PBGC under section 4022A of ERISA if the plan were to become insolvent as of the effective date of the suspension. The proposed regulations provide more detailed rules for applying this limitation.

The temporary regulations reflect the statutory prohibition in section 432(e)(9)(D)(iii) on applying a suspension of benefits to benefits based on disability (as defined under the plan). The proposed regulations include more detailed rules for applying this limitation.

The rules regarding the age-based limitation of section 432(e)(9)(D)(ii) and the aggregate limitations of section 432(e)(9)(D)(iv) and (vi) are set forth in the proposed regulations.

In any case in which a suspension of benefits with respect to a plan is made in combination with a partition of the plan, the suspension of benefits may not take effect prior to the effective date of the partition. This requirement will not be satisfied if the partition order under section 4233 of ERISA has not been provided to the Treasury Department by the last day of the 225-day review period described in section 432(e)(9)(G)(iii), after which deemed approval of the suspension would occur.

[9] On the Form 5500 for the 2014 plan year, this is the total number of participants as of the end of the plan year that is reported on Part II, Line 6f.

[10] In making the projections related to whether a plan is in critical and declining status, the plan actuary's projections are required to be based on reasonable actuarial assumptions. Rev. Proc. 2015–34 requires disclosure of a 10-year history of certain critical assumptions for this purpose as well as for purposes of the conditions for suspensions required by section 432(e)(9)(C).

[11] The temporary regulations refer to section 432(e)(9)(D)(vii) for additional rules applicable to certain plans, but do not provide additional guidance with respect to this provision.

VIII. Benefit Improvements

The rules regarding restrictions on benefit improvements are set forth in the proposed regulations.

IX. Notice of Proposed Suspension

The temporary regulations prescribe rules implementing the statutory notice requirements in section 432(e)(9)(F).

Specifically, the temporary regulations require the plan sponsor to provide notice of a proposed suspension to all plan participants, beneficiaries of deceased participants, and alternate payees (regardless of whether their benefits are proposed to be suspended) except those who cannot be contacted by reasonable efforts; each employer that has an obligation to contribute (within the meaning of section 4212(a) of ERISA) under the plan; and each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer. The temporary regulations provide two examples illustrating what efforts constitute reasonable efforts to contact individuals for purposes of this notice requirement. These examples indicate that it is not sufficient to merely send notices to the individuals' last known mailing addresses and illustrate additional steps that may be used to satisfy these requirements if the plan sponsor becomes aware that some individuals did not receive notice.

The temporary regulations require the notice to contain the following in order to satisfy the requirement that the notice contain sufficient information to enable plan participants and beneficiaries to understand the effect of the suspension of benefits:

- An individualized estimate, on an annual or monthly basis, of the effect of the suspension on the participant or beneficiary. However, if it is not possible to provide an individualized estimate on an annual or monthly basis of the quantitative effect of the suspension on the participant or beneficiary, such as in the case of a suspension that affects the payment of any future cost-of-living adjustment, a narrative description of the effect of the suspension;
- A statement that the plan sponsor has determined that the plan will become insolvent unless the proposed suspension (and, if applicable, the proposed partition) takes effect, and the year in which insolvency is projected to occur without a suspension of benefits (and, if applicable, a proposed partition);
- A statement that insolvency of the plan could result in benefits lower than benefits paid under the proposed suspension and a description of the projected benefit payments upon insolvency;
- A description of the proposed suspension and its effect, including a description of the different categories or groups affected by the suspension, how those categories or groups are defined, and the formula that is used to calculate the amount of the proposed suspension for individuals in each category or group;
- A description of the effect of the proposed suspension on the plan's projected insolvency;
- A description of whether the suspension will remain in effect indefinitely or will expire by its own terms; and
- A statement describing the right to vote on the suspension application.

The notice of proposed suspension may not include false or misleading information (or omit information so as to cause the information provided to be misleading). The notice is permitted to include information in addition to the required information that is listed under this paragraph IX., including information relating to an application for partition under section 4233 of ERISA, provided that it satisfies these requirements.

The notice of proposed suspension must be written in a manner that can be readily understood by the average plan participant. The temporary regulations provide that the Treasury Department will provide a model notice. The use of the model notice will satisfy the content requirement and the readability requirement with respect to the language provided in the model.

The temporary regulations provide that notice may be provided in writing or in electronic form to the extent that the electronic form is reasonably accessible to persons to whom the notice is required to be provided. Permissible electronic methods include those permitted under regulations of the Department of Labor at 29 CFR 2520.104b–1(c) and those described at § 54.4980F–1, Q&A–13(c) of the Excise Tax Regulations.

Section 432(e)(9)(F) provides that the notice of proposed suspension must be given ''concurrently'' with the submission of an application to the Treasury Department, but does not specify a precise timeframe for satisfying this requirement. Interpreting ''concurrently'' as meaning either simultaneously or on the same day was rejected because it would require the difficult synchronization of the plan sponsor's electronic submission of its application and its giving of notice in written and/or in electronic form. Because the temporary regulations require a plan sponsor to submit its application electronically but authorize it to give notice in writing, interpreting the term ''concurrently'' to allow a plan sponsor to give written notice a few days earlier than the electronic submission of the application will allow for the receipt of such written notices on or about the time that a plan sponsor submits its application. The temporary regulations thus permit a plan sponsor to give notice no earlier than four business days before the submission of its application.

The temporary regulations also anticipate that a plan sponsor is permitted to give written notice no later than four business days after the submission of its application. This period of time will enable the Department of the Treasury to make a preliminary ''completeness check'' of the application during the first two business days, and the plan sponsor two business days thereafter to give the required notices.[12] This approach will help participants by minimizing the risk of confusion and plan expense. For example, if a plan sponsor submits an incomplete application, compiles the additional information, and then finds the individualized estimates that the plan sponsor already gave to be inaccurate (or simply takes too long to compile the additional information), the plan sponsor would have to re-send the notices, increasing the likelihood that the notice would not be understood by the average plan participant as a result of receiving two different notices, each with a different individualized estimate. Although the temporary regulations allow plan sponsors to give participants notice when or before the application is submitted, sponsors are encouraged to delay giving notice until after the Department of the Treasury provides notification that the application is complete. If additional individuals who are entitled to notice are located after the time notice is required to be delivered, the plan sponsor must give those newly located individuals notice as soon as practicable after they are located.

The temporary regulations further provide that a notice of proposed suspension satisfies the requirement for notice of a significant reduction in benefits described in section 4980F that would otherwise be required as a result of that suspension of benefits. To the extent that other reductions accompany

[12] The completeness check is described under paragraph X. in this preamble (''Approval or denial of an application for suspension of benefits'').

a suspension of benefits, such as a reduction in the future accrual rate described in section 4980F for active participants or a reduction in adjustable benefits under section 432(e)(8), notice that satisfies the requirements (including the applicable timing requirements) of section 4980F or section 432(e)(8), as applicable, must be provided.

X. Approval or Denial of an Application for Suspension of Benefits

The temporary regulations provide that the plan sponsor of a plan in critical and declining status for a plan year that seeks to suspend benefits must submit an application for approval of the proposed suspension of benefits to the Treasury Department. The Treasury Department will approve, in consultation with the PBGC and the Labor Department, a complete application upon finding that the plan is eligible for the suspension and has satisfied the criteria of section 432(e)(9)(C), (D), (E), and (F). An application must be submitted electronically.

After receiving a submission, the plan sponsor will be notified within two business days whether the submission constitutes a complete application. If the submission is a complete application, the application will be treated as submitted on the date on which it was originally submitted to the Treasury Department. If a submission is incomplete, the notification will inform the plan sponsor of the information that is needed to complete the submission and give the plan sponsor a reasonable opportunity to submit a complete application. In such a case, the complete application will be treated as submitted on the date on which the additional information needed to complete the application is submitted to the Treasury Department.

Additional guidance that may be necessary or appropriate with respect to applications, including procedures for submitting applications and the information required to be included in a complete application, may be published in the form of revenue procedures, notices, or other guidance published in the Internal Revenue Bulletin.

In the case of a plan sponsor that is not submitting an application for suspension in combination with an application to PBGC for a plan partition, the temporary regulations provide that the application for suspension generally will not be accepted unless the proposed effective date of the suspension is at least nine months after the date on which the application is submitted. This is to ensure adequate time to review the proposed suspension without a need to delay the effective date of the proposed suspension. A delayed effective date could require other changes to the design of the suspension. For example, if, as a result of a delayed effective date, the age-based limitation under section 432(e)(9)(D)(ii) applies to more participants than under the terms of the proposed suspension, then benefits of other participants may be subject to greater reductions in order to satisfy the limitation in section 432(e)(9)(D)(iv) that the suspension, in the aggregate, must be reasonably estimated to achieve, but not materially exceed, the level necessary to avoid insolvency. However, in appropriate circumstances, an earlier effective date may be permitted. Appropriate circumstances could include an application for a proposed suspension that is a modification of a previous submission that was withdrawn or denied.

In the case of an application for suspension in combination with an application for partition, the impact of a delayed effective date for the suspension would be larger benefits for retirees rather than a redesign of the suspension. Accordingly, these temporary regulations do not apply the rule described in the preceding paragraph to such an application. See Part 4233 of the PBGC regulations for a coordinated application process that applies in the case of a plan sponsor that is submitting an application for suspension in combination with an application to PBGC for a plan partition under section 4233 of ERISA.

The temporary regulations provide that, no later than 30 days after receiving a complete application, the application will be published on the Web site of the Department of the Treasury, and the Treasury Department will publish a notice in the **Federal Register** soliciting comments from contributing employers, employee organizations, and participants and beneficiaries of the plan for which an application was made, and other interested parties. The notice soliciting comments will generally request that comments be submitted no later than 45 days after publication of that notice in the **Federal Register**, but the comment period may be shorter in appropriate circumstances. Appropriate circumstances could include an application for a proposed suspension that is a modification of a previous submission that was withdrawn or denied. Comments received in response to this notice will be made publicly available.

Under the temporary regulations, a complete application will be deemed approved unless, within 225 days after the complete application is submitted, the Treasury Department notifies the plan sponsor that its application does not satisfy one or more of the requirements for approval. If the Treasury Department denies a plan sponsor's application, the notification of the denial will detail the specific reasons for the denial, including reference to the specific requirement or requirements not satisfied. If the Treasury Department approves a plan sponsor's application and believes that the plan is a systemically important plan, then the Treasury Department will notify the plan sponsor of that belief and that it will be required to provide individual participant data upon request. This data may be used in the event of a vote to reject the suspension in order to assist the Treasury Department in determining whether to permit a modification of the rejected suspension.

The temporary regulations provide that the Secretary of the Treasury may appoint a Special Master for purposes of section 432(e)(9). If a Special Master is appointed, the Special Master will be an employee of the Department of the Treasury, will coordinate the implementation of the regulations and the review of applications for the suspension of benefits and other appropriate documents, and will provide recommendations to the Secretary of the Treasury with respect to decisions required under these regulations.

Certain rules relating to the Treasury Department's review of an application under section 432(e)(9)(G) are included in the proposed regulations.

XI. Participant Vote on Proposed Benefit Reduction

The temporary regulations provide that if an application for suspension is approved by the Treasury Department, then the Treasury Department, in consultation with the PBGC and the Labor Department, will administer a vote of all plan participants and all beneficiaries of deceased participants (eligible voters). Any suspension of benefits will take effect only after the vote and after a final authorization to suspend benefits.

Under the temporary regulations, any ballot provided by the plan sponsor in connection with a vote on the suspension must be approved by the Treasury Department, in consultation with the PBGC and the Labor Department. The ballot must be written in a manner that can be readily

understood by the average plan participant and may not include any false or misleading information. The information that is required to be included in the ballot is described in the proposed regulations.

The temporary regulations provide that unless a majority of all eligible voters vote to reject the suspension, it is permitted to go into effect. If a majority of all eligible voters vote to reject the suspension, the suspension is not permitted to go into effect, except that the suspension or a modified suspension will be permitted to go into effect if the plan is a systemically important plan as described later under this paragraph XI. A plan sponsor is permitted to submit a new suspension application to the Treasury Department for approval in any case in which a suspension is prohibited from taking effect as a result of a vote.

The temporary regulations set forth rules for systemically important plans. If a majority of all eligible voters vote to reject the suspension, the Treasury Department will consult with the PBGC and the Labor Department to determine if the plan is a systemically important plan. The Treasury Department is required to make this determination no later than 14 days after the results of the vote are certified. No later than 30 days after a determination that the plan is a systemically important plan, the Participant and Plan Sponsor Advocate selected under section 4004 of ERISA may submit recommendations to the Treasury Department with respect to the suspension or any revisions to the suspension.

If a plan is a systemically important plan for which a majority of all eligible voters vote to reject the suspension, then the Treasury Department is required to either permit the implementation of the suspension that was rejected by the vote or permit the implementation of a modification of that suspension. Under any such modification, the plan must be projected to avoid insolvency in accordance with section 432(e)(9)(D)(iv). No later than 60 days after the results of a vote to reject a suspension are certified, the Treasury Department will notify the plan sponsor that the suspension or modified suspension is permitted to be implemented.

The temporary regulations define a systemically important plan as a plan with respect to which the PBGC projects that the present value of financial assistance payments will exceed $1.0 billion if the suspension is not implemented. For calendar years beginning after 2015, this dollar amount will be replaced by an amount equal to the product of the dollar amount and a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) for the preceding calendar year and the denominator of which is the contribution and benefit base for calendar year 2014. If that amount is not a multiple of $1.0 million, it will be rounded to the next lowest multiple of $1.0 million.

The temporary regulations provide that, in any case in which a proposed suspension (or a modification of a proposed suspension) is permitted to go into effect, the Treasury Department, in consultation with the PBGC and the Labor Department, will issue a final authorization to suspend with respect to the suspension. If a suspension is permitted to go into effect following a vote, the final authorization will be issued no later than seven days after the vote. If a suspension is permitted to go into effect following a determination that the plan is a systemically important plan, the final authorization will be issued at a time sufficient to allow the implementation of the suspension prior to the end of the 90-day period beginning on the date the results of the vote rejecting the suspension are certified. Under the temporary regulations, no later than 60 days after the certification, the Treasury Department will notify the plan sponsor that the suspension that was rejected by the vote or a modified suspension is permitted to be implemented.

The temporary regulations provide that, in any case in which a suspension of benefits with respect to a plan is made in combination with a partition of the plan under section 4233 of ERISA, the suspension of benefits is not permitted to take effect prior to the effective date of the partition.

Effective/Applicability Date

These regulations apply on and after June 17, 2015 and expire on June 15, 2018.

Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, please visit the IRS Web site at *http://www.irs.gov* or contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) please refer to the Special Analyses section of the preamble to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Contact Information

For general questions regarding these regulations, please contact the Department of the Treasury at (202) 622–1559 (not a toll-free number). For information regarding a specific application for a suspension of benefits, please contact the Department of the Treasury at (202) 622–1534 (not a toll-free number).

List of Subjects

26 CFR Part 1

Income taxes, reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.432(e)(9)–1T is added to read as follows:

§ 1.432(e)(9)–1T Benefit suspensions for multiemployer plans in critical and declining status (temporary).

(a) *General rules on suspension of benefits*—(1) *General rule.* Subject to section 432(e)(9)(B) through (I) and paragraphs (b) through (h) of this section, the plan sponsor of a multiemployer plan that is in critical and declining status (within the meaning of section 432(b)(6)) for a plan year may, by plan amendment adopted in the plan year, implement a suspension of benefits that the plan sponsor deems appropriate. Such a suspension is permitted

notwithstanding the anti-cutback provisions of section 411(d)(6).

(2) *Adoption of plan terms inconsistent with suspension requirements*—(i) *General rule.* A plan may implement (or continue to implement) a reduction of benefits pursuant to a suspension of benefits only if the terms of the plan are consistent with the requirements of section 432(e)(9) and this section.

(ii) *Changes in level of suspension.* [Reserved]

(3) *Organization of the regulation.* This paragraph (a) contains definitions and general rules relating to a suspension of benefits by a multiemployer plan under section 432(e)(9). Paragraph (b) of this section defines a suspension of benefits and describes the length of a suspension, the treatment of beneficiaries and alternate payees under this section, and the requirement to select a retiree representative. Paragraph (c) of this section prescribes certain rules for the actuarial certification and plan-sponsor determinations that must be made in order for a plan to suspend benefits. Paragraph (d) of this section describes certain limitations on suspensions of benefits. Paragraph (e) of this section is reserved for rules on benefit improvements under section 432(e)(9)(E). Paragraph (f) of this section describes the requirement to provide notice in connection with an application to suspend benefits. Paragraph (g) of this section describes certain requirements with respect to the approval or denial of an application for a suspension of benefits. Paragraph (h) of this section contains certain rules relating to the vote on an approved suspension, systemically important plans, and the issuance of a final authorization to suspend benefits. Paragraph (j) of this section provides the effective/applicability date of this section. Paragraph (k) provides the expiration date.

(4) *Definitions.* The following definitions apply for purposes of this section—

(i) *Pay status.* A person is in pay status under a multiemployer plan if, as described in section 432(j)(6), at any time during the current plan year, the person is a participant, beneficiary, or alternate payee under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit).

(ii) *Plan sponsor.* The term plan sponsor means the association, committee, joint board of trustees, or other similar group of representatives of the parties that establishes or maintains the multiemployer plan. However, in the case of a plan described in section 404(c), or a continuation of such a plan, the term plan sponsor means the association of employers that is the employer settlor of the plan.

(iii) *Effective date of suspension of benefits.* [Reserved]

(b) *Definition of suspension of benefits and related rules*—(1) *In general*—(i) *Definition.* For purposes of this section, the term suspension of benefits means the temporary or permanent reduction, pursuant to the terms of the plan, of any current or future payment obligation of the plan with respect to any participant under the plan. A suspension of benefits may apply with respect to a participant of the plan regardless of whether the participant, beneficiary, or alternate payee commenced receiving benefits before the effective date of the suspension of benefits.

(ii) *Plan not liable for suspended benefits.* If a plan pays a reduced level of benefits pursuant to a suspension of benefits that complies with the requirements of section 432(e)(9) and this section, then the plan is not liable for any benefits not paid as a result of the suspension.

(2) *Length of suspension*—(i) *In general.* A suspension of benefits may be of indefinite duration or may expire as of a date that is specified in the plan amendment implementing the suspension.

(ii) *Effect of a benefit improvement.* A plan sponsor may amend the plan to eliminate some or all of a suspension of benefits, provided that the amendment satisfies the requirements that apply to a benefit improvement under section 432(e)(9)(E), in accordance with the rules of paragraph (e) of this section.

(3) *Treatment of beneficiaries and alternate payees.* Except as otherwise specified in this section, all references to suspensions of benefits, increases in benefits, or resumptions of suspended benefits with respect to participants also apply with respect to benefits of beneficiaries or alternate payees (as defined in section 414(p)(8)) of participants.

(4) *Retiree representative*—(i) *In general*—(A) *Requirement to select retiree representative.* The plan sponsor of a plan that intends to submit an application for a suspension of benefits and that has reported a total of 10,000 or more participants as of the end of the plan year for the most recently filed Form 5500, ''Annual Return/Report of Employee Benefit Plan,'' must select a retiree representative. The plan sponsor must select the retiree representative at least 60 days before the date the plan sponsor submits an application to suspend benefits. The retiree representative must be a plan participant who is in pay status. The retiree representative may or may not be a plan trustee.

(B) *Role of retiree representative.* The role of the retiree representative is to advocate for the interests of the retired and deferred vested participants and beneficiaries of the plan throughout the suspension approval process. In the discretion of the plan sponsor, the retiree representative may continue in this role throughout the period of the benefit suspension.

(ii) *Reasonable expenses from plan.* The plan must pay reasonable expenses incurred by the retiree representative, including reasonable expenses for legal and actuarial support, commensurate with the plan's size and funded status.

(iii) *Disclosure of information.* Upon request, the plan sponsor must promptly provide the retiree representative with relevant information, such as plan documents and data, that is reasonably necessary to enable the retiree representative to perform the role described in paragraph (b)(4)(i)(B) of this section.

(iv) *Special rules relating to fiduciary status.* See section 432(e)(9)(B)(v)(III) for rules relating to the fiduciary status of a retiree representative.

(v) *Retiree representative for other plans.* The plan sponsor of a plan that has reported fewer than 10,000 participants as of the end of the plan year for the most recently filed Form 5500, ''Annual Return/Report of Employee Benefit Plan'' is permitted to select a retiree representative. The rules in this paragraph (b)(4) (other than the rules in the first two sentences of paragraph (b)(4)(i)(A) of this section concerning the size of the plan and the timing of the appointment of the retiree representative) apply to such a representative.

(c) *Conditions for suspension*—(1) *In general*—(i) *Actuarial certification and initial-plan-sponsor determinations.* The plan sponsor of a plan in critical and declining status for a plan year may suspend benefits only if the actuarial certification requirement in paragraph (c)(2) of this section and the initial-plan-sponsor determinations requirement in paragraph (c)(3) of this section are met.

(ii) *Annual requirement to make plan-sponsor determinations.* [Reserved]

(2) *Actuarial certification.* A plan satisfies the actuarial certification requirement of this paragraph (c)(2) if, taking into account the proposed suspension of benefits (and, if applicable, a proposed partition of the plan under section 4233 of the

Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA)), the plan's actuary certifies that the plan is projected to avoid insolvency within the meaning of section 418E, assuming the suspension of benefits continues until it expires by its own terms or if no such expiration date is set, indefinitely.

(3) *Initial-plan-sponsor determinations*—(i) *General rule.* A plan satisfies the initial-plan-sponsor determinations requirement of this paragraph (c)(3) only if the plan sponsor determines that—

(A) All reasonable measures to avoid insolvency, within the meaning of section 418E, have been taken; and

(B) The plan is projected to become insolvent within the meaning of section 418E unless the proposed suspension of benefits (or another suspension of benefits under section 432(e)(9)) is implemented for the plan.

(ii) *Factors.* In making its determination that all reasonable measures to avoid insolvency, within the meaning of section 418E, have been taken, the plan sponsor may take into account the following non-exclusive list of factors—

(A) Current and past contribution levels;

(B) Levels of benefit accruals (including any prior reductions in the rate of benefit accruals);

(C) Prior reductions (if any) of adjustable benefits;

(D) Prior suspensions (if any) of benefits under this section;

(E) The impact on plan solvency of the subsidies and ancillary benefits available to active participants;

(F) Compensation levels of active participants relative to employees in the participants' industry generally;

(G) Competitive and other economic factors facing contributing employers;

(H) The impact of benefit and contribution levels on retaining active participants and bargaining groups under the plan;

(I) The impact of past and anticipated contribution increases under the plan on employer attrition and retention levels; and

(J) Measures undertaken by the plan sponsor to retain or attract contributing employers.

(iii) *Reliance on certification of critical and declining status.* For purposes of the insolvency projection under paragraph (c)(3)(i)(B) of this section, a plan sponsor may rely on the actuarial certification made pursuant to section 432(b)(3)(A)(i) that the plan is in critical and declining status for the plan year in making the determination that the plan is projected to become insolvent unless benefits are suspended.

(4) *Annual-plan-sponsor determinations.* [Reserved]

(5) *Failure to make annual-plan-sponsor determinations.* [Reserved]

(d) *Limitations on suspension*—(1) *In general.* Any suspension of benefits with respect to a participant made by a plan sponsor pursuant to this section is subject to the individual limitations of sections 432(e)(9)(D)(i) through (iii), in accordance with the rules of paragraphs (d)(2) through (d)(4) of this section. After applying the individual limitations in sections 432(e)(9)(D)(i) through (iii), in accordance with the rules of paragraphs (d)(2) through (d)(4) of this section, the overall size and distribution of the suspension is subject to the aggregate limitations of sections 432(e)(9)(D)(iv) and (vi) in accordance with the rules of paragraphs (d)(5) and (d)(6) of this section. See section 432(e)(9)(D)(vii) for additional rules applicable to certain plans.

(2) *Guarantee-based limitation*—(i) *General rule.* The monthly benefit with respect to any participant may not be reduced below 110 percent of the monthly benefit payable to a participant, beneficiary, or alternate payee that would be guaranteed by the Pension Benefit Guaranty Corporation (PBGC) under section 4022A of ERISA if the plan were to become insolvent as of the effective date of the suspension.

(ii) *PBGC guarantee.* [Reserved]

(iii) *Calculation of accrual rate.* [Reserved]

(iv) *Special rules for non-vested participants.* [Reserved]

(v) *Examples.* [Reserved]

(3) *Age-based limitation.* [Reserved]

(4) *Disability-based limitation*—(i) *General rule.* Benefits based on disability (as defined under the plan) may not be suspended.

(ii) *Benefits based on disability.* [Reserved]

(5) *Limitation on aggregate size of suspension.* [Reserved]

(6) *Equitable distribution.* [Reserved]

(7) *Effective date of suspension made in combination with partition.* In any case in which a suspension of benefits with respect to a plan is made in combination with a partition of the plan, the suspension of benefits may not take effect prior to the effective date of the partition. This requirement will not be satisfied if the partition order under section 4233 of ERISA has not been provided to the Secretary of the Treasury by the last day of the 225-day period described in paragraph (g)(3)(i) of this section.

(e) *Benefit improvements.* [Reserved]

(f) *Notice requirements*—(1) *In general.* No suspension of benefits may be made pursuant to this section unless notice of the proposed suspension has been given by the plan sponsor to—

(i) All participants, beneficiaries of deceased participants, and alternate payees under the plan (regardless of whether their benefits are proposed to be suspended), except those who cannot be contacted by reasonable efforts;

(ii) Each employer who has an obligation to contribute (within the meaning of section 4212(a) of ERISA) under the plan; and

(iii) Each employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer described in paragraph (f)(1)(ii) of this section.

(2) *Content of notice*—(i) *In general.* The notice described under paragraph (f)(1) of this section must contain—

(A) Sufficient information to enable a participant or beneficiary to understand the effect of any suspension of benefits, including an individualized estimate (on an annual or monthly basis) of the effect on that participant or beneficiary;

(B) A description of the factors considered by the plan sponsor in designing the benefit suspension;

(C) A statement that the application for approval of any suspension of benefits will be available on the Web site of the Department of the Treasury and that comments on the application will be accepted;

(D) Information as to the rights and remedies of plan participants and beneficiaries;

(E) If applicable, a statement describing the appointment of a retiree representative, the date of appointment of the representative, the role and responsibilities of the retiree representative, identifying information about the retiree representative (including whether the representative is a plan trustee), and how to contact the retiree representative; and

(F) Information on how to contact the Department of the Treasury for further information and assistance where appropriate.

(ii) *Description of suspension of benefits.* The notice described under paragraph (f)(1) of this section will not satisfy the requirements of paragraph (f)(2)(i) of this section unless it includes the following—

(A) If it is not possible to provide an individualized estimate on an annual or monthly basis of the quantitative effect of the suspension on a participant or beneficiary, such as in the case of a suspension that affects the payment of any future cost-of-living adjustment, a narrative description of the effect of the suspension;

(B) A statement that the plan sponsor has determined that the plan will become insolvent unless the proposed suspension takes effect, and the year in which insolvency is projected to occur without a suspension of benefits;

(C) A statement that insolvency of the plan could result in benefits lower than benefits paid under the proposed suspension and a description of the projected benefit payments upon insolvency;

(D) A description of the proposed suspension and its effect, including a description of the different categories or groups affected by the suspension, how those categories or groups are defined, and the formula that is used to calculate the amount of the proposed suspension for individuals in each category or group;

(E) A description of the effect of the proposed suspension on the plan's projected insolvency;

(F) A description of whether the suspension will remain in effect indefinitely or will expire by its own terms; and

(G) A statement describing the right to vote on the suspension application.

(iii) *Readability requirement.* A notice given under paragraph (f)(1) of this section must be written in a manner that is readily understandable by the average plan participant.

(iv) *Model notice.* The Secretary of the Treasury will provide a model notice. The use of the model notice will satisfy the content and readability requirements of this paragraph (f)(2) with respect to the language provided in the model.

(3) *Form and manner*—(i) *Timing*—(A) *In general.* A notice under paragraph (f)(1) of this section must be given no earlier than four business days before the date on which an application is submitted and no later than two business days after the Secretary of the Treasury notifies the plan sponsor that it has submitted a complete application, as described in paragraph (g)(1)(ii) of this section.

(B) *Timing for lost participants.* If additional individuals who are entitled to notice are located after the time period in paragraph (f)(3)(i)(A) of this section has elapsed, then the plan sponsor must give notice to these individuals as soon as practicable thereafter.

(ii) *Method of delivery of notice*—(A) *Written or electronic delivery.* A notice given under paragraph (f)(1) of this section may be provided in writing. It may also be provided in electronic form to the extent that the form is reasonably accessible to persons to whom the notice is required to be provided. Permissible electronic methods include those permitted under regulations of the Department of Labor at 29 CFR 2520.104b–1(c) and those described at § 54.4980F–1, Q&A–13(c) of the Excise Tax Regulations.

(B) *No alternative method of delivery.* [Reserved]

(iii) *Additional information in notice.* A notice given under paragraph (f)(1) of this section is permitted to include information in addition to the information that is required under paragraph (f)(2) of this section, including, if applicable, information relating to an application for partition under section 4233 of ERISA (such as the model notice at Appendix A of 29 CFR part 4233), provided that the requirements of paragraph (f)(3)(iv) of this section are satisfied.

(iv) *No false or misleading information.* A notice given under paragraph (f)(1) of this section may not include false or misleading information (or omit information in a manner that causes the information provided to be misleading).

(4) *Other notice requirement.* Any notice given under paragraph (f)(1) of this section satisfies the requirement for notice of a significant reduction in benefits described in section 4980F that would otherwise be required as a result of that suspension of benefits. To the extent that there are other reductions that accompany a suspension of benefits, such as a reduction in the future accrual rate described in section 4980F for active participants or a reduction in adjustable benefits under section 432(e)(8), notice that satisfies the requirements (including the applicable timing requirements) of section 4980F or section 432(e)(8), as applicable, must be provided.

(5) *Examples.* The following examples illustrate the requirement in paragraph (f)(1)(i) of this section to give notice to all participants, beneficiaries of deceased participants, and alternate payees, except those who cannot be contacted by reasonable efforts.

Example 1. (i) *Facts.* A plan sponsor distributes notice of a proposed suspension of benefits to plan participants, beneficiaries of deceased participants, and alternate payees by mailing the notice to their last known mailing addresses, using the same information that it used to send the most recent annual funding notice. Of 5,000 such notices, 300 were returned as undeliverable. The plan sponsor takes no additional steps to contact the individuals for whom the notice was returned as undeliverable.

(ii) *Conclusion.* The plan sponsor did not make any effort beyond the initial mailing to locate the 300 individuals for whom the notice was returned as undeliverable. Therefore, the plan sponsor did not satisfy the requirement to provide notice to all participants, beneficiaries of deceased participants, and alternate payees under the plan (regardless of whether their benefits are proposed to be suspended), except those who cannot be contacted by reasonable efforts.

Example 2. (i) *Facts.* The facts are the same as *Example 1,* but the plan sponsor contacts the bargaining parties to locate the missing individuals for whom the notice was returned as undeliverable. The plan sponsor then uses an Internet search tool, a credit reporting agency, and a commercial locator service to search for individuals for whom it was not able to obtain updated information from bargaining parties. Through these efforts, the plan sponsor locates the updated addresses of 250 of the 300 individuals whom it previously failed to contact. The plan sponsor mails notices to those individuals within one week of locating them.

(ii) *Conclusion.* By using effective search methods to find the previously missing individuals and promptly mailing the notice of suspension to them, the plan sponsor has satisfied the requirement to provide notice to all participants, beneficiaries of deceased participants, and alternate payees under the plan (regardless of whether their benefits are proposed to be suspended), except those who cannot be contacted by reasonable efforts.

(g) *Approval or denial of an application for suspension of benefits*—(1) *Application*—(i) *In general.* The plan sponsor of a plan in critical and declining status for a plan year that seeks to suspend benefits must submit an application for approval of the proposed suspension of benefits to the Secretary of the Treasury. The Secretary of the Treasury will approve, in consultation with the PBGC and the Secretary of Labor, a complete application described in paragraph (g)(1)(ii) of this section upon finding that the plan is eligible for the suspension and has satisfied the criteria of section 432(e)(9)(C), (D), (E), and (F), in accordance with the rules of paragraphs (c), (d), (e), and (f) of this section.

(ii) *Complete application.* After receiving a submission, the plan sponsor will be notified within two business days whether the submission constitutes a complete application. A complete application will be treated as submitted on the date that it was originally submitted to the Secretary of the Treasury. If a submission is incomplete, the notification will inform the plan sponsor of the information that is needed to complete the submission and give the plan sponsor a reasonable opportunity to submit a complete application. In such a case, the complete application will be treated as submitted on the date on which the additional information needed to complete the application is submitted to the Secretary of the Treasury.

(iii) *Submission of application.* An application described in this paragraph (g)(1) must be submitted electronically.

(iv) *Requirements for application.* Additional guidance that may be necessary or appropriate with respect to applications described in this paragraph (g)(1), including procedures for submitting applications and the information required to be included in a complete application, may be published in the form of revenue procedures, notices, or other guidance in the Internal Revenue Bulletin.

(v) *Requirement to provide adequate time to process application.* An application for suspension that is not submitted in combination with an application to PBGC for a plan partition under section 4223 of ERISA generally will not be accepted unless the proposed effective date of the suspension is at least nine months from the date on which the application is submitted. However, in appropriate circumstances, an earlier effective date may be permitted.

(vi) *Plan sponsors that also apply for partition.* See Part 4233 of the PBGC regulations for a coordinated application process that applies in the case of a plan sponsor that is submitting an application for suspension in combination with an application to PBGC for a plan partition under section 4233 of ERISA.

(2) *Solicitation of comments*—(i) *In general.* Not later than 30 days after receipt of a complete application described in paragraph (g)(1) of this section—

(A) The application for approval of the suspension of benefits will be published on the Web site of the Department of the Treasury; and

(B) The Secretary of the Treasury will publish a notice in the **Federal Register** soliciting comments from contributing employers, employee organizations, and participants and beneficiaries of the plan for which an application was made, and other interested parties.

(ii) *Public comments.* The notice described in paragraph (g)(2)(i)(B) of this section will generally request that comments be submitted no later than 45 days after publication of that notice in the **Federal Register**, but the comment period may be shorter in appropriate circumstances. Comments received in response to this notice will be made publicly available.

(3) *Approval or denial*—(i) *Deemed approval.* A complete application described in paragraph (g)(1)(ii) of this section will be deemed approved unless, within 225 days following the date that the complete application is submitted, the Secretary of the Treasury notifies the plan sponsor that its application does not satisfy one or more of the requirements described in this paragraph (g).

(ii) *Notice of denial.* If the Secretary of the Treasury denies a plan sponsor's application, the notification of the denial will detail the specific reasons for the denial, including reference to the specific requirement not satisfied.

(iii) *Special rules for systemically important plans.* If the Secretary of the Treasury approves a plan sponsor's application and the Secretary believes that the plan is or may be a systemically important plan (as defined in paragraph (h)(5)(iv) of this section), the Secretary will notify the plan sponsor of that belief and that it will be required to provide individual participant data upon request. In such a case, this data would be used in the event of a vote to reject the suspension (as described in paragraph (h)(4) of this section) in order to assist the Secretary in determining whether to permit a modification of the rejected suspension.

(iv) *Agreement to stay 225-day period.* [Reserved]

(4) *Consideration of certain factors.* [Reserved]

(5) *Standard for accepting plan sponsor determinations.* [Reserved]

(6) *Plan-sponsor certifications with respect to plan amendments.* [Reserved]

(7) *Special Master.* The Secretary of the Treasury may appoint a Special Master for purposes of this section. If a Special Master is appointed, the Special Master will coordinate the implementation of this section and the review of applications for the suspension of benefits and other appropriate documents, and will provide recommendations to the Secretary of the Treasury with respect to decisions required under this section.

(h) *Participant vote on proposed benefit reduction*—(1) *Requirement for vote*—(i) *In general.* If an application for suspension is approved under paragraph (g) of this section, then the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor, will administer a vote of all plan participants and beneficiaries of deceased participants (eligible voters), as described in section 432(e)(9)(H) and this paragraph (h). Any suspension of benefits will take effect only after the vote and after a final authorization to suspend benefits under paragraph (h)(6) of this section.

(ii) *Communication by plan sponsor.* [Reserved]

(2) *Administration of vote.* [Reserved]

(3) *Ballots*—(i) *In general.* [Reserved]

(ii) *Additional rules*—(A) *Readability requirement.* A ballot provided under section 432(e)(9)(H)(iii), in accordance with the rules of paragraph (h)(3)(i) of this section, must be written in a manner that is readily understandable by the average plan participant.

(B) *No false or misleading information.* A ballot provided under section 432(e)(9)(H)(iii), in accordance with the rules of paragraph (h)(3)(i) of this section, may not include false or misleading information (or omit information in a manner that causes the information provided to be misleading).

(iii) *Ballot must be approved.* Any ballot provided under section 432(e)(9)(H)(iii), in accordance with the rules of paragraph (h)(3)(i) of this section, must be approved by the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor, before it is provided.

(4) *Implementing suspension following vote*—(i) *In general.* Unless a majority of all eligible voters vote to reject the suspension that was approved under paragraph (g) of this section, the suspension will be permitted to go into effect. If a majority of all eligible voters vote to reject the suspension that was approved under paragraph (g) of this section, a suspension of benefits will not be permitted to go into effect except as provided under paragraph (h)(5)(iii) of this section relating to the implementation of a suspension for a systemically important plan (as defined in paragraph (h)(5)(iv) of this section).

(ii) *Effect of not sending ballot.* [Reserved]

(5) *Systemically important plans*—(i) *In general.* If a majority of all eligible voters vote to reject the suspension that was approved under paragraph (g) of this section, the Secretary of the Treasury will consult with the PBGC and the Secretary of Labor to determine if the plan is a systemically important plan. This determination will be made no later than 14 days after the results of the vote are certified.

(ii) *Recommendations from Participant and Plan Sponsor Advocate.* Not later than 30 days after a determination that the plan is a systemically important plan, the Participant and Plan Sponsor Advocate selected under section 4004 of ERISA may submit recommendations to the Secretary of the Treasury with respect to the suspension that was approved under paragraph (g) of this section or any revisions to the suspension.

(iii) *Implementation of original or modified suspension by systemically important plans.* If a plan is a systemically important plan for which a majority of all eligible voters vote to reject the suspension that was approved under paragraph (g) of this section, then

the Secretary of the Treasury must determine whether to permit the implementation of the suspension that was approved under paragraph (g) of this section or whether to permit the implementation of a modification of that suspension. Under any such modification, the plan must be projected to avoid insolvency in accordance with section 432(e)(9)(D)(iv). No later than 60 days after the results of a vote to reject a suspension are certified, the Secretary of the Treasury will notify the plan sponsor that the suspension or modified suspension is permitted to be implemented.

(iv) *Systemically important plan defined*—(A) *In general.* For purposes of this paragraph (h)(5), a systemically important plan is a plan with respect to which the PBGC projects that the present value of financial assistance payments will exceed $1.0 billion if the suspension is not implemented.

(B) *Indexing.* For calendar years beginning after 2015, the dollar amount specified in paragraph (h)(5)(iv)(A) of this section will be replaced with an amount equal to the product of the dollar amount and a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) for the preceding calendar year and the denominator of which is the contribution and benefit base for calendar year 2014. If the amount otherwise determined under this paragraph (h)(5)(iv)(B) is not a multiple of $1.0 million, the amount will be rounded to the next lowest multiple of $1.0 million.

(6) *Final authorization to suspend*—(i) *In general.* In any case in which a suspension is permitted to go into effect following a vote pursuant to section 432(e)(9)(H)(ii) and paragraph (h)(4) of this section, the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor, will issue a final authorization to suspend with respect to the suspension not later than seven days after the vote.

(ii) *Systemically important plans.* In any case in which a suspension is permitted to go into effect following a determination under paragraph (h)(5) of this section that the plan is a systemically important plan, the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor, will issue a final authorization to suspend, at a time sufficient to allow the implementation of the suspension prior to the end of the 90-day period beginning on the date the results of the vote are certified.

(iii) *Plan partitions.* Notwithstanding any other provision of this section, in any case in which a suspension of benefits with respect to a plan is made in combination with a partition of the plan, the suspension of benefits is not permitted to take effect prior to the effective date of the partition.

(i) [Reserved].

(j) *Effective/applicability date.* This section applies on and after June 17, 2015.

(k) *Expiration date.* The applicability of this section expires on June 15, 2018.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 3.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805

■ **Par. 4.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR Part or section where identified and described	Current OMB control no.
* * * * *	
1.432(e)(9)–1T	1545–2260
* * * * *	

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 9, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2015–14945 Filed 6–17–15; 11:15 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4233

RIN 1212–AB29

Partitions of Eligible Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim final rule.

SUMMARY: This document contains an interim final rule prescribing the application process and notice requirements for partitions of eligible multiemployer plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Multiemployer Pension Reform Act of 2014 (MPRA). The interim final rule is published pursuant to section 122 of MPRA in order to carry out the provisions of section 4233 of ERISA. PBGC is soliciting public comments on the interim final regulation.

DATES: Effective June 19, 2015. Comments must be submitted on or before August 18, 2015.

ADDRESSES: Comments, identified by Regulation Identifier Number (RIN) 1212–AB29, may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4112.
- *Mail or Hand Delivery:* Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026. All submissions must include the Regulation Identifier Number for this rulemaking (RIN 1212–AB29).

Comments received, including personal information provided, will be posted to *www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Joseph J. Shelton (*shelton.joseph@pbgc.gov*), Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4400, ext. 6559; Kimberly J. Duplechain (*duplechain.kimberly@pbgc.gov*), Deputy Assistant General Counsel, Office of the General Counsel, 202–326–4400, ext. 3028.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This interim final rule implements provisions of the Multiemployer Pension Reform Act of 2014 (MPRA) [1] that prescribe the statutory conditions and notice requirements that must be met before PBGC may partition an

[1] Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (128 Stat. 2130 (2014)).

eligible multiemployer plan under section 4233 of ERISA.

PBGC's legal authority for this action comes from section 4002(b)(3) of ERISA, which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA, and section 4233 of ERISA, as amended by MPRA, which requires that the partition process be conducted in accordance with regulations prescribed by PBGC.

Major Provisions of the Regulatory Action

This rule adds a new part 4233 to PBGC's regulations. Part 4233 prescribes the application process to ensure the timely processing of applications for partition and related notice requirements.

Background

PBGC and the Multiemployer Insurance Program

This interim final rule provides necessary guidance to plan sponsors on the application and notice requirements under section 4233 of ERISA for partitions of eligible multiemployer plans. To understand the effect of a partition of a multiemployer plan under MPRA, however, it is first helpful to understand the structure and operation of PBGC's multiemployer insurance program.

PBGC is a Federal corporation created under title IV of ERISA to guarantee the payment of pension benefits earned by more than 41 million American workers and retirees in nearly 24,000 private-sector defined benefit pension plans. The purpose of PBGC and the title IV insurance program is (1) to encourage the continuation and maintenance of voluntary private pension plans for the benefit of their participants; (2) to provide for the timely and uninterrupted payment of pension benefits under insured plans; and (3) to maintain premiums at the lowest level consistent with PBGC's obligations.

PBGC administers two insurance programs—one for single-employer defined benefit pension plans and a second for multiemployer defined benefit pension plans. This interim final rule applies only to the multiemployer program. The multiemployer program protects the benefits of approximately 10 million workers and retirees in approximately 1,400 plans. A multiemployer plan is a collectively bargained pension arrangement involving two or more unrelated employers, usually in a common industry, such as construction or trucking. Multiemployer plans pay an annual premium to PBGC. Under MPRA, the annual premium for 2015 increased from $13 to $26 per participant. For plan years beginning after 2015, the annual premium will increase based on increases in the national average wage index.

In general, a multiemployer plan may be terminated in one of two ways: (1) By plan amendment that ''freezes'' the accrual and vesting of benefits after a specified date, or that converts the plan into a defined contribution plan; or (2) every employer withdraws from the plan or ceases to have an obligation to contribute to the plan. In contrast to the single-employer program, however, plan termination is *not* an insurable event. In other words, plan termination does *not* trigger the payment of PBGC-insured, guaranteed benefits to participants and beneficiaries. The insurable event under the multiemployer program is plan insolvency, which generally occurs when a plan is unable to pay benefits at the level promised for the plan year.

The PBGC guarantee for multiemployer plans is lower than the guarantee for single-employer plans, and is based on a participant's credited service and accrual rate, as defined in section 4022A. The maximum monthly benefit payable by PBGC under the multiemployer program is equal to a participant's years of service multiplied by the sum of—

- 100 percent of the first $11 of the accrual rate, and
- 75 percent of the next $33 of the accrual rate.

Under this formula, benefits in excess of $3,960 per year are only partially guaranteed, and the maximum guarantee amount payable per year is capped at $12,870 (applicable to a participant with 30 years of service and with an annual benefit in excess of $15,840).[2]

Another important difference between the single-employer program and the multiemployer program is the manner in which PBGC pays guaranteed benefits. Under the multiemployer program, PBGC does *not* pay guaranteed benefit amounts directly to participants and beneficiaries. Rather, when a multiemployer plan becomes insolvent, PBGC provides financial assistance in the form of loans to the insolvent *plan* sufficient to pay guaranteed benefit amounts to participants and beneficiaries. Despite this difference, the receipt of guaranteed benefit amounts from an insolvent multiemployer plan receiving financial assistance from PBGC is considered the receipt of benefits guaranteed by PBGC under title IV of ERISA.

MPRA Changes to Partition Rules

Although many multiemployer plans are healthy, a significant minority of financially troubled plans are projected to become insolvent over the next two decades.[3] PBGC's multiemployer insurance program is also projected to become insolvent within that timeframe. During 2013 and 2014, congressional committees held several hearings on the problems facing these plans and PBGC. Those challenges include, among other things, investment market declines, employer withdrawals, and demographic changes.

In December 2014, Congress enacted, and the President signed, the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (128 Stat. 2130 (2014)), of which MPRA is a part. MPRA contains a number of statutory reforms intended to help financially troubled multiemployer plans, and to improve the financial condition of PBGC's multiemployer insurance program. In addition to increased premiums, sections 121 and 122 of MPRA provide PBGC with new statutory authority to assist financially troubled multiemployer plans under certain conditions, if doing so would reduce potential future costs to PBGC and if PBGC can certify that its ability to meet existing financial assistance to other plans will not be impaired.

In addition, section 201 of MPRA amended the funding rules under section 305 of ERISA to add a new ''critical and declining'' status for financially troubled multiemployer plans. Under section 305(b)(6) of ERISA, a plan is in critical and declining status if it satisfies the criteria for critical status under section 305(b)(2), and is projected to become insolvent within the meaning of section 4245 of ERISA during the current plan year or any of the 14 succeeding plan years (19 succeeding plan years if the plan has a ratio of inactive participants to active participants that exceeds two to one, or if the funded percentage of the plan is less than 80 percent). Section 305(e)(9) of ERISA, as added by MPRA, prescribes new benefit suspension rules for multiemployer defined benefit plans in critical and declining status. The Department of the Treasury (Treasury) has interpretative jurisdiction over the subject matter in section 305 of ERISA

[2] The guarantee amount will exceed this amount if the participant has more than 30 years of service.

[3] *See* FY 2013 PBGC Projections Report at *http://www.pbgc.gov/documents/Projections-report-2013.pdf.*

and is contemporaneously issuing regulatory guidance in this area.[4]

As noted above, the purpose of this rule is to implement application and notice requirements under section 122 of MPRA, which prescribes the statutory conditions and notice requirements that must be met before PBGC may partition an eligible multiemployer plan. PBGC expects to publish a proposed rule on facilitated mergers involving critical and declining status plans under section 121 of MPRA in a separate rulemaking.

Multiemployer Plan Partitions—Prior Law

Before MPRA, PBGC could partition a multiemployer plan likely to become insolvent upon application by a plan sponsor or on its own accord. In either case, partition was only available in certain limited circumstances involving employer bankruptcies, and the liabilities transferred were restricted to the nonforfeitable benefits directly attributable to service with bankrupt employers, along with an equitable share of assets. The new plan created by the partition order was a successor plan under section 4022A of ERISA, and a terminated multiemployer plan to which section 4041A(d) applies.[5] In addition, if the new plan did not have sufficient assets to pay the transferred benefits as of the date of the partition order, which generally was the case, it would be insolvent within the meaning of section 4245(b)(1) of ERISA. In such a case, PBGC provided financial assistance to the new plan so that it could make benefit payments to participants whose benefits had been transferred to the new plan, but reduced to the PBGC guarantee level. In contrast, participants in the ongoing plan continued to receive unreduced plan benefits. Due in part to the eligibility limitations for partition, PBGC had partitioned only a few plans prior to the enactment of MPRA.

Multiemployer Plan Partitions—MPRA

Section 122 of MPRA replaced the rules for partition with a new framework of rules. One of the most obvious changes is that PBGC may approve a partition without requiring an employer bankruptcy and, therefore, the benefits subject to transfer in a partition are no longer limited to those attributable to service with a bankrupt employer. The statute imposes a number of new eligibility requirements, however, such as a requirement that the plan be in critical and declining status as defined in section 305 of ERISA, and new statutory conditions and obligations that apply both before and after a partition, including a new, ongoing benefit payment obligation that applies to the eligible multiemployer plan that requested the partition.

Another important change under MPRA is the relationship between the partition rules under section 4233 and the suspension of benefits rules under section 305(e)(9) of ERISA.[6] Section 305(e)(9) permits critical and declining status plans to apply to Treasury for approval to suspend certain benefits following the provision of specified notice, consideration of comments, Treasury review and approval, and satisfaction of other specified conditions (including a participant vote). One example of the interplay between an application for partition and an application for suspension of benefits is that before Treasury can approve an application for suspension, the plan actuary must certify that, taking into account a proposed suspension of benefits and, if applicable, a proposed partition under section 4233, the plan is projected to avoid insolvency within the meaning of section 4245, assuming the suspension of benefits continues until the suspension expires by its own terms or, if no such expiration date is set, indefinitely.

Another example of the interplay between an application for partition and an application for suspension of benefits is that before PBGC may order a partition, it must first determine, in consultation with the Participant and Plan Sponsor Advocate,[7] that the plan sponsor has taken (or is taking concurrently with an application for partition) all reasonable measures to avoid insolvency, including maximum benefit suspensions under section 305(e)(9), if applicable. In addition, section 305(e)(9)(D)(iv) provides that any suspension of benefits, in the aggregate (and, if applicable, in combination with a partition), must be reasonably estimated to achieve, but not materially exceed, the level that is necessary to avoid insolvency. Finally, section 305(e)(9)(D)(v) requires that in any case in which an application for suspension of benefits to Treasury is made in combination with an application for partition to PBGC, the suspension of benefits may *not* take effect prior to the effective date of the partition.

Given the interplay between MPRA's partition and suspension of benefits provisions, PBGC staff has consulted with staff of Treasury and the Department of Labor in developing this interim final rule. PBGC will continue to work closely with these agencies as part of the interagency consultative process required under section 305(e)(9) of ERISA.

The following is a summary of the new statutory framework for partitions under MPRA.

Partition Application and Notice Requirements

Section 4233(a)(1) of ERISA states that, upon application by the plan sponsor of an eligible multiemployer plan, PBGC may order a partition of the plan in accordance with that section. As under prior law, PBGC's decision to order a partition is discretionary. Unlike prior law, however, the statute requires PBGC to make a determination not later than 270 days after the date such application was filed (or, if later, the date such application was completed), in accordance with regulations promulgated by PBGC.

In addition, section 4233(a)(2) states that not later than 30 days after submitting an application for partition, the plan sponsor shall notify the participants and beneficiaries of such application, in the form and manner prescribed by regulations issued by PBGC.

Eligibility Criteria for Partition

Section 4233(b) of ERISA contains five statutory conditions that must be satisfied before PBGC may order a partition. They are discussed below:

Critical and declining status. In accordance with section 4233(b)(1), the plan must be in critical and declining status as defined in section 305(b)(6) of ERISA. As noted above, a plan is in critical and declining status if the plan satisfies the criteria for critical status under section 305(b)(2), and is projected to become insolvent within the meaning of section 4245 during the current plan year or any of the 14 succeeding plan years (or 19 succeeding plan years if the plan has a ratio of inactive participants to active participants that exceeds two to one or if the funded percentage of the plan is less than 80 percent). Section

[4] *See* Rev. Proc. 2015–34, and the temporary and proposed regulations under section 305(e)(9) of ERISA (section 432(e)(9) of the Internal Revenue Code).

[5] Section 4041A(d) of ERISA provides that the plan sponsor of a plan which terminates under section 4041A(a)(2) (termination by mass withdrawal) shall reduce benefits and suspend benefit payments in accordance with section 4281 of ERISA.

[6] Section 305(e)(9)(B) defines the term ''suspension of benefits'' as the temporary or permanent reduction of any current or future payment obligation of the plan to any participant or beneficiary under the plan, whether or not in pay status at the time of the suspension of benefits.

[7] The Participant and Plan Sponsor Advocate position was created in 2012 by the Moving Ahead for Progress in the 21st Century Act (MAP–21). *See* section 4004 of ERISA for the rules governing this position.

305(b)(3)(A)(i) requires an annual certification from the plan actuary on whether a plan is or will be in critical and declining status for such plan year. Treasury has interpretative jurisdiction over the subject matter in section 305 of ERISA.

PBGC determination on reasonable measures. Under section 4233(b)(2) of ERISA, PBGC must determine, after consultation with the Participant and Plan Sponsor Advocate, that the plan sponsor has taken (or is taking concurrently with an application for partition) all reasonable measures to avoid insolvency, including maximum benefit suspensions under section 305(e)(9) of ERISA, if applicable.

The term ''maximum benefit suspensions'' is not defined in section 305(e)(9) of ERISA.[8] However, based on the structure and operation of section 305(e)(9)—specifically, the statutorily defined limitations and protections contained in section 305(e)(9)(D), which limits the maximum amount of a suspension so that the post-suspension benefit is no less than 110 percent of the PBGC guarantee under section 4022A, exempts certain categories of individuals based on their age, and exempts benefits based on disability—PBGC interprets the term ''maximum benefit suspensions'' in section 4233(b)(2) of ERISA to mean the maximum benefit suspensions permissible under section 305(e)(9). For example, the maximum benefit suspension permissible for an individual with a plan benefit based on disability would be zero, because benefits based on disability may not be suspended under section 305(e)(9)(D)(iii).

The requirement under section 4233(b)(2) that a plan sponsor has taken (or is currently taking) all reasonable measures to avoid insolvency is similar to the demonstration that a plan sponsor must make under section 305(e)(9)(C)(ii) relating to an application for suspension of benefits. Under that provision, the plan sponsor must maintain a written record demonstrating that the plan is projected to become insolvent unless benefits are suspended, although all reasonable measures have been taken (and continue to be taken during the period of the benefit suspension).

Although it is possible for a plan to file *only* an application for partition (and not an application for suspension of benefits under section 305(e)(9) of ERISA), the only instance in which that may occur would be if all participants and beneficiaries are older than 80, and/or receive benefits based on disability, or have accrued benefits not greater than 110 percent of the monthly benefit guaranteed by PBGC under section 4022A. Therefore, PBGC expects that most applicants for partition will also apply to Treasury for a suspension of benefits.

While the statute does not require a plan sponsor to file concurrent applications for partition and suspension of benefits, PBGC strongly encourages plan sponsors to do so because of the interplay between these provisions. For example, under section 305(e)(9) of ERISA, it is necessary for Treasury to review whether a proposed suspension of benefits and partition combined will allow the plan to avoid insolvency, and both PBGC and Treasury must make overlapping findings for each application. Furthermore, participant communications may be simplified if participants and beneficiaries receive a notice of partition concurrently with that of suspension. Finally, applications for partition and suspension that are not closely coordinated may also make it difficult for the agencies to comply with the statutory timeframes.

Long-term loss and plan solvency. In accordance with section 4233(b)(3) of ERISA, PBGC must reasonably expect that—

- Partition will reduce PBGC's expected long-term loss with respect to the plan; and
- Partition is necessary for the plan to remain solvent.

Certification to Congress. In accordance with section 4233(b)(4) of ERISA, PBGC must certify to Congress that its ability to meet existing financial assistance obligations to other plans (including any liabilities associated with multiemployer plans that are insolvent or that are projected to become insolvent within 10 years) will not be impaired by the partition.

Source of funding. In accordance with section 4233(b)(5) of ERISA, the cost to PBGC arising from the partition must be paid exclusively from the PBGC fund for basic benefits guaranteed for multiemployer plans.

PBGC Partition Order

Upon PBGC's approval of an application for partition, section 4233(c) of ERISA provides that PBGC's partition order shall provide for a transfer to the plan created by the partition order (the successor plan) the minimum amount of the original plan's liabilities necessary for the original plan to remain solvent.

Sections 4233(d)(1) and (2) of ERISA describe the nature of the successor plan, and assign responsibility for its management. Specifically, section 4233(d)(1) provides that the plan created by the partition order is a successor plan to which section 4022A applies. Section 4233(d)(2) provides that the plan sponsor of the original plan and the administrator of such plan shall be the plan sponsor and administrator, respectively, of the successor plan.

Partition Withdrawal Liability Rule

As noted above, unlike the partition rule under prior law, MPRA imposes a number of ongoing statutory obligations on the solvent, original plan and its contributing employers. For example, section 4233(d)(3) of ERISA prescribes a new withdrawal liability rule that applies for 10 years following the date of the partition order. Under the new withdrawal liability rule, if an employer withdraws from the original plan within 10 years following the date of the partition, withdrawal liability is computed under section 4201 with respect to the original plan and the successor plan. If, however, the withdrawal occurs more than 10 years after the date of the partition order, withdrawal liability is computed under section 4201 only with respect to the original plan (and not with respect to the successor plan). In either case, withdrawal liability is payable to the original plan (and not the successor plan).

Continuing Payment Obligation

Section 4233(e)(1) imposes an ongoing benefit payment obligation on the original plan with respect to each participant or beneficiary of the original plan whose guarantee amount was transferred to the successor plan pursuant to a partition order. With respect to these individuals, the original plan must pay a monthly benefit for each month in which such benefit is in pay status following the effective date of the partition in an amount equal to the excess of—

- The monthly benefit that would be paid to such participant or beneficiary for such month under the terms of the plan (taking into account benefit suspensions under section 305(e)(9) and any plan amendments following the effective date of such partition) if the partition had not occurred, over
- The monthly benefit for such participant or beneficiary that is guaranteed under section 4022A.[9]

[8] The term ''maximum benefit suspensions'' in section 4233(b)(2) of ERISA should not to be confused with the term ''maximum suspendable benefits'' under section 305(e)(9)(D)(ii)(ll).

[9] Because the benefit payment obligation under section 4233(e)(1) is based, in part, on the monthly

Continued

As a result of this continuing payment obligation, PBGC expects that participants and beneficiaries whose guarantee amounts are transferred to a successor plan, and who have a plan benefit that exceeds the PBGC guarantee (*e.g.,* 110 percent of the PBGC guarantee amount, benefit based on disability, etc.), will continue to participate in, and retain a right to receive a benefit payment from, the original plan after the effective date of a partition order.

Benefit Improvement Premium Payments to PBGC

Section 4233(e)(2) of ERISA provides that in any case in which a plan provides a benefit improvement, as defined in section 305(e)(9)(E)(vi), that takes effect after the effective date of the partition, the original plan shall pay to PBGC for each year during the 10-year period following the partition effective date, an annual amount equal to the lesser of—

- The total value of the increase in benefit payments for such [plan] year that is attributable to the benefit improvement, or
- The total benefit payments from the successor plan for such [plan] year.

This payment must be made at the time of, and in addition to, any other premium imposed by PBGC under title IV of ERISA.[10]

Special Premium Rule

Section 4233(e)(3) of ERISA imposes a special premium rule on the original plan, which requires it to pay the premiums for participants whose guarantee amounts were transferred to the successor plan for each year during the 10-year period following the partition effective date.

Notice of Partition Order

In addition to the initial notice requirement under section 4233(a)(2) of ERISA, which applies to the plan sponsor, section 4233(f) imposes a notice requirement on PBGC. It states that not later than 14 days after the issuance of a partition order, PBGC must provide notice of the order to the Committee on Education and the Workforce of the House of Representatives; the Committee on Ways and Means of the House of Representatives; the Committee on Finance of the Senate; the Committee on Health, Education, Labor, and Pensions of the Senate; and any affected participants or beneficiaries.

PBGC Request for Information

On February 18, 2015, PBGC published in the **Federal Register** a request for information (RFI) to solicit information from interested parties on issues PBGC should consider in implementing sections 4231 and 4233 of ERISA, and received 20 comments in response to the RFI.[11] PBGC has reviewed these comments and this interim final rule reflects a number of the suggestions contained in those comments.[12]

In general, commenters supported the implementation of section 4233 of ERISA and urged PBGC to issue guidance in a timely manner. Most commenters emphasized a need for clear guidance from PBGC on the types of information, documents, data, and actuarial projections needed to complete an application for partition. A number of commenters suggested that whenever possible and consistent with statutory requirements, the application should be based on information that plans are already required to prepare, or information that plans could easily develop. Consistent with these comments, PBGC believes that the interim final rule strikes an appropriate balance between providing clear and detailed guidance on the required content of an application for partition and not being unduly burdensome.

A number of commenters requested guidance on PBGC's evaluation criteria and standards for approval. PBGC considered these comments, but concluded that given the nature of the analysis and determinations required under section 4233(b) of ERISA with respect to both the plan applicant and PBGC, it is not able to provide guidance in those areas at this time. As a result, PBGC will review each application for partition on a case-by-case basis in accordance with the statutory criteria in section 4233(b). Such experience may enable PBGC to develop appropriate guidance in those areas in the future.

There were also differing views on a number of other issues, including the required showing of solvency under ERISA section 4233, and whether there is a need for additional post-partition oversight by PBGC. As discussed below, PBGC interprets the term ''remain solvent'' to have the same meaning as ''avoid insolvency'' in section 305(e)(9)(D)(iv) of ERISA and the regulations thereunder. PBGC agrees with those commenters who suggested a need for post-partition oversight. In PBGC's view, additional oversight is necessary to ensure compliance with the partition order, statutory post-partition obligations of the original plan, and proper stewardship of PBGC financial assistance provided to the successor plan. A more detailed discussion of the regulatory changes and the RFI comments follows.

Regulatory Changes

Overview

To implement MPRA's changes to section 4233 of ERISA, PBGC is adding a new part 4233, Partitions of Eligible Multiemployer Plans, to its regulations. Part 4233 provides guidance to multiemployer plan sponsors on the process for submitting an application for partition, the information required to be included in an application, notice requirements under section 4233(a)(2), including the form and manner of the notice, the notification process for PBGC decisions on applications for partition, the content of a partition order, and the scope of PBGC's continuing jurisdiction under a partition order.

Section-by-Section Discussion

Section 4233.1 of the regulation describes the purpose and scope of part 4233, which is to prescribe application and notice requirements for partition under section 4233 of ERISA. The procedures set forth in the regulation represent the exclusive means by which PBGC will review an application for partition under section 4233 of ERISA.

Section 4233.2 of the regulation defines key terms used in the regulation. The statute uses the terms ''eligible multiemployer plan,'' the ''eligible multiemployer plan prior to the partition,'' and the ''plan that was partitioned,'' to refer to the multiemployer plan that is the subject of the partition application under section 4233(a) of ERISA. To avoid confusion, the regulation uses the term ''original plan'' to refer to the eligible multiemployer plan under section 4233(b) of ERISA, and ''successor plan'' to refer to the plan created by the

benefit that is guaranteed under section 4022A, the amount of this benefit payment obligation is subject to change under section 4022A(f)(2)(C).

[10] Section 305(e)(9)(E)(vi) defines the term ''benefit improvement'' as a resumption of suspended benefits, an increase in benefits, an increase at the rate at which benefits accrue, or an increase in the rate at which benefits become nonforfeitable under the plan. As noted above, Treasury has interpretative jurisdiction over the subject matter in section 305 of ERISA.

[11] The RFI and comments are accessible at *http://www.pbgc.gov/prac/pg/other/guidance/multiemployer-notices.html.*

[12] Treasury issued an RFI seeking comments on certain matters related to the suspension of benefit rules under section 432(e)(9) of the Internal Revenue Code (section 305(e)(9) of ERISA). The Treasury RFI and comments are accessible at *http://www.regulations.gov/#!docketDetail;D=IRS-2015-0004.*

partition order under section 4233(d)(1) of ERISA.

The term ''successor plan benefit'' is the portion of the accrued nonforfeitable monthly benefit which would be guaranteed under section 4022A as of the effective date of the partition, calculated under the terms of the original plan without reflecting any changes related to a benefit suspension under section 305(e)(9) of ERISA. Because the payment of a successor plan benefit from a plan receiving financial assistance is the payment of a guaranteed benefit under title IV of ERISA, the definition of successor plan benefit makes clear that the payment of such benefits is subject to the limitations and conditions contained in sections 4022A(a)–(f) of ERISA.

The term ''residual benefit'' is the monthly benefit payable from the original plan to a participant or beneficiary whose benefit was transferred to a successor plan pursuant to a partition order. The residual benefit is the difference between the monthly benefit defined in section 4233(e)(1)(A) of ERISA (*i.e.,* the monthly benefit that would be paid under the terms of the plan after taking into account benefit suspensions and any plan amendments following the effective date of the partition) and the successor plan benefit. The residual benefit is not subject to a separate guarantee under section 4022A of ERISA.

The term ''remain solvent'' has the same meaning as ''avoid insolvency'' in section 305(e)(9)(D)(iv) of ERISA, and is determined in the same manner and using the same methodology as is required under section 305(e)(9) and the Treasury regulations thereunder. This is based on the requirement under MPRA that Treasury make a finding that a plan is reasonably estimated to avoid insolvency taking into account both suspension and partition in the case of a plan that requires both to avoid insolvency.

Application Requirements

Section 4233.3 of the regulation provides general information on the application filing requirements, including the method of filing, who may file, and where to file an application for partition under section 4233 of ERISA.

Section 4233.4 of the regulation summarizes the information needed for PBGC to make a determination on whether an application is complete. It states that an application will not be considered complete unless the application includes the information specified in § 4233.5 (plan information), § 4233.6 (partition information), § 4233.7 (actuarial and financial information); § 4233.8 (participant census data), and § 4233.9 (financial assistance information). It also states that PBGC may require additional information it deems necessary to review an application, including information needed to calculate or verify the amount of financial assistance that would be necessary for a partition. Finally, section 4233.4 of the regulation also imposes an affirmative obligation on the plan sponsor to promptly notify PBGC in writing if the plan sponsor discovers that any material fact or representation contained in or relating to an application for partition, or in any supporting document, is no longer accurate, or has been omitted.

Section 4233.5 of the regulation identifies the various categories of plan-related information required for an application to be complete, such as formal plan documents, trust agreements, summary plan descriptions, summaries of material modifications, rehabilitation plans, Forms 5500, a current listing of employers who have an obligation to contribute to the plan, and the approximate number of participants for whom each employer is currently making contributions. PBGC expects that most, if not all, of the information required under this subsection should be readily available and accessible by plan sponsors, an issue also identified by several commenters.

Section 4233.6 of the regulation identifies information needed to evaluate the partition as proposed by the plan sponsor, such as the proposed structure, effective date, and a detailed description of any larger integrated transaction of which the proposed partition is a part (including, but not limited to, an application for suspension of benefits under section 305(e)(9)(G), or a merger under section 4231 of ERISA). If applicable, it also requires the plan sponsor to submit a copy of its application for suspension of benefits under section 305(e)(9)(G) of ERISA (including all attachments and exhibits). In addition, consistent with section 4233(b)(2) of ERISA, the regulation requires the plan sponsor to provide a detailed description of all measures the plan sponsor has taken (or is taking) to avoid insolvency, as well as those measures the plan sponsor considered taking but did not take, including the factor(s) the plan sponsor considered in making these determinations.[13]

Finally, without limiting PBGC's ability to determine the final structure and amounts involved in a partition, § 4233.6 requires the plan sponsor to provide a detailed description of the estimated minimum amount of guaranteed benefit amounts the plan sponsor proposes to transfer in a partition, including:

- The estimated number of participants and beneficiaries (and, if applicable, alternate payees) whose benefits (or any portion thereof) would be transferred, including the number of retirees receiving payments (if any), terminated vested participants (if any), and active participants (if any).
- All supporting data, calculations, assumptions, and methods used to determine the estimated minimum amount of benefit liabilities.
- If applicable, a description of any classifications or specific group(s) of participants and beneficiaries whose benefits the plan sponsor proposes to transfer, and the plan sponsor's rationale or basis for selecting those classifications or groups.

Section 4233.7 of the regulation identifies actuarial and financial information requirements. The first two information requirements relate to plan actuarial reports and an actuarial certification, which should ordinarily be within the possession of the plan sponsor or plan actuary. Sections 4233.7(a)(3)–(8) of the regulation require the submission of certain actuarial and financial information specific to the proposed partition, which are necessary for PBGC to evaluate whether a partition is necessary for the plan to remain solvent.

Section 4233.8 of the regulation identifies the types of participant census data to include with an application for partition.

Section 4233.9 of the regulation requires the submission of certain information relevant to an application for financial assistance.

Initial Review Process

Section 4233.10 of the regulation prescribes an initial review process for the purpose of determining whether an application is complete under section 4233(a)(1) of ERISA. An application will not be deemed complete until PBGC has made an initial determination under the regulation. One of the RFI commenters noted that it would be helpful if guidance called for the trustees to be notified at the time an application is complete. Consistent with that comment, § 4233.10(c) provides that upon making a determination that an application is complete, PBGC will issue a written notice to the plan

[13] PBGC is not defining the Participant and Plan Sponsor Advocate's consultative role in determining if the plan sponsor has taken all reasonable measures, but will let that role evolve on a case-by-case basis.

sponsor. Similarly, if PBGC determines that an application is incomplete, it will issue a written notice to the plan sponsor describing the information missing from the application.

Because PBGC's determination on whether an application is complete marks the beginning of the 270-day statutory review period under section 4233(a)(1) of ERISA and the 30-day notice period under section 4233(a)(2), § 4233.10(c) provides that the date of PBGC's written notice to a plan sponsor that an application is complete will mark the beginning of PBGC's 270-day review period under section 4233(a)(1) of ERISA, and the plan sponsor's 30-day notice period under section 4233(a)(2) of ERISA.

Section 4233.10(d) of the regulation provides that for a plan sponsor that is coordinating applications for partition and suspension of benefits, an initial determination that a partition application is complete will be conditioned on filing an application for benefit suspensions with Treasury within 30 days after receipt of written notice of the determination. Because a multiemployer plan must suspend benefits to the maximum extent possible to be eligible for a partition, the effect of a suspension on the plan is integral to PBGC's evaluation of the partition. Moreover, this rule will ensure that participants and other interested parties receive notice of the plan's proposed suspension, which must be given concurrently with an application for suspension, in advance of or at the same time as they receive notice of an application for partition, assisting in their understanding of the integrated transaction. Section 4233.13 facilitates the provision of a combined notice of application for benefit suspensions and partition. A copy of the completed application for benefit suspensions must be provided to PBGC under § 4233.6.

Finally, recognizing the importance of early PBGC engagement on partitions, § 4233.10(e) states that the initial review process is not intended to preclude a plan sponsor from contacting PBGC on an informal basis to discuss a potential partition application. Allowing for such discussions in advance of an application for partition is consistent with a number of the RFI comments. For example, in discussing the difficulties faced by severely distressed plans that will require both a partition and maximum benefit suspensions to remain solvent, one commenter noted that in light of the time and costs involved in the benefit suspension process, it is not in the interests of anyone involved for trustees to apply for a suspension without preliminary feedback from PBGC on the feasibility of partition.

Similarly, another commenter noted that guidance should encourage plans to contact PBGC before making any substantive decisions on how to approach a potential partition application. Given the many complexities and uncertainties involved in a partition, including the fact that PBGC's authority to order a partition will depend, in part, on whether the proposed partition would impair PBGC's ability to meet existing financial assistance obligations to other plans, PBGC agrees with these comments and encourages plans to contact PBGC and engage in informal discussions on these and other issues before making a formal application.

Notice Requirements

Section 4233.11 describes the timing requirements applicable to furnishing the notice to interested parties under section 4233(b) of ERISA, and the information that must be included in the notice. Section 4233.11(a) of the regulation requires the plan sponsor to send the notice to interested parties not later than 30 days after receipt of a determination under § 4233.10(c), and provides a cross-reference to filing rules in PBGC's regulation on Filing, Issuance, Computation of Time, and Record Retention (29 CFR part 4000).

Section 4233.11(b) of the regulation prescribes content requirements for the notice of application for partition. The information required to be included in the notice is necessary to ensure that it provides adequate notice to interested parties on the meaning of a partition; the condition of the plan; and the effect of a partition on the plan, participants and beneficiaries, the plan sponsor, and contributing employers. In addition, the notice must include contact information for the plan sponsor, PBGC, and the Participant and Plan Sponsor Advocate.

PBGC is providing model notices that may be used by a plan sponsor. The model notices, which can be found in Appendix A of the regulation, may be used or adapted by plan sponsors to meet the notice requirements under section 4233(a)(2) of ERISA. Use of the model notices is not required, but will be deemed to satisfy the requirements of section 4233(a)(2) of ERISA and this part. PBGC specifically requests comments on the form and content of the model notices, including what, if any, additional information should be included in the model notices.

Determination Process

Section 4233.12 of the regulation describes the timing and manner in which PBGC will notify a plan sponsor of PBGC's decision on an application for partition. As noted above in the discussion of the initial review process, PBGC will approve or deny an application in accordance with the standards set forth in section 4233(b) of ERISA within 270 days after issuing notice to the plan sponsor of the completed application under § 4233.10(c).[14] If PBGC denies the application, PBGC's written decision will state the reason(s) for the denial. If PBGC approves the application, PBGC will issue a partition order in accordance with § 4233.14 and section 4233(c) of ERISA. The decision to approve or deny an application for partition under section 4233 of ERISA is within PBGC's discretion, and is a final agency action not subject to PBGC's rules for reconsideration or administrative appeal.

Section 4233.12(c) describes an optional conditional determination process for plan sponsors who file applications for partition and a suspension of benefits. This provision is in response to those commenters who urged PBGC to create a conditional, or accelerated, approval process. With respect to this issue, one commenter noted that a multiemployer plan that needs a partition and suspension to become solvent should not have to go through a suspension of benefits vote by participants only to have its application for partition denied by PBGC, and consequently have to inform its participants that although they voted for the suspension of benefits, the plan cannot proceed with the suspension because PBGC denied the application for partition.

Similarly, noting that the suspension process is likely to be long and costly, another commenter stated that because an approved suspension cannot be implemented before the effective date of the related partition, and because the magnitude of any needed partition typically increases with time, guidance (and any related internal procedures) should permit PBGC to issue a partition order prior to, but conditioned upon approval and implementation of, the suspension.

Consistent with these and other comments, § 4233.12(c) provides that, at the request of a plan sponsor, PBGC may, in its discretion, issue a

[14] As noted above, section 4233(b) sets forth five statutory conditions that must be satisfied before PBGC may order a partition. PBGC will review each application for partition on a case-by-case basis in accordance with the statutory criteria in section 4233(b). PBGC's determination under section 4233(b)(2) will be made in consultation with the Participant and Plan Sponsor Advocate.

preliminary approval of an application conditioned on Treasury's final authorization to suspend benefits under section 305(e)(9) of ERISA. The regulation requires that the conditional approval include a written statement of preliminary findings, conclusions, and conditions. A partition will only become effective, however, upon satisfaction of the required conditions, and the issuance of an order of partition under section 4233(c) of ERISA.

Coordinated Application Process for Partition and Benefit Suspension

Section 4233.13 of the regulation provides special rules for plan sponsors who file applications for partition under section 4233 of ERISA with PBGC, and benefit suspensions under section 305(e)(9) of ERISA with Treasury. Section 4233.13(a) describes the interagency coordination process applicable to such plans.

In response to RFI comments urging PBGC and Treasury to allow for a combined notice of application for benefit suspension and partition, § 4233.13(b) provides that a plan sponsor may combine the model notice provided at Appendix A with the model notice contained in Rev. Proc. 2015–34 to satisfy the notice requirements of this part.

Partition Order

Section 4233.14 of the regulation describes the content of a PBGC partition order. It provides that the partition order will describe the liabilities to be transferred to the successor plan, and the manner in which financial assistance will be provided to the successor plan by PBGC. Section 4233.14(a) states that the partition order shall set forth PBGC's findings and conclusions on the application for partition, the effective date of partition, the obligations and responsibilities of the plan sponsor of the original plan and the successor plan, and such other information as PBGC may deem appropriate.

Section 4233.14(b) provides that the partition order will set forth the terms and conditions of the partition, and will incorporate by reference the applicable requirements under sections 4233(d) and 4233(e) of ERISA. Finally, § 4233.14(b) requires that the plan sponsor of the original plan and the successor plan amend the original plan and successor plan, respectively, to reflect the benefits payable to participants and beneficiaries resulting from the partition order. While the regulation does not require a plan sponsor to submit a draft amendment to the original plan or a draft successor plan document with an application for partition, PBGC will require the submission of these and other related documents pursuant to § 4233.4(b) before it will issue a partition order.

Nature and Operation of Successor Plan

Section 4233.15 of the regulation describes the nature and operation of the successor plan created by the partition order. Section 4233(d)(1) of ERISA states that the plan created by the partition order is a successor plan to which section 4022A of ERISA applies. The statutory cross-reference to section 4022A of ERISA makes clear that the portion of a participant's or beneficiary's benefit transferred to a successor plan is subject to and limited by section 4022A of ERISA. The aggregate amount of benefits subject to transfer is further limited by section 4233(c) of ERISA, which states that PBGC's partition order shall provide for a transfer of the ''minimum amount of the [original] plan's liabilities necessary for the [original] plan to remain solvent.'' The statutory reference to successor plan status under section 4233(d)(1) is relevant under title IV for purposes of coverage determinations under section 4021 of ERISA, and for determining the period of time for which a benefit or a benefit increase has been in effect under section 4022A(b)(1) of ERISA.

Consistent with the statute, § 4233.15(a) of the regulation provides that the plan created by the partition order is a successor plan to which section 4022A applies. Although the statute does not reference section 4245 of ERISA or the solvency of the successor plan, § 4233.15(a) also states that the successor plan is an insolvent plan under section 4245 of ERISA. A successor plan is insolvent as of the effective date of a partition order because the order will provide for a transfer of guaranteed benefit amounts (the minimum amount of the original plan's liabilities necessary for it to remain solvent) but no corresponding transfer of assets. Therefore, as of the effective date of the partition order, the successor plan will be insolvent within the meaning of section 4245 of ERISA because it will not have sufficient available resources to pay benefits under the plan when due for the plan year. The guaranteed benefit amounts transferred to the successor plan will be paid with PBGC financial assistance in an amount sufficient to enable the plan to pay such benefits under section 4261 of ERISA.

Section 4233.15(b) states that the successor plan is also treated as a terminated multiemployer plan to which section 4041A(d) of ERISA applies because there will be no contributing employers with an obligation to contribute to the successor plan as of the effective date of the partition order. The treatment of the successor plan as a terminated plan under section 4041A(a)(2), however, is not taken into account for purposes of determining withdrawal liability of any contributing employer to the *original plan.* Under section 4233(d)(3) of ERISA, in the event an employer withdraws from the original plan within 10 years following the effective date of the partition order, withdrawal liability shall be computed under section 4201 with respect to both the original plan and the plan created by the partition order.

Consistent with section 4233(d)(2) of ERISA, § 4233.15(c) provides that the plan sponsor of an eligible multiemployer plan prior to the partition and the administrator of such plan shall be the plan sponsor and the administrator, respectively, of the successor plan. PBGC retains the right to remove and replace the plan sponsor of the successor plan pursuant to section 4042(b)(2) of ERISA.

Coordination of Benefits Under Original Plan and Successor Plan

Section 4233.16 of the regulation describes the relationship and interaction between the residual benefit and the successor plan benefit, and the treatment of such benefits under section 4022A of ERISA. Section 4233.16(a) provides that subject to the limitations contained in section 4022A of ERISA, the only benefits payable under a successor plan are successor plan benefits as defined in § 4233.2. While the only benefits payable under a successor plan are successor plan benefits, which are subject to the limitations and conditions contained in section 4022A, participants and beneficiaries whose guaranteed benefit amounts are transferred to a successor plan will also generally retain a right to receive a residual benefit under the original plan pursuant to section 4233(e)(1) of ERISA.[15] Section 4233.2 of the regulation defines the term ''residual

[15] Section 4233(e)(1) requires the original plan to pay a monthly benefit for each month in which such benefit is in pay status following the effective date of the partition in an amount equal to the excess of the monthly benefit that would be paid to such participant or beneficiary for such month under the terms of the plan (taking into account benefit suspensions under section 305(e)(9) and any plan amendments following the effective date of such partition) if the partition had not occurred, over the monthly benefit of such participant or beneficiary which is guaranteed under section 4022A.

benefit'' to mean the difference between the monthly benefit under section 4233(e)(1)(A) of ERISA and the successor plan benefit. The following example illustrates the benefit payment responsibilities of an original plan and a successor plan in a partition:

Assume Plan X has $200 million in accrued liabilities and $75 million in assets. Annual benefit payments total $15 million under the Plan. Plan X is projected to become insolvent within 10 years. The actuary for Plan X advises the Board of Trustees of Plan X that maximum benefit suspensions under section 305(e)(9) of ERISA would reduce liabilities to $130 million and reduce benefit payments in the years following a partition to $10 million per year.

The actuary for Plan X estimates that a partition under section 4233 of ERISA transferring $50 million of guarantee-liabilities payable by PBGC and corresponding benefit payments of $4 million per year to a successor plan, in combination with maximum benefit suspensions, would enable Plan X to avoid insolvency within the meaning of section 4245. PBGC financial assistance payable to the successor plan would cover $4 million in annual guaranteed payments under the successor plan. Plan X would pay a total of $6 million in benefits in the year following partition, consisting of—

- The additional residual benefit amounts necessary to raise the benefit level for participants and beneficiaries with benefits under the successor plan to the same amount they would have received under Plan X if the partition had not occurred, plus
- Benefit payments for the participants and beneficiaries whose benefits were *not* transferred to the successor plan.

Assume that before the partition, Participant A, a retired participant with 25 years of service, received a Plan X benefit of $1,500 per month at normal retirement age payable as a single life annuity. Plan X proposes to transfer the guarantee portion of Participant A's benefit to the successor plan. Since Participant A's monthly accrual rate exceeds $44 ($1,500 ÷ 25 = $60), the guarantee amount (applying the guarantee formula under section 4022A(c)) is $893.75 ($35.75 × 25 years of service = $893.75). If maximum benefit suspensions are approved, Participant A's benefit would be reduced to 110 percent of his monthly guaranteed benefit amount (Participant A is not protected by the age limitations or the limitations on suspension of benefits based on disability under section 305(e)(9)(D) of ERISA). Upon the effective date of the partition, Participant A would receive a PBGC-guaranteed monthly benefit of $893.75 from the successor plan (the successor plan benefit), funded by PBGC financial assistance, and an $89.38 monthly residual benefit funded by Plan X.[16]

Section 4233.16(c) of the regulation provides that when a participant's or beneficiary's benefit is partially or wholly transferred to a successor plan, the PBGC guarantee applicable to such benefit is transferred to, and becomes payable under, the successor plan. The benefit remaining in the original plan as of the effective date of the partition (the residual benefit), if any, is not subject to a separate guarantee, and any increase in the PBGC guarantee amount payable under the original plan will arise solely, if at all, due to an increase in the accrued benefit under a plan amendment following the effective date of the partition, or an additional accrual attributable to service after the effective date of the partition.

Section 4233.16(d) provides that subject to the conditions contained in section 4261 of ERISA, PBGC shall provide financial assistance to the successor plan in an amount sufficient to enable the successor plan to pay only the portion of the PBGC-guaranteed benefits transferred to the successor plan pursuant to the partition order, and reasonable and necessary administrative expenses if approved by PBGC. The receipt of benefits under a multiemployer plan receiving financial assistance from PBGC shall be considered the receipt of amounts from PBGC of guaranteed benefits.

Finally, section 4233.16(e) provides that the plan sponsors of an original plan and a successor plan may, but are not required to, pay monthly benefits payable under the original plan and successor plan, respectively, in a single monthly payment pursuant to a written cost sharing or expense allocation agreement between the plans.

Continuing Jurisdiction

Section 4233.17 of the regulation describes PBGC's continuing jurisdiction over the original plan and the successor plan. As noted above in the discussion of the RFI comments, while there were differing views on the need for additional post-partition oversight by PBGC to ensure compliance with MPRA's post-partition requirements, PBGC has determined that additional oversight is necessary to ensure compliance with the partition order, statutory post-partition payment obligations, and proper stewardship of PBGC financial assistance. Consistent with this view, § 4233.16(a) provides that PBGC will continue to have jurisdiction over the original plan and the successor plan to carry out the purposes, terms, and conditions of the partition order, section 4233 of ERISA, and the regulations thereunder. Section 4233.16(b) states that PBGC may, upon notice to the plan sponsor, make changes to the partition order in response to changed circumstances consistent with section 4233 of ERISA and Part 4233.

Request for Comments

In addition to the specific requests for comments identified above, PBGC encourages all interested parties to submit their comments, suggestions, and views concerning the provisions of this interim final rule, including the model notices. In particular, PBGC is interested in any area in which additional guidance may be needed.

Applicability

The amendments in this interim final rule are applicable to applications for partition submitted to PBGC on or after June 19, 2015.

Compliance With Rulemaking Guidelines

Executive Orders 12866 ''Regulatory Planning and Review'' and 13563 ''Improving Regulation and Regulatory Review''

Having determined that this rulemaking is a ''significant regulatory action'' under Executive Order 12866, the Office of Management and Budget has reviewed this proposed rule under Executive Order 12866.

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Orders 12866 and 13563 require a comprehensive regulatory impact analysis be performed for any economically significant regulatory action, defined as an action that would result in an annual effect of $100

[16] Participant A's residual benefit of $89.38 is the portion of Participant A's monthly benefit (taking into account benefit suspensions) that is not transferred to the successor plan as part of the guarantee amount payable by PBGC. As such, it would not be subject to a separate guarantee under section 4022A of ERISA.

million or more on the national economy or which would have other substantial impacts.

Pursuant to section 1(b)(1) of Executive Order 12866 (as amended by Executive Order 13422), PBGC has determined that regulatory action is required in this area. Principally, this regulatory action is necessary to implement the application and notice requirements under section 4233 of ERISA as amended and restated by MPRA. In accordance with OMB Circular A–4, PBGC also has examined the economic and policy implications of this interim final rule and has concluded that the action's benefits justify its costs.

Under Section 3(f)(1) of Executive Order 12866, a regulatory action is economically significant if ''it is likely to result in a rule that may . . . [h]ave an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.'' OMB has determined that this interim final rule does not cross the $100 million threshold for economic significance and is not otherwise economically significant. Most of the economic effect relating to partitions will be attributable to benefit suspensions.

Based on a review of financial resources available for partition, PBGC expects that fewer than 20 plans would be approved for partition over the next three years (about six plans per year), and that the total financial assistance PBGC will provide to those plans will be less than $60 million per year.

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553(b)) provides that notice and comment requirements do not apply when an agency, for good cause, finds that they are impracticable, unnecessary, or contrary to the public interest. MPRA was signed into law on December 16, 2014, and with respect to the amendments to section 4233 of ERISA, is effective for plan years beginning after December 31, 2014.

MPRA did not impose a deadline to issue regulations under section 4233 of ERISA. However, as explained above, the partition rule under section 4233 is inextricably linked to the benefit suspension rule under section 305(e)(9) of ERISA, which requires the Treasury Secretary, in consultation with PBGC and the Secretary of Labor, to publish appropriate guidance not later than 180 days after the date of the enactment of MPRA. While neither section 4233 nor section 305(e)(9) expressly requires a plan sponsor to file concurrent applications for partition and benefit suspensions, the statutory provisions were designed to act in tandem.

Under section 305(e)(9)(D)(v) of ERISA, in any case in which a suspension of benefits with respect to a plan is made in combination with a partition of the plan under section 4233 of ERISA, the suspension of benefits may *not* take effect prior to the effective date of such partition. In other words, for a plan that requires both benefit suspensions and partition to remain solvent, the benefit suspension cannot take effect prior to the effective date of the partition.

Similarly, the actuarial certification under section 305(e)(9)(C)(i) requires a plan actuary to take into account the proposed suspensions of benefits (and if applicable, a proposed partition of the plan under section 4233 of ERISA), for purposes of certifying that a plan is projected to avoid insolvency within the meaning of section 4245 of ERISA.

Finally, section 305(e)(9)(D)(iv) of ERISA provides that any suspensions of benefits, in the aggregate (and, if applicable, considered in combination with a partition of the plan under section 4233 of ERISA), shall be reasonably estimated to achieve, but not materially exceed, the level that is necessary to avoid insolvency.

Most plans that will require a partition will also require a benefit suspension. The longer the delay, the more expensive the partition and the less likely that PBGC will be able to afford to provide assistance, resulting in greater harm to the public and the pension insurance system.

Accordingly, because regulatory guidance is required to implement section 4233, including the procedure for the plan sponsor to submit an application for partition and to provide notice to participants and beneficiaries, and because section 4233 is inextricably linked to the suspension of benefit rules under section 305(e)(9), which requires Treasury to publish appropriate guidance not later than 180 days after the date of the enactment of MPRA, PBGC has determined that prior notice and comment through the issuance of a notice of proposed rulemaking is impracticable and that the public interest is best served by making this interim final rule effective on June 19, 2015. However, PBGC is requesting comments on this interim final rule and may make changes to the interim final rule in response to those comments.

For the same reasons, pursuant to section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), PBGC is making this rule effective upon publication.

Regulatory Flexibility Act

Because PBGC is not publishing a general notice of proposed rulemaking under 5 U.S.C. 553, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act do not apply.

Paperwork Reduction Act

The information requirements under this interim final rule—information to be reported to PBGC and information to be disclosed to participants—have been approved by the OMB under the Paperwork Reduction Act (OMB control number 1212–xxxx).[17]

PBGC estimates that over the next three years about six plans per year will apply for partition and that the total annual burden of this information collection will be about 78 hours and $58,800.

Comments on the information requirements under this interim final rule should be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. Comments may be submitted through August 18, 2015. Comments may address (among other things)—

- Whether the collection of information is needed for the proper performance of PBGC's functions and will have practical utility;
- The accuracy of PBGC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancement of the quality, utility, and clarity of the information to be collected; and
- Minimizing 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.

List of Subjects in 29 CFR Part 4233

Employee benefit plans, Pension insurance, Reporting and recordkeeping requirements.

For the reasons given above, PBGC is amending 29 CFR chapter XL by adding part 4233 to read as follows:

[17] The OMB control number will be activated upon publication of this interim final rule. OMB approval will expire six months after publication.

PART 4233—PARTITIONS OF ELIGIBLE MULTIEMPLOYER PLANS

Sec.
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Appendix A to Part 4233—Model Notices

Authority: 29 U.S.C. 1302(b)(3), 1413.

§ 4233.1 Purpose and scope.

The purpose of this part is to prescribe rules governing applications for partition under section 4233 of ERISA, and related notice requirements.

§ 4233.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: ERISA, IRS, multiemployer plan, PBGC, plan, and plan sponsor. In addition, the following terms are defined for purposes of this part:

Advocate means the Participant and Plan Sponsor Advocate under section 4004 of ERISA.

Application for partition means a plan sponsor's application for partition under section 4233 of ERISA and this part.

Application for a suspension of benefits means a plan sponsor's application for a suspension of benefits to the Secretary of the Treasury (Treasury) under section 305(e)(9)(G) of ERISA.

Completed application means an application for partition for which PBGC has made a determination under § 4233.10 that the application contains all required information and satisfies the requirements described in §§ 4233.4 through 4233.9.

Effective date of partition means the date upon which a partition is effective and which is set forth in a partition order.

Financial assistance means financial assistance from PBGC under section 4261 of ERISA.

Insolvent has the same meaning as insolvent under section 4245(b) of ERISA.

Interested party means, with respect to a plan—

(1) Each participant in the plan;

(2) Each beneficiary of a deceased participant;

(3) Each alternate payee under an applicable qualified domestic relations order, as defined in section 206(d)(3) of ERISA;

(4) Each employer that has an obligation to contribute under the plan; and

(5) Each employee organization that currently has a collective bargaining agreement pursuant to which the plan is maintained.

Original plan means an eligible multiemployer plan under 4233(b) of ERISA that is partitioned upon the issuance of a partition order under section 4233(c) of ERISA.

Partition order means a formal PBGC order of partition under section 4233 of ERISA and § 4233.14.

Proposed partition means a proposed partition as structured and described by the plan sponsor in an application for partition.

Remain solvent has the same meaning as ''avoid insolvency'' in section 305(e)(9)(D)(iv) of ERISA and the regulations thereunder, with respect to the determinations made by PBGC under sections 4233(b)(3) and 4233(c) of ERISA.

Residual benefit means, with respect to a participant or beneficiary whose benefit was partially transferred to a successor plan pursuant to a partition order, the portion of the benefit payable under the original plan, the amount of which is equal to the difference between the benefit defined in section 4233(e)(1)(A) of ERISA, and the successor plan benefit. The residual benefit as of the effective date of the partition is not subject to a separate guarantee under section 4022A of ERISA.

Successor plan means the plan created by a partition order under section 4233(c) of ERISA.

Successor plan benefit means, with respect to a participant or beneficiary whose benefit was wholly or partially transferred from an original plan to a successor plan, the portion of the accrued nonforfeitable monthly benefit which would be guaranteed under section 4022A as of the effective date of the partition, calculated under the terms of the original plan without reflecting any changes relating to a benefit suspension under section 305(e)(9) of ERISA. The payment of a successor plan benefit is subject to the limitations and conditions contained in sections 4022A(a)–(f) of ERISA.

§ 4233.3 Application filing requirements.

(a) *Method of filing.* PBGC applies the rules in part 4000, subpart A of this chapter to determine permissible methods of filing with PBGC under this part, and the rules in part 4000, subpart D of this chapter to determine the computation of time.

(b) *Who may file.* An application for partition under section 4233 of ERISA must be submitted by the plan sponsor. The application must be signed and dated by an authorized trustee who is a current member of the board of trustees, and must include the following statement under penalties of perjury: ''Under penalties of perjury, I declare that I have examined this application, including accompanying documents, and, to the best of my knowledge and belief, the application contains all the relevant facts relating to the application, and such facts are true, correct, and complete.'' A stamped signature or faxed signature is not permitted.

(c) *Where to file. See* § 4000.4 of this chapter for information on where to file.

§ 4233.4 Information to be filed.

(a) *General.* An application for partition must include the information specified in § 4233.5 (plan information), § 4233.6 (partition information), § 4233.7 (actuarial and financial information), § 4233.8 (participant census data), and § 4233.9 (financial assistance information). If any of the information is not included, the application will not be considered complete.

(b) *Additional information.* (1) PBGC may require a plan sponsor to submit additional information necessary to make a determination on an application under this part and any information PBGC may need to calculate or verify the amount of financial assistance necessary for a partition. Any additional information must be submitted by the date specified in PBGC's request.

(2) PBGC may suspend the running of the 270-day review period (described in § 4233.10) pending the submission of any additional information requested by PBGC, or upon the issuance of a conditional determination under § 4233.12(c).

(c) *Duty to amend and supplement application.* During any time in which an application is pending final action by PBGC, the plan sponsor must promptly notify PBGC in writing of any material fact or representation contained in or relating to the application, or in any supporting documents, that is no longer accurate, or any material fact or representation omitted from the application or supporting documents, that the plan sponsor discovers.

§ 4233.5 Plan information.

An application for partition must include the following information with respect to the plan:

(a) The name of the plan, Employer Identification Number (EIN), and three-digit Plan Number (PN).

(b) The name, address, and telephone number of the plan sponsor and the plan sponsor's duly authorized representative, if any.

(c) The most recent trust agreement, including all amendments adopted since the last restatement.

(d) The most recent plan document, including all amendments adopted since the last restatement.

(e) The most recent summary plan description (SPD), and all summaries of material modification (SMM) issued since the effective date of the most recent SPD.

(f) The most recent rehabilitation plan (or funding improvement plan, if applicable), including all subsequent amendments and updates, and the percentage of total contributions received under each schedule of the rehabilitation plan for the most recent plan year available.

(g) A copy of the plan's most recent IRS determination letter.

(h) A copy of the plan's most recent Form 5500 (Annual Report Form) and all schedules and attachments (including the audited financial statement).

(i) A current listing of employers who have an obligation to contribute to the plan, and the approximate number of participants for whom each employer is currently making contributions.

(j) A schedule of withdrawal liability payments collected in each of the most recent five plan years.

§ 4233.6 Partition information.

An application for partition must include the following information with respect to the proposed partition:

(a) A detailed description of the proposed partition, including the proposed structure, proposed effective date, and any larger integrated transaction of which the proposed partition is a part (including, but not limited to, an application for suspension of benefits under section 305(e)(9)(G), or a merger under section 4231 of ERISA).

(b) A narrative description of the events that led to the plan sponsor's decision to submit an application for partition (and, if applicable, application for suspension of benefits).

(c) A narrative description of significant risks and assumptions relating to the proposed partition and the projections provided in support of the application.

(d) If applicable, a copy of the plan sponsor's application for suspension of benefits (including all attachments and exhibits). If the plan sponsor intends to apply for a suspension of benefits with Treasury, but has not yet submitted an application to Treasury, a draft of the application may be filed, which must be supplemented by filing a copy of the completed application within the timeframe established in § 4233.10(d).

(e) A detailed description of all measures the plan sponsor has taken (or is taking) to avoid insolvency, and any measures the plan sponsor considered taking but did not take, including the factor(s) the plan sponsor considered in making these determinations. Include all relevant documentation relating to the plan sponsor's determination that it has taken (or is taking) measures to avoid insolvency.

(f) A detailed description of the estimated benefit amounts the plan sponsor has determined are necessary to be partitioned for the plan to remain solvent, including the following information:

(1) The estimated number of participants and beneficiaries whose benefits (or any portion thereof) would be transferred, including the number of retirees receiving payments (if any), terminated vested participants (if any), and active participants (if any).

(2) Supporting data, calculations, assumptions, and a description of the methodology used to determine the estimated benefit amounts.

(3) If applicable, a description of any classifications or specific group(s) of participants and beneficiaries whose benefits (or any portion thereof) the plan sponsor proposes to transfer, and the plan sponsor's rationale or basis for selecting those classifications or groups.

(g) A copy of the draft notice of application for partition described in § 4233.11.

§ 4233.7 Actuarial and financial information.

(a) *Required information.* An application for partition must include the following plan actuarial and financial information:

(1) A copy of the plan's most recent actuarial report and copies of the actuarial reports for the two preceding plan years.

(2) A copy of the plan actuary's most recent certification of critical and declining status, including a detailed description of the assumptions used in the certification, the basis for the projection of future contributions, withdrawal liability payments, investment return assumptions, and any other assumption that may have a material effect on projections.

(3) A detailed statement of the basis for the conclusion that the plan will not remain solvent without a partition and, if applicable, suspension of benefits, including supporting data, calculations, assumptions, and a description of the methodology. Include as an exhibit annual cash flow projections for the plan without partition (or suspension, if applicable) through the projected date of insolvency. Annual cash flow projections must reflect the following information:

(i) Market value of assets as of the beginning of the year.

(ii) Contributions and withdrawal liability payments.

(iii) Benefit payments.

(iv) Administrative expenses.

(v) Market value of assets at year end.

(4) A long-term projection reflecting reduced benefit disbursements at the PBGC-guarantee level after insolvency, and a statement of the present value of all future financial assistance without a partition (using the interest and mortality assumptions applicable to the valuation of plans terminated by mass withdrawal as specified in § 4281.13 of this chapter and other reasonable actuarial assumptions, including retirement age, form of benefit payment, and administrative expenses, certified by an enrolled actuary).

(5) A detailed statement of the basis for the conclusion that the original plan will remain solvent if the application for partition, and, if applicable, the application for suspension of benefits, is granted, including supporting data, calculations, assumptions, and a description of the methodology, which must be consistent with section 305(e)(9)(D)(iv) and the regulations thereunder (including any adjustment to the cash flows in the initial year to incorporate recent actual fund activity required to be included under that section). Annual cash flow projections for the original plan with partition (and suspension, if applicable) must be included as an exhibit and must reflect the following information:

(i) Market value of assets as of the beginning of the year.

(ii) Contributions and withdrawal liability payments.

(iii) Benefit payments.

(iv) Administrative expenses.

(v) Market value of assets at year end.

(6) If applicable, a copy of the plan actuary's certification under section 305(e)(9)(C)(i) of ERISA.

(7) The plan's projected insolvency date with benefit suspension alone (if applicable), including supporting data.

(8) A long-term projection reflecting benefit disbursements from the

successor plan, and a statement of the present value of all future financial assistance to be paid as a result of a partition (using the interest and mortality assumptions applicable to the valuation of plans terminated by mass withdrawal as specified in § 4281.13 of this chapter and other reasonable actuarial assumptions, including retirement age, form of benefit payment, and administrative expenses, certified by an enrolled actuary).

(b) *Additional projections.* PBGC may ask the plan for additional projections based on assumptions that it specifies.

(c) *Actuarial calculations and assumptions.* (1) *General.* All calculations required by this part must be performed by an enrolled actuary.

(2) *Assumptions.* All calculations required by this part must be consistent with calculations used for purposes of an application for suspension of benefits under section 305(e)(9) of ERISA, and based on methods and assumptions each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and which, in combination, offer the actuary's best estimate of anticipated experience under the plan. Any change(s) in assumptions from the most recent actuarial valuation, and critical and declining status certification, must be disclosed and must be accompanied by a statement explaining the reason(s) for any change(s) in assumptions.

(3) *Updates.* PBGC may, in its discretion, require updated calculations and representations based on the actual effective date of a partition, revised actuarial assumptions, or for other good cause.

§ 4233.8 Participant census data.

An application for partition must include a copy of the census data used for the projections described in § 4233.7(a)(3) and (5), including:

(a) Participant type (retiree, beneficiary, disabled, terminated vested, active, alternate payee).

(b) Date of birth.

(c) Credited service for guarantee calculation (*i.e.,* number of years of participation).

(d) Vested accrued monthly benefit before benefit suspension under section 305(e)(9) of ERISA.

(e) Vested accrued monthly benefit after benefit suspension under section 305(e)(9) of ERISA.

(f) Monthly benefit guaranteed by PBGC (determined under the terms of the original plan without respect to benefit suspensions).

(g) Benefit commencement date (for participants in pay status and others for which the reported benefit is not payable at Normal Retirement Date).

(h) For each participant in pay status—

(1) Form of payment, and

(2) Data relevant to the form of payment, including:

(i) For a joint and survivor benefit, the beneficiary's benefit amount (before and after suspension) and the beneficiary's date of birth;

(ii) For a Social Security level income benefit, the date of any change in the benefit amount, and the benefit amount after such change;

(iii) For a 5-year certain or 10-year certain benefit (or similar benefit), the relevant defined period.

(iv) For a form of payment not otherwise described in this section, the data necessary for the valuation of the form of payment, including the benefit amount before and after suspension.

(i) If an actuarial increase for postponed retirement applies or if the form of annuity is a Social Security level income option, the monthly vested benefit payable at normal retirement age in normal form of annuity.

§ 4233.9 Financial assistance information.

(a) *Required information.* An application for partition must include the estimated amount of annual financial assistance requested from PBGC for the first year the plan receives financial assistance if partition is approved.

(b) *Additional information.* PBGC may ask the plan for additional information in accordance with § 4233.4(b)(1).

§ 4233.10 Initial review.

(a) *Determination on completed application.* PBGC will make a determination on an application not later than 270 days after the date such application is deemed completed.

(b) *Incomplete application.* If the application is incomplete, PBGC will issue a written notice to the plan sponsor describing the information missing from the application.

(c) *Complete application.* Upon making a determination that an application is complete (*i.e.,* the application includes all the information specified in §§ 4233.5 through 4233.9), PBGC will issue a written notice to the plan sponsor. The date of the written notice will mark the beginning of PBGC's 270-day review period under section 4233(a)(1) of ERISA, and the plan sponsor's 30-day notice period under 4233(a)(2) of ERISA.

(d) *Special rule for coordinated applications for partition and benefit suspension.* For a plan requiring both partition and benefit suspensions to remain solvent, PBGC's initial determination that a partition application is complete will be conditioned on the plan sponsor's filing of an application for benefit suspensions with Treasury within 30 days after receiving written notice from PBGC under paragraph (c) of this section. Such a plan is permitted, but not required, to issue a combined notice under § 4233.13(b).

(e) *Informal consultation.* Nothing in this subsection precludes a plan sponsor from contacting PBGC on an informal basis to discuss a potential partition application.

§ 4233.11 Notice of application for partition.

(a) *When to file.* Not later than 30 days after receipt of the written notice described in § 4233.10(c) that an application for partition is complete, the plan sponsor must provide notice of such application to each interested party and PBGC, in accordance with the rules in part 4000, subpart B of this chapter.

(b) *Form of notice.* The notice must be readable and written in a matter calculated to be understood by the average plan participant. The Model Notices in Appendix A to this part (when properly completed) are examples of notices meeting the requirements of this section.

(c) *Information required.* A notice of completed application for partition must include the following information:

(1) *Identifying information.* The name of the plan, the name, address, and phone number of the plan sponsor, the Employer Identification Number (EIN), and three-digit Plan Number (PN).

(2) *Relevant partition application dates.* A brief statement that the plan sponsor has submitted an application for partition to PBGC, the date of the completed application under § 4233.10(c), and a statement that PBGC must issue its decision not later than 270 days after the date on which PBGC notified the plan sponsor that the application was complete.

(3) *Application for suspension of benefits.* If applicable, a statement of whether the plan sponsor has submitted an application for suspension of benefits under section 305(e)(9)(G) of ERISA, and, if so, information on how to obtain a copy of the application and notice required by section 305(e)(9)(F) of ERISA.

(4) *Description of statutory partition provisions.* A brief description of the requirements under section 4233 of ERISA, and other related statutory requirements, including:

(i) The interrelationship between the partition rules under section 4233 of ERISA and suspensions of benefits under section 305(e)(9) of ERISA (if applicable).

(ii) The multiemployer guarantee under section 4022A of ERISA.

(iii) The eligibility requirements for a partition under section 4233(b) of ERISA, including the Advocate consultation requirement.

(5) *Impact of partition on interested parties.* A brief description of how the proposed partition may impact affected participants, beneficiaries, and alternate payees including:

(i) A statement describing the benefit payment obligations of the original plan and the successor plan.

(ii) A statement explaining that the Board of Trustees of the original plan will also administer the successor plan, but the successor plan will be funded solely by PBGC financial assistance payments.

(6) *Partition application contents summary.* A brief summary of the content of the plan sponsor's application for partition, including the following information:

(i) The plan's critical and declining status and projected insolvency date.

(ii) A statement that the plan sponsor has taken (or is taking) all reasonable measures to avoid insolvency, including the maximum benefit suspensions under section 305(e)(9), if applicable.

(iii) If known, a brief statement on the proposed total estimated amount and percentage of liabilities to be partitioned.

(iv) If known, a brief statement summarizing the proposed class or classes of participants whose benefits would be partially or wholly transferred if the application for partition is granted, including a summary of the factors considered by the plan sponsor in preparing its application.

(7) *Contact information for plan sponsor.* The name, address, and telephone number of the plan sponsor or other person designated by the plan sponsor to answer inquiries concerning the application for partition.

(8) *Contact information for PBGC.* Multiemployer Program Division, PBGC, 1200 K Street, NW., Washington, DC 20005–4026, *Multiemployerprogram@pbgc.gov.*

(9) *Contact information for Participant and Plan Sponsor Advocate.* PBGC Participant and Plan Sponsor Advocate, 1200 K Street NW., Washington, DC 20005–4026, *Advocate@pbgc.gov.*

(d) *Model notice.* The appendix to this section contains two model notices—one for plan sponsors that submit coordinated applications for partition with PBGC and for benefit suspensions with Treasury, and one for plans sponsors who apply for partition only. The model notices are intended to assist plan sponsors in discharging their notice obligations under section 4233(a)(2) of ERISA and this part. Use of the model notices is not mandatory, but will be deemed to satisfy the requirements of section 4233(a)(2) of ERISA and this part.

(e) *Foreign languages.* The plan sponsor of a plan that covers the numbers or percentages in § 2520.104b–10(e) of this title of participants literate only in the same non-English language must, for any notice to interested parties—

(1) Include a prominent legend in that common non-English language advising them how to obtain assistance in understanding the notice; or

(2) Provide the notice in that common non-English language to those interested parties literate only in that language.

§ 4233.12 PBGC action on application for partition.

(a) *Review period.* Except as provided in paragraph (c) of this section, PBGC will approve or deny an application for partition submitted to it under this part within 270 days after the date PBGC issued a notice to the plan sponsor of the completed application under § 4233.10(c).

(b) *Determination on application.* PBGC may approve or deny an application at its discretion. PBGC will notify the plan sponsor in writing of PBGC's decision on an application. If PBGC denies the application, PBGC's written decision will state the reason(s) for the denial. If PBGC approves the application, PBGC will issue a partition order under section 4233(c) of ERISA and § 4233.14.

(c) *Conditional determination on application.* At the request of a plan sponsor, PBGC may, in its discretion, issue a preliminary approval of an application conditioned on Treasury issuing a final authorization to suspend under section 305(e)(9)(H)(vi) of ERISA and any other terms and conditions set forth in the conditional approval. The conditional approval will include a written statement of preliminary findings, conclusions, and conditions. The conditional approval is not a final agency action. The proposed partition will only become effective upon satisfaction of the required conditions, and the issuance of an order of partition under section 4233(c) of ERISA.

(d) *Final agency action.* Except as provided in paragraph (c) of this section, PBGC's decision on an application for partition under this section is a final agency action for purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*).

§ 4233.13 Coordinated application process for partition and benefit suspension.

(a) *Interagency coordination.* For a plan sponsor that has requested a conditional approval of a partition pursuant to § 4233.12(c), PBGC may render either a conditional approval or a final denial of the application on an expedited basis, provided that the plan sponsor has submitted a completed application to PBGC as prescribed by § 4233.10. PBGC will consult with Treasury and the Department of Labor in the course of reviewing an application for partition.

(1) If PBGC denies the application for partition, it will notify the plan sponsor in writing of PBGC's decision in accordance with § 4233.12(b), and will notify Treasury to allow it to take appropriate action on the benefit suspension application.

(2) If PBGC grants a conditional approval of partition, it will notify the plan sponsor in writing of PBGC's decision in accordance with § 4233.12(c), and will provide Treasury with a copy of PBGC's decision along with PBGC's record of the decision.

(3) If Treasury does not issue the final authorization to suspend, PBGC's preliminary and conditional approval under § 4233.12(c) will be null and void.

(4) If Treasury issues a final authorization to suspend, PBGC will issue a final partition order under § 4233.14 and section 4233(c) of ERISA.

(b) *Combined notice.* A plan sponsor submitting an application for benefit suspensions under section 305(e)(9) of ERISA with Treasury, and a partition under section 4233 of ERISA with PBGC, may combine the PBGC model notice for coordinated applications provided at Appendix A with the Treasury model notice in Appendix A of Rev. Proc. 2015–34 in satisfaction of the notice requirement of this part.

§ 4233.14 Partition order.

(a) *General Provisions.* The partition order will describe the liabilities to be transferred to the successor plan under section 4233(c) of ERISA, and the manner in which financial assistance will be provided by PBGC under section 4261 of ERISA. The partition order will also set forth PBGC's findings and conclusions on an application for partition, the effective date of partition, the obligations and responsibilities of the plan sponsor to the original plan

and successor plan, and such other information as PBGC may deem appropriate.

(b) *Terms and conditions.* The partition order will set forth the terms and conditions of the partition and will incorporate by reference the applicable requirements under sections 4233(d) and 4233(e) of ERISA.

(1) The plan sponsors of the original plan and the successor plan must amend the original plan and successor plan, respectively, to reflect the benefits payable to participants and beneficiaries as a result of the partition order.

(2) The plan sponsors of the original plan and successor plan must maintain a written record of the respective plans' compliance with the terms of the partition order, section 4233 of ERISA, and this part.

§ 4233.15 Nature and operation of successor plan.

(a) *Nature of plan.* The plan created by the partition order is a successor plan to which section 4022A applies, and an insolvent plan under section 4245 of ERISA.

(b) *Treatment of plan.* The successor plan will be treated as a terminated multiemployer plan to which section 4041A(d) of ERISA applies because there are no contributing employers with an obligation to contribute within the meaning of section 4212 of ERISA as of the effective date of the partition. The treatment of the successor plan as a terminated plan under this paragraph will not be taken into account for purposes of determining the withdrawal liability of contributing employers to the original plan under sections 4201 and 4233(d)(3) of ERISA.

(c) *Administration of plan.* The plan sponsor of the original plan and the administrator of such plan will be the plan sponsor and the administrator, respectively, of the successor plan. PBGC will retain the right to remove and replace the plan sponsor of the successor plan pursuant to section 4042(b)(2) of ERISA.

§ 4233.16 Coordination of benefits under original plan and successor plan.

(a) *Successor plan benefits.* Subject to the limitations contained in section 4022A of ERISA, the only benefit amounts payable under a successor plan are successor plan benefits as defined in § 4233.2.

(b) *Guarantee of successor plan benefit.* When a participant's or beneficiary's benefit is partially or wholly transferred to a successor plan, the PBGC guarantee applicable to such benefit becomes payable under the successor plan. The benefit remaining in the original plan as of the effective date of the partition, if any, is not subject to a new guarantee, and any increase in the PBGC guarantee amount payable under the original plan will arise solely, if at all, due to an increase in the accrued benefit under a plan amendment following the effective date of the partition, or an additional accrual attributable to service after the effective date of the partition.

(c) *PBGC financial assistance.* Subject to the conditions contained in section 4261 of ERISA, PBGC will provide financial assistance to the successor plan in an amount sufficient to enable the successor plan to pay only the PBGC-guaranteed amount transferred to the successor plan pursuant to the partition order, and reasonable and necessary administrative expenses if approved by PBGC. The receipt of benefits payable under a successor plan receiving financial assistance from PBGC will be treated as the receipt of guaranteed benefits under section 4022A.

(d) *Payment of monthly benefits.* The plan sponsors of an original plan and a successor plan may, but are not required to, pay monthly benefits payable under the original plan and successor plan, respectively, in a single monthly payment pursuant to a written cost-sharing or expense allocation agreement between the plans.

§ 4233.17 Continuing jurisdiction.

(a) PBGC will continue to have jurisdiction over the original plan and the successor plan to carry out the purposes, terms, and conditions of the partition order, section 4233 of ERISA, and this part.

(b) PBGC may, upon providing notice to the plan sponsor, make changes to the partition order in response to changed circumstances consistent with section 4233 of ERISA and this part.

Appendix A to Part 4233—Model Notices

NOTICE OF APPLICATION FOR PARTITION FOR [INSERT PLAN NAME]

[For plans filing an application for partition only]

[Insert Date]

This notice is to inform you that, on [*insert Date*], [*insert Plan Sponsor's Name*] (''Board of Trustees'') filed a complete application with the Pension Benefit Guaranty Corporation (''PBGC'') requesting approval for a partition of the [*insert Pension Fund name, Employer Identification Number, and three-digit Plan Number*] (the ''Plan'').

What is partition?

A multiemployer plan that is in critical and declining status may apply to PBGC for an order that separates (*i.e.,* partitions) and transfers the PBGC-guaranteed portion of certain participants' and beneficiaries' benefits to a newly-created successor plan. The total amount transferred from the original plan to the successor plan is the minimum amount needed to keep the original plan solvent. While the Board of Trustees will administer the successor plan, PBGC will provide financial assistance to the successor plan to pay the transferred benefits.

PBGC guarantees benefits up to a legal limit. However, if the PBGC-guaranteed amount payable by the successor plan is less than the benefit payable under the original plan, Federal law requires the original plan to pay the difference. Therefore, partition will *not* change the total amount payable to any participant or beneficiary.

What are the rules for partition?

Federal law permits, but does not require, PBGC to approve an application for partition. PBGC generally will make a decision on the application for partition within 270 days. A plan is eligible for partition if certain requirements are met, including:

1. The pension plan is in critical and declining status. A plan is in critical and declining status if it is in critical status (which generally means the plan's funded percentage is less than 65%) and is projected to run out of money within 15 years (or 20 years if there are twice as many inactive as active participants, or if the plan's funded percentage is less than 80%).

2. PBGC determines, after consulting with the PBGC Participant and Plan Sponsor Advocate, that the Board of Trustees has taken (or is taking) all reasonable measures to avoid insolvency. Reasonable measures may include contribution increases or reductions in the rate of benefit accruals.

3. PBGC determines that: (1) Providing financial assistance in a partition will be significantly less than providing financial assistance in the event the plan becomes insolvent; and (2) partition is necessary for the plan to remain solvent.

4. PBGC certifies to Congress that its ability to meet existing financial assistance obligations to other multiemployer plans (including plans that are insolvent or projected to become insolvent within 10 years) will not be impaired by the partition.

5. The cost of the partition is paid exclusively from PBGC's multiemployer insurance fund.

Why is partition needed?

The Plan is in critical and declining status, is [*insert funded percentage*] funded, and is projected to become insolvent by [*insert expected insolvency date*]. The Board of Trustees asserts that it has taken reasonable measures to avoid insolvency, but has determined that these measures are insufficient and that the proposed partition is necessary for the Plan to avoid insolvency.

[*Insert brief statement of the amount of liabilities the Board of Trustees proposes to partition and indicate whether it is the minimum amount needed for the Plan to remain solvent.*] [*If applicable, insert brief statement summarizing the proposed classes of participants and beneficiaries whose benefits will be partially or wholly transferred*

if the application is granted, and a summary of the factors considered.] If instead the Plan is allowed to become insolvent, the benefits of *all* participants and beneficiaries whose benefits exceed the PBGC-guaranteed amount would be reduced to the PBGC-guaranteed amount.

What is PBGC's multiemployer plan guarantee?

Federal law sets the maximum that PBGC may guarantee. For multiemployer plan benefits, PBGC guarantees a monthly benefit payment equal to 100 percent of the first $11 of the Plan's monthly benefit accrual rate, plus 75 percent of the next $33 of the accrual rate, times each year of credited service. The PBGC's maximum guarantee, therefore, is $35.75 per month times a participant's years of credited service.

PBGC guarantees vested pension benefits payable at normal retirement age, early retirement benefits, and certain survivor benefits, if the participant met the eligibility requirements for a benefit before plan termination or insolvency. A benefit or benefit increase that has been in effect for less than 60 months is not eligible for PBGC's guarantee. PBGC also does not guarantee benefits above the normal retirement benefit, disability benefits not in pay status, or non-pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay.

How will I know when PBGC has made a decision on the application for partition?

If PBGC approves the Board of Trustees' application for partition, PBGC will issue a notice to affected participants and beneficiaries whose benefits will be transferred to the successor plan no later than 14 days after it issues the order of partition. You may also visit *www.pbgc.gov/MPRA* for a list of applications for partition received by PBGC and the status of those applications.

Your Rights To Receive Information About Your Plan and its Benefits

Your plan's Summary Plan Description (''SPD'') will include information on the procedures for claiming benefits, which will apply to both the original and successor plans until the Plan provides you a new SPD. You also have the legal right to request documents from the original plan to help you understand the partition and your rights such as:

- The plan document, trust agreement, and other documents governing the Plan (*e.g.,* collective bargaining agreements);
- The latest SPD and summaries of material modification;
- The Plan's Form 5500 annual reports, including audited financial statements, filed with the U.S. Department of Labor during the last six years;
- The Plan's annual funding notices for the last six years;
- Actuarial reports (including reports submitted in support of the application for partition) furnished to the Plan within the last six years;
- The Plan's current rehabilitation plan, including contribution schedules; and
- Any quarterly, semi-annual or annual financial reports prepared for the Plan by an investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

If your benefits are transferred to the successor plan, you will be furnished a successor plan SPD within 120 days of the partition; and the plan document, trust agreement, and other documents governing the successor plan will be available for review following the partition.

The plan administrator must respond to your request for these documents within 30 days, and may charge you the cost per page for the least expensive means of reproducing documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 annual reports are also available free of charge at *http://www.dol.gov/ebsa/5500main.html.* Some of the documents also may be available for examination, without charge, at the plan administrator's office, your worksite, or union hall.

Plan Contact Information

For more information about this Notice, you may contact:

[Insert Name of Plan Administrator, address, email address, and phone number]

PBGC Contact Information

Multiemployer Program Division, PBGC, 1200 K Street NW., Washington, DC 20005–4026
Email: *Multiemployerprogram@pbgc.gov*
Phone: (202) 326–4000 x6535

PBGC Participant and Plan Sponsor Advocate Contact Information

Constance Donovan, PBGC, 1200 K Street NW., Washington, DC 20005–4026
Email: *Advocate@pbgc.gov.*
Phone: (202) 326–4488

NOTICE OF APPLICATION FOR PARTITION FOR [INSERT PLAN NAME]

[For plans filing coordinated applications for partition and suspension of benefits]

[Insert Date]

This notice is to inform you that, on [*insert Date*], [*insert Plan Sponsor's Name*] (''Board of Trustees'') filed a complete application with the Pension Benefit Guaranty Corporation (''PBGC'') requesting approval for a partition of the [*insert Pension Fund name, Employer Identification Number, and three-digit Plan Number*] (the ''Plan''). [*Insert statement that the plan sponsor has submitted an application for suspension of benefits under section 305(e)(9)(G) of ERISA, and identify how to obtain a copy of the application and notice required by section 305(e)(9)(F) of ERISA.*]

What is partition?

A multiemployer plan that is in critical and declining status may apply to PBGC for an order that separates (*i.e.,* partitions) and transfers the PBGC-guaranteed portion of certain participants' and beneficiaries' benefits to a newly-created successor plan. The total amount transferred from the original plan to the successor plan is the minimum amount needed to keep the original plan solvent. While the Board of Trustees will administer the successor plan, PBGC will provide financial assistance to the successor plan to pay the transferred benefits.

PBGC guarantees benefits up to a legal limit. However, if the PBGC-guaranteed amount payable by the successor plan is less than the benefit payable under the original plan after taking into account benefit reductions or any plan amendments after the effective date of the partition, Federal law requires the original plan to pay the difference. Therefore, partition will *not* further change the total amount payable to any participant or beneficiary.

What are the rules for partition?

Federal law permits, but does not require, PBGC to approve an application for partition. PBGC generally will make a decision on the application for partition within 270 days. A plan is eligible for partition if certain requirements are met, including:

1. The pension plan is in critical and declining status. A plan is in critical and declining status if it is in critical status (which generally means the plan's funded percentage is less than 65%) and is projected to run out of money within 15 years (or 20 years if there are at least twice as many inactive as active participants, or if the plan's funded percentage is less than 80%).
2. PBGC determines, after consulting with the PBGC Participant and Plan Sponsor Advocate, that the Board of Trustees has taken (or is taking) all reasonable measures to avoid insolvency, including reducing benefits to the maximum allowed under the law.
3. PBGC determines that: (1) Providing financial assistance in a partition will be significantly less than providing financial assistance in the event the plan becomes insolvent; and (2) partition is necessary for the plan to remain solvent.
4. PBGC certifies to Congress that its ability to meet existing financial assistance obligations to other multiemployer plans (including plans that are insolvent or projected to become insolvent within 10 years) will not be impaired by the partition.
5. The cost of the partition is paid exclusively from PBGC's multiemployer insurance fund.

Why are partition and benefit reductions needed?

The Plan is in critical and declining status, is [*insert funded percentage*] funded, and is projected to become insolvent by [*insert expected insolvency date*]. The Board of Trustees has taken reasonable measures to avoid insolvency, but has determined that these measures are insufficient and that the proposed partition and reduction of benefits combined are necessary for the Plan to avoid insolvency.

[*Insert brief statement of the amount of liabilities the Board of Trustees proposes to partition and indicate whether it is the minimum amount needed for the Plan to remain solvent.*] [*If applicable, insert brief statement summarizing the proposed classes of participants and beneficiaries whose benefits will be partially or wholly transferred if the application is granted, and a summary of the factors considered.*] If instead the Plan is allowed to become insolvent, the benefits

of *all* participants and beneficiaries whose benefits exceed the PBGC-guaranteed amount would be reduced to the PBGC-guaranteed amount.

What is PBGC's multiemployer plan guarantee?

Federal law sets the maximum that PBGC may guarantee. For multiemployer plan benefits, PBGC guarantees a monthly benefit payment equal to 100 percent of the first $11 of the Plan's monthly benefit accrual rate, plus 75 percent of the next $33 of the accrual rate, times each year of credited service. PBGC's maximum guarantee, therefore, is $35.75 per month times a participant's years of credited service.

PBGC guarantees vested pension benefits payable at normal retirement age, early retirement benefits, and certain survivor benefits, if the participant met the eligibility requirements for a benefit before plan termination or insolvency. A benefit or benefit increase that has been in effect for less than 60 months is not eligible for PBGC's guarantee. PBGC also does not guarantee benefits above the normal retirement benefit, disability benefits not in pay status, or non-pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay.

How will I know when PBGC has made a decision on the application for partition?

If PBGC approves the Board of Trustees' application for partition, PBGC will issue a notice to affected participants and beneficiaries whose benefits will be transferred to the successor plan no later than 14 days after it issues the order of partition. You may also visit *www.pbgc.gov/MPRA* for a list of applications for partition received by PBGC and the status of those applications.

How do I obtain information on the application for approval to reduce benefits?

The application for approval of the proposed reduction of benefits will be publicly available within 30 days after the Treasury Department receives the application. *See www.treasury.gov* for a copy of the application, instructions on how to send comments on the application, and how to contact the Treasury Department for further information and assistance.

Your Rights To Receive Information About Your Plan and its Benefits

Your Plan's Summary Plan Description (''SPD'') will include information on the procedures for claiming benefits, which will apply to both the original and successor plans until the Plan provides you a new SPD. You also have the legal right to request documents from the original plan to help you understand the partition and your rights such as:

- The plan document, trust agreement, and other documents governing the Plan (*e.g.,* collective bargaining agreements);
- The latest SPD and summaries of material modification;
- The Plan's Form 5500 annual reports, including audited financial statements, filed with the U.S. Department of Labor during the last six years;
- The Plan's annual funding notices for the last six years;
- Actuarial reports (including reports submitted in support of the application for partition) furnished to the Plan within the last six years;
- The Plan's current rehabilitation plan, including contribution schedules; and
- Any quarterly, semi-annual or annual financial reports prepared for the Plan by an investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

If your benefits are transferred to the successor plan, you will be furnished a successor plan SPD within 120 days of the partition; and the plan document, trust agreement, and other documents governing the successor plan will be available for review following the partition.

The plan administrator must respond to your request for these documents within 30 days, and may charge you the cost per page for the least expensive means of reproducing documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 annual reports are also available free of charge at *http://www.dol.gov/ebsa/5500main.html.* Some of the documents also may be available for examination, without charge, at the plan administrator's office, your worksite, or union hall.

Plan Contact Information

For more information about this Notice, you may contact:

[Insert Name of Plan Administrator, address, email address, and phone number]

PBGC Contact Information

Multiemployer Program Division, PBGC, 1200 K Street NW., Washington, DC 20005–4026
Email: *Multiemployerprogram@pbgc.gov*
Phone: (202) 326–4000 x6535

PBGC Participant and Plan Sponsor Advocate Contact Information

Constance Donovan, PBGC, 1200 K Street NW., Washington, DC 20005–4026
Email: *Advocate@pbgc.gov*
Phone: (202) 326–4488

Issued in Washington, DC, this 10th day of June, 2015.

Alice C. Maroni,

Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–14930 Filed 6–17–15; 11:15 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–0329]

RIN 1625–AA08

Special Local Regulations for Marine Events, Atlantic Ocean; Atlantic City, New Jersey

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement date of the special local regulation for the recurring OPA Atlantic City Grand Prix boat race, held in the waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey. The change of enforcement date for the special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in the waters of the Atlantic Ocean adjacent to Atlantic City, New Jersey, during the event, from 10:00 a.m. to 6:00 p.m. on June 20, 2015 and June 21, 2015.

DATES: This rule is effective June 20–21, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0329]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@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
COTP Captain of the Port

A. Regulatory History and Information

The regulation for this recurring marine event may be found at 33 CFR 100.501, Table to § 100.501, section (a), line ''4''. This year, the date is different than published in the Table, so this temporary final rule has been issued.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because information about the new date was not received by the Coast Guard with sufficient time to publish a Notice of Proposed Rulemaking.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** for the same reason: There was not enough time to publish the final rule more than thirty days before the event date.

B. Basis and Purpose

The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations.

The purpose of this special local regulation is to provide for the safety of participants, spectator craft, and other vessels transiting the event area while the boat race is occurring.

C. Discussion of Rule

The Coast Guard has previously published a list of annual marine events within the Fifth Coast Guard District and special local regulation locations at 33 CFR 100.501. The Table to § 100.501 identifies special local regulations by COTP zone, with the COTP Delaware Bay zone listed in section ''(a.)'' of the Table. The Table to § 100.501, at section (a.) event Number ''4'', describes the enforcement date and regulated location for this marine event.

The date listed in the Table has the marine event on the fourth Sunday of June. However, this temporary rule changes the marine event date to June 20, 2015 and June 21, 2015, to reflect the actual date of the event.

The Coast Guard will temporarily suspend the regulation listed in Table to § 100.501, section (a) event Number ''4'', and insert this temporary regulation at Table to § 100.501, at section (a.) as event Number ''15'', in order to reflect that the special local regulation will be effective and enforced from 10:00 a.m. until 6:00 p.m. on June 20, 2015 and June 21, 2015. This change is needed to accommodate the sponsor's event plan. No other portion of the Table to § 100.501 or other provisions in § 100.501 shall be affected by this regulation.

The regulated area of this special local regulation includes all the waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: From a point along the shoreline at latitude 39°21′50″ N, longitude 074°24′37″ W, thence southeasterly to latitude 39°20′40″ N, longitude 074°23′50″ W, thence southwesterly to latitude 39°19′33″ N, longitude 074°26′52″ W, thence northwesterly to a point along the shoreline at latitude 39°20′43″ N, longitude 074°27′40″ W, thence northeasterly along the shoreline to point of origin at latitude 39°21′50″ N, longitude 074°24′37″ W.

A fleet of spectator vessels is anticipated to gather nearby to view the marine event. Due to the need for vessel control during the marine event vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. Under provisions of 33 CFR 100.501, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

The Coast Guard may assign an event patrol, as described in 33 CFR 100.40, to each regulated event listed in the table. Additionally, a Patrol Commander may be assigned to oversee the patrol. The event patrol and Patrol Commander may be contacted on VHF–FM Channel 16. During the event, the Coast Guard Patrol Commander may forbid and control the movement of all vessels in the regulated area(s). When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard Patrol Commander may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Special local regulation to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the special local regulation with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the boat race.

2. Impact on Small Entities

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to anchor or transit in the waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey, on June 20, 2015 and June 21, 2015 from 10:00 a.m. to 6:00 p.m., unless cancelled earlier by the Captain of the Port.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reason: vessel traffic

will be allowed to transit through the area with permission of the Coast Guard Captain of the Port, Delaware Bay, or his designated representative and the special local regulation is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to all waterway users.

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

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR part 100, applicable to special local regulations on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the waters of the Atlantic Ocean adjacent to Atlantic City, NJ, in order to protect the safety of life and property on the waters for the duration of the air show. This rule is categorically excluded from further review under paragraph 34(h) 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 rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In the Table to § 100.501:

■ a. Suspend line No. (a.) 4; and

■ b. Add line No. (a.) 15 to read as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

Number	Date	Event	Sponsor	Location
(a.) Coast Guard Sector Delaware Bay—COTP Zone				
*	*	*	*	* * *
15	June-20, 21th	OPA Atlantic City Grand Prix.	Offshore Performance Assn. & New Jersey Offshore Racing Assn.	The waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: From a point along the shoreline at latitude 39°21′50″ N, longitude 074°24′37″ W, thence southeasterly to latitude 39°20′40″ N, longitude 074°23′50″ W, thence southwesterly to latitude 39°19′33″ N, longitude 074°26′52″ W, thence northwesterly to a point along the shoreline at latitude 39°20′43″ N, longitude 074°27′40″ W, thence northeasterly along the shoreline to point of origin at latitude 39°21′50″ N,. longitude.074°24′37″ W.
*	*	*	*	* * *

Dated: June 2, 2015.

B.A. Cooper,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2015–15184 Filed 6–18–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–0340]

RIN 1625–AA08

Special Local Regulations; Grand National Drag Boat Races, Atlantic Intracoastal Waterway; Bucksport, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the Atlantic Intracoastal Waterway in Bucksport, South Carolina during the Grand National Drag Boat Races, a series of high-speed boat races. The event will take place on Saturday, June 20, 2015 and Sunday, June 21, 2015. Approximately 30 high-speed race boats are anticipated to participate in the races. This special local regulation is necessary to provide for the safety of life and property on navigable waters of the United States during the event. This special local regulation will temporarily restrict vessel traffic in a portion of the Atlantic Intracoastal Waterway. Persons and vessels that are not participating in the races will be prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective on June 20 and June 21, 2015. This rule will be enforced daily from 9 a.m. until 7 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0340. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Warrant Officer Christopher Ruleman, Sector Charleston Waterways Management, U.S. Coast Guard; telephone (843) 740–3184, email *christopher.l.ruleman@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because the Coast Guard did not receive necessary information about the event until April 23, 2015. As a result, the Coast Guard did not have sufficient time to publish a notice of proposed rulemaking and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to the race participants, spectators and the general public.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life and property on navigable waters of the United States during the Grand National Drag Boat Races.

C. Discussion of Rule

On Saturday, June 20, 2015, and Sunday, June 21, 2015, the Bucksport Marina will host Grand National Drag Boat Races, a series of high-speed boat races. The event will be held on a portion of the Atlantic Intracoastal Waterway in Bucksport, South Carolina. Approximately 30 high-speed race boats are anticipated to participate in the races.

The special local regulation encompasses certain waters of the Atlantic Intracoastal Waterway in Bucksport, South Carolina. The special local regulation will be enforced daily from 9 a.m. until 7 p.m. on June 20, 2015 and June 21, 2015. The special local regulation consists of a regulated area around vessels participating in the event. Persons and vessels that are not participating in the event are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the

regulated area by contacting the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16 to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The economic impact of this rule is not anticipated to be significant for the following reasons: (1) Although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the effective period; (2) persons and vessels may still enter, transit through, anchor in, or remain within the race area if authorized by the Captain of the Port Charleston or a designated representative; and (3) advance notification will be made to the local maritime community via broadcast notice to mariners.

2. Impact on Small Entities

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion that portion of the Atlantic Intracoastal Waterway encompassed within the regulated area from 9:00 a.m. until 7:00 p.m. on June 20, 2015 and June 21, 2015. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.T07–0340 to read as follows:

§ 100.T07–0340 Special Local Regulations; Grand National Drag Boat Races, Atlantic Intracoastal Waterway, Bucksport, SC.

(a) *Regulated area.* The following regulated area is established as a special local regulation: All waters of the Atlantic Intracoastal Waterway encompassed within the following points; starting at point 1 in position 33° 39′ 11.46″ N, 079° 05′ 36.78″ W; thence west to point 2 in position 33° 39′ 12.18″ N, 079° 05′ 47.76″ W; thence south to point 3 in position 33° 38′ 39.48″ N 079° 05′37.44″ W; thence east to point 4 in position 33° 38′ 42.3″ N 079° 05′ 30.6″ W; thence north back to origin. All coordinates are North American Datum 1983.

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

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

(2) Nonparticipant persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16 to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Charleston or a designated representative.(3) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners, Local Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement date.* This rule will be enforced daily from 9 a.m. until 7 p.m. on June 20 and June 21, 2015.

Dated: May 29, 2015.

G.L. Tomasulo,

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

[FR Doc. 2015–15186 Filed 6–18–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0218]

RIN 1625–AA09

Drawbridge Operation Regulation; Niantic River, Niantic, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Amtrak Bridge, mile 0.0, at Niantic, Connecticut. The bridge owner, National Railroad Passenger Company (Amtrak), submitted a request to remove the special drawbridge operation regulation because the bridge now opens on signal at all times. It is expected that this change to the regulations will create efficiency in drawbridge operations while continuing to meet the reasonable needs of navigation.

DATES: This rule is effective June 19, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0218. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type in the docket number in the ''Search.'' box and click ''SEARCH.'' Click Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District Bridge Branch, 212–514–4330, *judy.k.leung-yee@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Amtrak Bridge, that once required draw operations in 33 CFR 117.215(a), now opens on signal at all times; therefore, the regulation is no longer applicable and shall be removed from publication. It is unnecessary to publish an NPRM because this regulatory action does not

purport to place any restrictions on mariners but rather removes a restriction that has no further use or value.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The bridge has been opening on signal at all times for many years and this rule merely requires an administrative change to the **Federal Register**, in order to omit a regulatory requirement that is no longer applicable or necessary. The removal of the regulation will not affect mariners currently operating on this waterway. Therefore, a delayed effective date is unnecessary.

A. Basis and Purpose

The Amtrak Bridge at mile 0.0, across the Niantic River, at Niantic, Connecticut, has a vertical clearance of 16 feet at mean high water and 19 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.215(a).

The waterway users are commercial and seasonal recreational vessels of various sizes.

The owner of the bridge, Amtrak, submitted a request to the Coast Guard to change the drawbridge operating regulations that presently allows the bridge to open on signal; except that, from April 1 through October 31, from 8 p.m. to 4 a.m. and from November 1 through March 31 from 6 p.m. to 6 a.m., the draw shall open on signal if at least one hour notice is given.

When a train is scheduled cross the bridge without stopping has entered the drawbridge block, a delay in opening the draw may occur until the train has cleared the block.

Under this final rule the Amtrak Bridge will open on signal at all times; however, the paragraph that refers to any delay in opening the draw should a train be within the drawbridge block shall remain in effect.

B. Discussion of Final Rule

The Amtrak Bridge has been opening on signal at all times for many years despite the requirement in the drawbridge operation regulation listed at 33 CFR 117.215(a) to provide a one hour advance notice at certain times of year.

The owner of the bridge requested the regulation for the Amtrak Bridge be changed to reflect the present operation of the bridge, to open on signal at all times.

C. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We believe that this rule is not a significant regulatory action because the changes to the regulation will remove the advanced notice burden for mariners at all times.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will have no effect on small entities for the following reason: The Amtrak Bridge will open on signal at all times.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and

would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 33 CFR 117.215, revise paragraph (a) to read as follows:

§ 117.215 Niantic River.

(a) The draw of the Amtrak Bridge, mile 0.0, at Niantic, shall open on signal at all times. When a train scheduled to cross the bridge without stopping has entered the drawbridge block, a delay in opening the draw may occur until the train has cleared the block. The delay should not exceed 10 minutes.

* * * * *

Dated: June 9, 2015.

L.L. Fagan,

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

[FR Doc. 2015–15190 Filed 6–18–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0521]

Drawbridge Operation Regulation; Isle of Wight (Sinepuxent) Bay, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US Route 50 Bridge across the Isle of Wight (Sinepuxent) Bay, mile 0.5, at Ocean City, MD. The deviation is necessary to facilitate the Annual July 4th Fireworks show. This deviation allows the bridge to remain closed to navigation to accommodate heavy volumes of vehicular traffic following the fireworks show.

DATES: This deviation is effective from 9:30 p.m. to 11:30 p.m. on July 4, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0521] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Traci Whitfield, Bridge Management Assistant, Fifth Coast Guard District, telephone (757) 398–6629, email *Traci.G.Whitfield@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Ocean City Police Department on behalf of the Maryland State Highway Administration, has requested a temporary deviation from the current operating regulation of the US Route 50 Bridge across Isle of Wight (Sinepuxent) Bay, mile 0.5, at Ocean City, MD. This temporary deviation allows the US Route 50 Bridge to remain closed to navigation from 9:30 p.m. to 11:30 p.m. on July 4, 2015. This is an additional 30 minutes before and after the normal operating schedule for this bridge during that time. This additional closure has been requested to ensure the safety of spectators that attend the annual Ocean City July 4th fireworks show and allow for the heavy volume of vehicular traffic that transit across the drawbridge. For these reasons, should inclement weather prevent the fireworks event from taking place as planned, this deviation permits the bridge to remain closed from 9:30 p.m. to 11:30 p.m. on July 5th, 2015.

The vertical clearance of this bascule bridge is 13 feet above mean high water in the closed position and unlimited in the open position. The current operating regulation is outlined at 33 CFR 117.559(c), which allows the bridge to remain closed to navigation from 10 p.m. to 11 p.m. to accommodate the annual July 4th fireworks show

Vessels able to pass under the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies and the Atlantic Ocean can be used as an alternate route for vessels with mast heights greater than 13 feet. The Coast Guard will also inform the users of the waterways, through our Local and Broadcast Notices to Mariners, of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 15, 2015.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2015–15082 Filed 6–18–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0531]

RIN 1625–AA00

Safety Zone; Bridgefest Regatta Fireworks, Portage Canal, Hancock, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Portage Canal near Hancock, MI. This safety zone is intended to restrict vessels from specified waters in the Portage Canal during the Bridgefest Regatta Fireworks Display. This safety zone is necessary to protect spectators from the hazards associated with the fireworks display.

DATES: This rule is effective from 10 p.m. to 11 p.m. on June 20, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0531]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Petty Officer Aaron Woof, Waterways management, MSU Duluth, Coast Guard; telephone 218–725–3821, email *Aaron.M.Woof@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. In May of this year, the Coast Guard discovered an error in the coordinates for the safety zone for the Bridgefest Regatta Fireworks in 33 CFR 165.943(a)(1). On May 4, 2015, the COTP Duluth signed a NPRM to correct the error (USCG–2015–0215). This NPRM has yet to publish in the **Federal Register**. Because the fireworks event is scheduled for June 20, 2015, there is insufficient time to accommodate the comment period. Thus, delaying the effective date of this rule to wait for the comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with the fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

Between 10 p.m. and 11 p.m. on June 20, 2015, Bridgefest Regatta fireworks display will take place within the Portage Canal in Hancock, MI. The likely combination of recreation vessels, darkness punctuated by bright flashes of light, and fireworks debris falling into the water presents risks of collisions which could result in serious injuries or fatalities. Establishing a safety zone around the launch site will help ensure the safety of persons and recreational boats during the fireworks display.

C. Discussion of the Final Rule

In light of the aforementioned hazards, the Captain of the Port Duluth has determined that a temporary safety zone is necessary to ensure the safety of spectators and participants during the fireworks display. This safety zone will encompass all waters of the Portage Canal within an area bounded by a circle with a 280 foot radius at position 47° 07′ 22″ N, 088° 35′ 39″ W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

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

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for an hour on a single day. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

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 Coast Guard certifies under 5 U.S.C. 605(b)

that this rule will not have a significant economic impact on a substantial number of small entities. Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of recreational vessels intending to transit or anchor in a portion of the Portage Canal in Hancock, MI from 10 p.m. to 11 p.m. on June 20, 2015.''

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of the zone, we would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0531 to read as follows:

§ 165.T09–0531 Safety zone; Bridgefest Regatta Fireworks, Portage Canal, Hancock, MI.

(a) *Location.* All waters of the Portage Canal within an area bounded by a

circle with a 280 foot radius at position 47°07′22″ N, 088°35′39″ W.

(b) *Effective period.* This safety zone is effective from 10 p.m. to 11 p.m. on June 20, 2015.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Duluth, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Duluth or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Duluth or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Duluth or his on-scene representative.

Dated: June 10, 2015.

A.H. Moore, Jr.,

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

[FR Doc. 2015–15188 Filed 6–18–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AP43

Presumption of Herbicide Exposure and Presumption of Disability During Service for Reservists Presumed Exposed to Herbicide

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulation governing individuals presumed to have been exposed to certain herbicides. Specifically, VA is expanding the regulation to include an additional group consisting of individuals who performed service in the Air Force or Air Force Reserve under circumstances in which they had regular and repeated contact with C–123 aircraft known to have been used to spray an herbicide agent (''Agent Orange'') during the Vietnam era. In addition, the regulation will establish a presumption that members of this group who later develop an Agent Orange presumptive condition were disabled during the relevant period of service, thus establishing that this service constituted ''active, naval, military or air service.'' The effect of this action is to presume herbicide exposure for these individuals and to allow individuals who were exposed to herbicides during reserve service to establish veteran status for VA purposes and eligibility for some VA benefits. The need for this action results from a recent decision by the Secretary of Veterans Affairs to acknowledge that individuals who had regular and repeated exposure to C–123 aircraft that the United States Air Force used to spray the herbicides in Vietnam during Operation Ranch Hand were exposed to Agent Orange.

DATES: *Effective Date:* This interim final rule is effective on June 19, 2015.

Applicability Dates: This interim final rule is applicable to any claim for service connection for an Agent Orange presumptive condition filed by a covered individual that is pending on or after June 19, 2015.

Comment date: Comments must be received on or before August 18, 2015.

FOR FURTHER INFORMATION CONTACT: Stephanie Li, Chief, Regulations Staff, Compensation Service (21C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 461–9700 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In 2014, VA commissioned the National Academy of Sciences' Institute of Medicine (IOM) to conduct a consensus study of all available scientific literature and knowledge on the subject of residual exposure to Agent Orange from service on aircraft formerly used during Operation Ranch Hand in Vietnam. VA commissioned this study to get a better understanding of the potential harmful exposures and health effects involved in serving on these aircraft after the conclusion of herbicide spraying operations in Vietnam. Specifically, VA requested that the IOM ''determine whether there had been exposures that could lead to excess risk of adverse health outcomes among [Air Force] Reserve personnel who flew in and/or maintained C–123 aircraft (outside of Vietnam) that had previously been used to spray Agent Orange.'' *See* Institute of Medicine, National Academy of Sciences, Post-Vietnam Dioxin Exposure in Agent Orange-Contaminated C–123 Aircraft 10 (2015), *available at http://www.publichealth.va.gov/exposures/agentorange/publications/institute-of-medicine.asp.*

According to the IOM's 2015 report on C–123 exposures, from 1972 to 1982, approximately 1,500 to 2,100 Air Force Reserve personnel trained and worked on C–123 aircraft, of which approximately 30 had formally been used to spray herbicides in Vietnam. *Id.* at 9. The report noted that the aircraft had been assigned to a few Air Force Reserve units where they were used for military airlift, medical transport, and cargo transport operations in the United States and internationally. *Id.* at 26. Regarding the potential for harmful exposures, the IOM found that Reservists who served as flight crew (pilot, navigator, flight engineer, and loadmaster), ground maintenance crew, and aero-medical personnel had regular and repeated contact with the aircraft. *Id.* at 26–27. The report identified the specific aircraft and the Reserve units to which they were assigned, and concluded, ''it is probable that the [herbicide] exposures of at least some [Air Force] Reservists exceeded levels equivalent to some guidelines established for office workers in enclosed settings.'' *Id.* at 62. The IOM determined that it is ''plausible that the C–123s did contribute to some adverse health consequences among [Air Force] Reservists who worked in [Operation Ranch Hand] C–123s after the planes returned from Vietnam.'' *Id.* at 62–63.

Based upon the IOM report, the Secretary of Veterans Affairs has decided that VA will acknowledge exposure to Agent Orange for approximately 1,500 to 2,100 Air Force and Air Force Reserve personnel whose military service involved regular and repeated contact with the contaminated C–123 aircraft. Therefore, this interim final rule establishes a presumption of exposure to herbicides for individuals who performed service in the Air Force or Air Force Reserve under circumstances in which the individual concerned regularly and repeatedly operated, maintained, or served onboard C–123 aircraft known to have been used to spray an herbicide agent during the Vietnam era. However, most individuals with such service were members of the Air Force Reserve at the time. Basic eligibility for VA benefits requires that an individual be a ''veteran'' as that term is defined in 38 U.S.C. 101(2): ''The term 'veteran' means a person who served in the active military, naval, or air service, and who was discharged or

released therefrom under conditions other than dishonorable.'' Service as a member of a reserve component during a period of active duty for training or inactive duty training does not qualify an individual as a ''veteran'' because it does not constitute ''active military, naval or air service'' unless the individual is disabled or dies during that period of service as provided under 38 U.S.C. 101(24)(B) and (C).

Pursuant to the Secretary's general rulemaking authority under 38 U.S.C. 501(a), VA has provided presumptions of service connection for diseases associated with exposure to an herbicide agent. 38 CFR 3.309(e). These presumptions of service connection are consistent with the disease-based presumptions under 38 U.S.C. 1116 for Vietnam Veterans with service in the Republic of Vietnam who are presumed by law to have been exposed to an herbicide agent during such service. Because an individual must quality as a ''veteran'' before they are eligible for presumptions of service connection, *see Smith* v. *Shinseki,* 24 Vet. App. 40, 44 (2010) (noting ''[t]he Court has held that, without previously established veteran status, the presumptions of service connection . . . are inapplicable''), VA estimates that most of the servicemembers addressed by the IOM report are not presently eligible for the regulatory disease-based presumptions of service connection.

This interim final rule establishes factual presumptions that will allow Air Force Reservists who are presumed under this interim final rule to have been exposed to herbicide during their reserve service to establish veteran status as a result of that service. Although section 101(24) requires a period of active duty for training or inactive duty training ''during which the individual concerned was disabled or died'' for a period of active duty for training or inactive duty training to constitute ''active military, naval, or air service,'' the latent effects of herbicide exposure were unrecognized when section 101(24) was enacted in 1958. Operation Ranch Hand spraying commenced in 1962 and concluded in 1971, and Congress recognized the need for presumptions of service connection for Agent Orange-related conditions and regular evaluation of the science related to such conditions in the Agent Orange Act of 1991, Public Law 102–4. Pursuant to this law, the IOM in 1992 entered into an agreement with VA to review and summarize scientific evidence concerning the association between herbicide exposure during Vietnam service and conditions that might be associated with such exposure. It issued its first report on the subject in 1994. *See* Institute of Medicine, National Academy of Sciences, Veterans and Agent Orange: Health Effects of Herbicides Used in Vietnam (1994), *available at http://www.publichealth.va.gov/exposures/agentorange/publications/institute-of-medicine.asp.* Thus, in enacting section 101(24), Congress was necessarily unaware of later scientific understanding of the potential latent effects of herbicide exposure. Indeed, Congress was necessarily informed by the science that existed at the time of enactment in 1958.

The legislative history regarding the enactment of section 101(24) does not specifically explain Congress' intent in requiring that the individual ''was disabled or died'' during the period of service. It is probable that Congress required a reserve component member to have been disabled ''during'' training because the medical science of the time understood that, if an in-service injury were to result in disability, at least some aspect of that disability generally would be manifest contemporaneous with the injury. However, subsequent developments with regard to herbicide use in Vietnam and advancements in medical understanding of the health effects of herbicide exposure raise a question regarding the application of section 101(24) to disability associated with such exposure. Viewing the generally beneficial purpose of section 101(24) in light of the evolved medical understanding, we believe it is reasonable to create a factual presumption that disability occurred during the period of service as required under section 101(24) when an individual has a present disability now scientifically associated with exposure to an herbicide agent. Specifically, the existing herbicide-related disease presumptions enumerated in 38 CFR 3.309(e), coupled with the potential for clinical uncertainty regarding when such diseases first manifested, provide a reasonable basis for presuming that disability occurred during a period of reserve service for purposes of satisfying the requirements under section 101(24)(B) or (C) in order to ensure compensation and health care for reservists disabled as a result of herbicide exposure on reserve duty.

For the above reasons, we are amending 38 CFR 3.307 regarding disease associated with exposure to certain herbicide agents to add new paragraph (a)(6)(v). As amended, § 3.307 will presume exposure to herbicide for ''[a]n individual who performed service in the Air Force or Air Force Reserve under circumstances in which the individual concerned regularly and repeatedly operated, maintained, or served onboard C–123 aircraft known to have been used to spray an herbicide agent during the Vietnam era.'' Further, in consideration of the reserve component members with such service, VA will consider this presumed herbicide exposure to be an ''injury'' under section 101(24)(B) and (C). In turn, if such individual develops a presumptive disease listed in 38 CFR 3.309(e), as specified in 38 CFR 3.307(a)(6)(ii), ''it will be presumed that the individual concerned became disabled during that service for purposes of establishing that the individual has active military, naval, or air service.'' VA will make the factual presumption that the individual concerned was disabled during the qualifying service so that such individual's service will constitute ''active, military, naval, or air service.'' As explained, we believe this is consistent with section 101(24) because herbicide exposure has uniquely latent effects which were largely unrecognized in 1958. Covered individuals may therefore establish veteran status for purposes of VA's disability compensation, dependency and indemnity compensation, medical care, and burial benefits related to any Agent Orange-related presumptive condition.

Administrative Procedure Act

The Secretary of Veterans Affairs finds under 5 U.S.C. 553(b)(B) that there is good cause that advance notice and opportunity for public comment are impracticable, unnecessary, or contrary to the public interest and under 5 U.S.C. 553(d)(3) that there is good cause to publish this rule with an immediate effective date. This interim final rule provides a presumption of herbicide exposure for individuals who performed certain military service. This interim final rule also establishes a presumption that if such an individual develops a presumptive herbicide-related condition, the individual concerned became disabled during that service for purposes of establishing that the individual has active military, naval, or air service. These changes will make individuals who were exposed to herbicide during service eligible for some VA benefits for disabilities resulting from herbicide-related diseases. Based on the age of the individuals affected by this rule and the potential severity of the disabilities associated with their herbicide exposure, it is likely that affected individuals will have significant and urgent financial and medical needs. In order for these individuals to have

access to VA benefits to include VA health care, it is essential that these rules be made effective as soon as possible.

For the above reasons, the Secretary issues this rule as an interim final rule. However, VA will consider and address comments that are received within 60 days of the date this interim final rule is published in the **Federal Register**.

Paperwork Reduction Act

This rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required in connection with the adoption of this interim final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act, 5 U.S.C. 601–612. Even so, the Secretary of Veterans Affairs certifies that this interim final rule will not directly affect any small entities. It will directly affect only VA beneficiaries. Accordingly, this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined that it is not an economically significant regulatory action under Executive Order 12866. VA's regulatory impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its regulatory impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on May 11, 2015, for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: June 15, 2015.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 3 to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.307 by adding paragraph (a)(6)(v) immediately after paragraph (a)(6)(iv) and revising the authority citation at the end of the section to read as follows:

§ 3.307 Presumptive service connection for chronic, tropical or prisoner-of-war related disease, or disease associated with exposure to certain herbicide agents; wartime and service on or after January 1, 1947.

(a) * * *

(6) * * *

(v) An individual who performed service in the Air Force or Air Force Reserve under circumstances in which the individual concerned regularly and repeatedly operated, maintained, or served onboard C–123 aircraft known to have been used to spray an herbicide agent during the Vietnam era shall be presumed to have been exposed during such service to an herbicide agent. For purposes of this paragraph, ''regularly and repeatedly operated, maintained, or served onboard C–123 aircraft'' means that the individual was assigned to an Air Force or Air Force Reserve squadron when the squadron was permanently assigned one of the affected aircraft and the individual had an Air Force Specialty Code indicating duties as a flight, ground maintenance, or medical crew member on such aircraft. Such exposure constitutes an injury under 38

U.S.C. 101(24)(B) and (C). If an individual described in this paragraph develops a disease listed in 38 CFR 3.309(e) as specified in paragraph (a)(6)(ii) of this section, it will be presumed that the individual concerned became disabled during that service for purposes of establishing that the individual served in the active military, naval, or air service.

* * * * *

(Authority: 38 U.S.C. 101(24), 501(a), 1116(a)(3), and 1821)

[FR Doc. 2015–14995 Filed 6–18–15; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0249; FRL–9928–82]

Thiram; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of thiram in or on avocado. Taminco US, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 19, 2015. Objections and requests for hearings must be received on or before August 18, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0249, 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–2014–0249 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 18, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0249, 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 December 17, 2014 (79 FR 75107) (FRL–9918–90), 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 4E8250) by Taminco US, Inc., Two Windsor Plaza, Suite 411, 7540 Windsor Drive, Allentown, PA 18195. The petition requested that 40 CFR 180.132 be amended by establishing a tolerance for residues of the fungicide thiram in or on avocado at 8 parts per million (ppm). That document referenced a summary of the petition prepared by Taminco US, Inc, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

For reasons that are discussed in Unit IV.C., EPA is establishing a tolerance for avocado at 15 ppm.

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 thiram including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with thiram follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data 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.

Thiram is a dimethyl dithiocarbamate fungicide. Thiram has been shown to cause neurotoxicity following acute and subchronic exposures. In the acute and subchronic neurotoxicity studies submitted, neurotoxicity is characterized as lethargy, reduced and/or tail pinch response, changes in the functional-observation battery (FOB) parameters, increased hyperactivity, changes in motor activity, and increased occurrences of rearing events. No treatment-related changes were observed in brain weights or in the histopathology of the nervous system. In a non-guideline study published in the open literature, chronic feeding of thiram to rats caused neurotoxicity, with onset of ataxia in some animals 5–19 months after beginning of treatment. However, no evidence of neurotoxicity was seen following chronic exposures in mice or rats in guideline studies submitted to the Agency. The chronic toxicity profile for thiram indicates that the liver, blood, and urinary system are the target organs for this chemical in mice, rats, and dogs. There is no evidence for increased susceptibility following *in utero* exposures to rats or rabbits and following pre- and post-natal exposures to rats for 2 generations. There is evidence of quantitative susceptibility in the developmental neurotoxicity (DNT) study. However, there is low concern for the increased susceptibility seen in the DNT study since the dose response is well defined with a clear NOAEL and this endpoint is used for assessing the acute dietary risk for the most sensitive population. Thiram is classified as ''not likely to be carcinogenic to humans'' based on lack of evidence for carcinogenicity in mice or rats. There are no mutagenic/genotoxic concerns with thiram. The available toxicological database for thiram suggests that this chemical has a low to moderate acute-toxicity profile.

Specific information on the studies received and the nature of the adverse effects caused by thiram as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Thiram. Revised Human Health Risk Assessment for the Import Use of Thiram on Avocado, PP#4E8250 and Banana, PP#4E8268''.

B. Toxicological Points of Departure/Levels of Concern

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

A summary of the toxicological endpoints for thiram used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of February 12, 2014 (79 FR 8295) (FRL–9904–22).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiram, EPA considered exposure under the petitioned-for tolerances as well as all existing thiram tolerances in 40 CFR 180.132. EPA assessed dietary exposures from thiram 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.

A partially refined probabilistic acute dietary-exposure assessment was performed using 100 percent crop treated (PCT), average field trial residues or pulp residues for blended commodities, distributions of field trial residues, highest pulp residue, and empirical processing factors.

ii. *Chronic exposure.* Tolerances-level residues, average field-trial residues, and highest pulp residues for avocado with 100 PCT were used for the chronic dietary exposure analysis for all crops. Empirical processing factors were also used.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that thiram does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use PCT information in the dietary assessment for thiram. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for thiram in drinking water. These simulation models take into account data on the physical, chemical, and fate/

transport characteristics of thiram. 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) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of thiram for acute exposures are 0.0478 ppm and 0.0025 ppm for chronic exposures (for non-cancer assessments) for surface water. Ground water sources were not included (for acute or chronic exposures), as the EDWCs for ground water are minimal in comparison to those for surface water. Surface water EDWCs were incorporated in Dietary Exposure Evaluation Model Food Commodity Intake Database (DEEM–FCID) into the food categories ''water, direct, all sources'' and ''water, indirect, all sources'' for the dietary assessments.

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). Thiram is not available for sale or use by homeowner applicators; therefore, there are no residential handler exposure scenarios. However, there is potential for residential post-application dermal exposure from treated golf course greens and tees. Residential exposures resulting from dermal contact with thiram-treated turf were assessed for children 6 to <11 years old, children 11 to <16 years old, and adults as described in document ''Thiram. Revised Human Health Risk Assessment For Import Use of Thiram on Avocado,'' p. 14.

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.''

Unlike the *N*-methyl carbamate pesticides, EPA has not found thiram (a dithiocarbamate) to share a common mechanism of toxicity with any other substances, and thiram does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiram 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 Food 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 evidence of increased susceptibility following *in utero* exposure to rats or rabbits or following prenatal and post-natal exposures to rats. There is evidence of quantitative susceptibility in the DNT study. However, there is low concern for the enhanced susceptibility seen in the DNT study because:

i. Clear NOAELs/LOAELs were established for the offspring effects.

ii. The dose-response is well defined.

iii. The behavioral effect of concern were observed only in females on one evaluation time period.

iv. The dose/endpoint is used for acute dietary risk for the most sensitive population subgroup (females 13–49 years old). Consequently, there are no residual uncertainties for pre- and post-natal toxicity.

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 thiram is complete with acceptable neurotoxicity, developmental, and reproductive toxicity studies.

ii. As explained in this unit, there are no residual uncertainties for prenatal and post-natal toxicity.

iii. There are no residual uncertainties in the thiram database with regards to dietary exposure. A refined probabilistic acute dietary-exposure assessment was performed using maximum PCT, tolerance, the highest residue found during field-trials, distribution of field trial residues, Federal Drug Administration (FDA) monitoring data for apples, and empirical processing factors. A refined chronic dietary-exposure assessment was performed using tolerances and average estimated PCT. EPA made conservative (protective) assumptions in the water modeling used to assess exposure to thiram in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children. These assessments will not underestimate the exposure and risks posed by thiram.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. The acute dietary risk estimates are not of concern to EPA (<100% aPAD) at the 95th exposure percentile for the general U.S. population and all other population subgroups. The acute dietary exposure was 62% of the aPAD for females 13–49 years old, the population subgroup with the highest percent aPAD.

2. *Chronic risk.* The chronic aggregate risk assessment takes into account exposure estimates from dietary consumption of thiram (food and drinking water). The chronic dietary risk estimates are not of concern to EPA (<100% cPAD) for the general U.S. population and all other population subgroups. The chronic dietary exposure was 70% of the cPAD for children 1–2 years old, the population subgroup with the highest estimated chronic dietary exposure.

3. *Short-term and intermediate-term risk.* In aggregating short- and intermediate-term risk, the Agency routinely combines background chronic dietary exposure (food + water) with short/intermediate-term residential exposure (dermal only). The combined exposure may then be used to calculate an MOE for aggregate risk. Using the

golfer scenario for adult males, adult females, and children >6 years old, combined with the applicable subpopulation with the greatest dietary exposure, the total short/intermediate-term food and residential aggregate MOEs are 570, 540, and 280, respectively. As these MOEs are above the target MOE of 100, the short- and intermediate-term aggregate risks are not of concern. For children <6 years old, there is no residential exposure, therefore, a short/intermediate term aggregate risk assessment is not required for this population.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, thiram is not expected to pose a cancer risk to humans.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (colorimetric analytical method) is available to enforce the tolerance expression. 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. The Codex has not established a MRL for thiram in or on avocado.

C. Revisions to Petitioned-For Tolerances

The petitioner requested a tolerance for residues of thiram on avocado at 8 ppm. EPA is establishing a tolerance at 15 ppm based on available data and the Organization for Economic Cooperation and Development (OECD) Tolerance Calculation Procedures.

V. Conclusion

Therefore, a tolerance is established for residues of thiram in or on avocado at 15 ppm.

VI. Statutory and Executive Order Reviews

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

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance 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: June 9, 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 § 180.132, alphabetically add the commodity ''avocado'' to the table in paragraph (a) to read as follows:

§ 180.132 Thiram; tolerance for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Avocado [1]	15
* * * * *	

[1] No U.S. registrations as of September 23, 2009.

* * * * *

[FR Doc. 2015–14944 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 385

Hazardous Materials Safety Permit (HMSP) Program: Amendment to Enforcement Policy

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

ACTION: Amendment to enforcement policy.

SUMMARY: Section 33014 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) required the Secretary of the U.S. Department of Transportation (DOT) to conduct a study and submit a report to Congress on the implementation of the DOT Hazardous Materials Safety Permit (HMSP) program. DOT completed the study and submitted a report to Congress in March 2014. This document announces implementation of two of the six recommendations in the report to Congress: Fully utilize the Safety Measurement System (SMS) as part of the HMSP review process and institute an ongoing requirement to conduct compliance reviews for HMSP motor carriers with insufficient data to utilize SMS. These recommendations are being implemented under the existing Safety Fitness Procedure regulations. FMCSA will use SMS scores to provide enhanced oversight of HMSP holders, to identify poor-performing carriers for a safety fitness compliance review, and to provide grounds for suspension or revocation. Both of these processes afford the motor carrier the right to administrative review and the opportunity to present corrective action.

DATES: The changes to the enforcement policy will take effect on August 18, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Bomgardner, (202) 493–0027, or *Paul.Bomgardner@dot.gov,* Chief of the Hazardous Materials Division, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590. Office hours are from 9 a.m. to 5 p.m., E.T., Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On January 1, 2005, the Federal Motor Carrier Safety Administration (FMCSA) began the HMSP program for intrastate, interstate, and foreign motor carriers transporting specified types and amounts of particularly dangerous hazardous material. HMSPs are required for a small subset of motor carriers transporting the following DOT-regulated hazardous material:

1. Highway Route Controlled Quantity (HRCQ) of a Class 7 (radioactive) material;
2. More than 55 pounds of a Division 1.1, 1.2, or 1.3 Explosive, or an amount of a Division 1.5 material requiring placarding;
3. Certain Poison by Inhalation Hazard (PIH) materials, including anhydrous ammonia, and
4. Compressed or refrigerated liquefied methane or liquefied natural gas in packaging equal to or greater than 3,500 water gallons.

FMCSA's Motor Carrier Management Information System (MCMIS) contains records for approximately 525,000 active interstate motor carriers operating in the United States. MCMIS records show almost 11,000 interstate and intrastate motor carriers that have had an inspection indicating that they transport hazardous material requiring placards.[1] Approximately 1,500 motor carriers possess an HMSP.

The HMSP program is based on the premise that carriers transporting certain amounts of particularly dangerous hazardous material must maintain a higher minimum level of safety in their operations than other carriers and must additionally demonstrate compliance with the critical regulatory requirements in the DOT Hazardous Materials Regulations (HMR), 49 CFR parts 171–180, and Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR parts 350–399. Under FMCSA's current program, in order to obtain or renew a HMSP, a carrier must demonstrate that it meets the following regulatory requirements specified in the FMCSR at 49 CFR 385.407 and 387.7:

1. Maintains the minimum level of financial responsibility required by 49 CFR part 387.
2. Maintains current Pipeline and Hazardous Materials Safety Administration (PHMSA) registration.
3. Certifies that it has security and communications plans that comply with 49 CFR part 172 of the HMR and 49 CFR part 385 of the FMCSR.
4. Is assigned a ''satisfactory'' safety fitness rating.
5. Additionally, at the time of initial application and renewal, the carrier's crash and inspection records in MCMIS for the prior 12 month period may not exceed the threshold rate established by FMCSA, based on crash and out-of-service rates for the hazardous material motor carrier industry, indicating that the carrier has:

a. A crash rate in the ''top 30 percent of the national average,'' or

b. A driver, vehicle, hazardous material, or total out-of-service (OOS) rate in the ''top 30 percent of the national average.''

As stated above, section 33014 of MAP–21, Pub. L. 112–141, div. C, title III, 126 Stat. 405, 840 (July 6, 2012) (set out as a note to 49 U.S.C. 5109) required the Secretary to conduct a study and submit a report to Congress on the implementation of the DOT's HMSP program. Congress further directed the Secretary to include in the study a review of ''actions the Secretary could implement to improve the program, including whether to provide opportunities for an additional level of fitness review prior to the denial, revocation, or suspension of a safety permit.'' Finally, section 33014 required the Secretary to institute a rulemaking to make any necessary improvements to the HMSP program or publish in the **Federal Register** the Secretary's justification for why a rulemaking is not necessary.

DOT completed the study and submitted its ''Hazardous Materials Safety Permit Program Implementation Report'' (HMSP Report) to Congress in March 2014. This notice announces implementation of two of the six recommendations in the report to Congress: (1) Fully utilize the Safety Measurement System (SMS) as part of the HMSP review process and (2) institute an ongoing requirement to conduct comprehensive investigations for HMSP motor carriers with insufficient data to utilize SMS. This **Federal Register** publication provides notice of the Agency's revised interpretation of certain regulations in 49 CFR part 385, subpart E, in accordance with congressional directives and the recommendations in the report to Congress.

On December 16, 2014, Congress passed the 2015 Omnibus

[1] See: 49 CFR part 172 Subpart F—Placarding

Appropriations law entitled, ''Consolidated and Further Continuing Appropriations Act, 2015,'' Pub. L. 113–235, 128 Stat. 2130 (Dec. 16, 2014) which restricts FMCSA's use of appropriated funds ''to deny an application to renew a Hazardous Materials Safety Program permit for a motor carrier based on that carrier's Hazardous Materials Out-of-Service rate, unless the carrier has the opportunity to submit a written description of corrective actions taken, and other documentation the carrier wishes the Secretary to consider, including submitting a corrective action plan, and the Secretary determines the actions or plan is insufficient to address the safety concerns that resulted in that Hazardous Materials Out-of- Service rate.'' Pub. L. 113–235, div. K, Title I, § 134. By using SMS scores to identify a HMSP holder for a safety fitness review, the Agency, while complying with this congressional limitation, will ensure that transportation of the hazardous materials specified in 49 CFR 385.403 does not present an undue safety risk to the public.

FMCSA provides notice herein that the Agency is distinguishing the requirements for issuance of an initial HMSP as specified in 49 CFR 385.407, from the requirements for HMSP renewal, as specified in 49 CFR 385.419. Distinguishing these requirements, as discussed below, enables the Agency to more actively monitor an HMSP holder's safety and compliance status, while providing more flexibility to HMSP holders attempting to correct identified deficiencies. Pursuant to the 2015 spending restriction, the Agency is no longer denying HMSP renewals based on a carrier's unacceptable hazardous materials out-of-service rate. Upon the effective date of this notice, the Agency will no longer deny a HMSP holder's application for renewal of its HMSP based on a crash rate, driver, vehicle, hazardous material or total out-of-service rate that is in the top, or worst-performing, 30 percent of the national average.

New applicants for HMSPs, which includes any applicant that is not a current HMSP holder, and holders of temporary HMSPs (T–HMSP) will continue to be subject to the established crash, driver, vehicle, hazardous material or total out-of-service threshold rates in order to qualify for the initial issuance of a HMSP. The requirement that new applicants not have a crash rate or a driver, vehicle, hazardous material, or total out-of-service (OOS) rate for the prior 12 months, as shown below, remains unchanged:

a. A crash rate in the ''top 30 percent of the national average,'' or

b. A driver, vehicle, hazardous material or total out-of-service (OOS) rate in the ''top 30 percent of the national average.''

Pursuant to the interpretive rule announced in this Notice, non-temporary HMSP holders will no longer be required to have crash and OOS rates that are below the ''30 percent threshold'' at the time of the HMSP holder's two-year renewal. Rather, FMCSA will continually monitor these HMSP holders using SMS analysis as a basis for a compliance review referral or proposed revocation or suspension based on the criteria listed in 49 CFR 385.421. HMSP holders will continue to be subject to the renewal provisions in 49 CFR 385.419, which require the carrier to submit its biennial update.

The first recommendation in the HMSP Report to Congress was for FMCSA to fully utilize the Agency's SMS to provide continuous monitoring of HMSP holders' safety performance in order to determine a carrier's continuing suitability to retain or renew a non-temporary HMSP. Carriers applying for a six-month T–HMSP will be subject to the requirements for initial issuance of a HMSP in § 385.407. Temporary HMSPs are issued when a motor carrier meets all of the qualifications in § 385.407 except for having a safety rating assigned. If the carrier has no safety rating, the T–HMSP is issued, and the motor carrier is assigned for a comprehensive investigation within six months of the FMCSA field staff being notified. FMCSA may extend the T–HMSP for two months, when necessary due to the Agency's inability to schedule a comprehensive investigation during the initial six-month timeframe. Once the carrier receives a comprehensive investigation, and subsequently is assigned a satisfactory safety rating, the carrier is eligible for a full, non-temporary HMSP subject to the initial requirements in § 385.407. Once the non-temporary HMSP is issued, the Agency will place the carrier under the continuous monitoring program described herein.

Non-temporary HMSP carriers will continue to be subject to the current intervention thresholds for all carriers of placarded hazardous material under the seven Behavior Analysis and Safety Improvement Categories (BASIC) in SMS. These intervention thresholds are listed below:

- 60th percentile for Unsafe Driving, Hours of Service Compliance, and Crash Indicator;
- 75th percentile for Driver Fitness, Controlled Substances/Alcohol, and Vehicle Maintenance; and
- 80th percentile for Hazardous Material Compliance.

For carriers that have a non-temporary HMSP, FMCSA will review the permit holder's SMS scores monthly to determine if the carrier has met or exceeded intervention thresholds for either the Hazardous Materials Compliance BASIC (HM BASIC) or met or exceeded thresholds for any two of the other BASICs for the preceding two consecutive months. If the carrier meets or exceeds the HM BASIC or meets or exceeds thresholds of any other two BASICs over a consecutive two-month period, FMCSA will identify the carrier for investigation with hazardous material compliance emphasis. Using the monthly data provides a more powerful tool for identifying the HMSP carriers that have overall compliance problems, warranting a comprehensive investigation, or issues in one particular area of safety performance (*i.e.,* crash rate, driver, vehicle, or hazardous material). A comprehensive investigation will entail a full-rated review that will also determine whether the carrier meets the safety fitness requirement in 49 CFR 385.421(a)(3).

The SMS approach provides a strengthened, continuous monitoring process for HMSP holders, which merit heightened oversight and monitoring due to the dangerous nature of the materials they transport. SMS monitoring further allows the Agency to expeditiously identify carrier problems and better focus on specific areas that the carrier must address immediately, in order to avoid potential suspension or revocation of its HMSP under 49 CFR 385.421(a).

If a carrier fails to comply with the applicable regulations, or an order issued under those regulations, indicating that the carrier is not fit to transport hazardous material that requires a HMSP, such conduct could similarly trigger a proposed suspension or revocation under § 385.421(a)(5), (6), (7), (8), or (10). It should be noted that a proposed suspension or revocation under 385.421(a)(5) would be based on serious instances of non-compliance, a less than satisfactory safety rating, or loss of operating authority. The proposed suspension or revocation would be subject to the 30-day notice requirement in § 385.421(c)(2), and the carrier would have an opportunity to take corrective action and/or to apply for administrative review under § 385.423 before FMCSA took final action.

If a carrier's non-temporary HMSP is denied, suspended or revoked pursuant to § 385.421, the carrier will have various options for seeking administrative review and providing evidence of corrective action. If the suspension or revocation is based on a less than satisfactory safety rating, the carrier may request administrative review of the proposed rating under § 385.15, or may request upgrade of a proposed safety rating based on corrective action under § 385.17, as provided in § 385.423(a). The carrier may seek administrative review of other grounds for a proposed suspension or revocation as provided in § 385.423(c). A proposed suspension or revocation under § 385.421(c)(2) will not become effective during the pendency of a request for administrative review that is timely-filed during the 30-day timeframe from the date of service of the written notice of proposed suspension or revocation. The 30-day effective date and the tolling of this date by a request for administrative review of proposed suspensions or revocations that are not related to a less than satisfactory safety rating allows the carrier time to take and submit evidence of corrective action.

The second recommendation in the HMSP Report to Congress was for FMCSA to institute an ongoing requirement to more closely monitor HMSP carriers with insufficient SMS data—that is, HMSP carriers that rarely undergo roadside inspections and have a safety rating over 4 years old. Because of the lack of information and oversight on these carriers, FMCSA will conduct comprehensive investigations for HMSP carriers when the carrier has insufficient data to calculate a percentile in SMS during any month of the previous 48-month period. HMSP carriers will not be allowed to operate for more than four years without either having enough safety performance data to confirm compliance, or having received a compliance review that results in a satisfactory rating. By instituting a specific 4-year investigation cycle for non-temporary HMSP carriers with insufficient safety data, these carriers will become subject to increased oversight.

These changes will be effective August 18, 2015.

Issued on: June 8, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–15091 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150211144–5509–02]

RIN 0648–BE89

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2015

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

ACTION: Final rule.

SUMMARY: NMFS is implementing management measures for the 2015 summer flounder, scup, and black sea bass recreational fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for each fishing year. The intent of these measures is to constrain recreational catch to established limits and prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Effective June 19, 2015.

ADDRESSES: Copies of the Supplemental Information Report and other supporting documents for the recreational harvest measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The recreational harvest measures document is also accessible via the Internet at: *http://www.greateratlantic.fisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the approximate latitude of Cape Hatteras, North Carolina) northward to the U.S./Canada border. States manage these three species within 3 nautical miles (4.83 km) of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The applicable species-specific Federal regulations govern vessels and individual fishermen fishing in Federal waters of the exclusive economic zone (EEZ), as well as vessels possessing a summer flounder, scup, or black sea bass Federal charter/party vessel permit, regardless of where they fish.

A proposed rule to implement the 2015 Federal recreational management measures (minimum fish size, season, and possession limit) for the summer flounder, scup, and black sea bass fisheries was published in the **Federal Register** on May 5, 2015 (80 FR 25656), with a 15-day comment period that ended on May 20, 2015. Additional background and information on the process to develop the measures described is provided in the preamble to the proposed rule and is not repeated here.

2015 Recreational Management Measures

NMFS is implementing the following measures that would apply in the Federal waters of the EEZ. These measures apply to all federally permitted party/charter vessels with applicable summer flounder, scup, or black sea bass permits, regardless of where they fish, unless the state in which they land implements measures that are more restrictive. These measures are intended to achieve, but not exceed, the previously established recreational harvest limits for these fisheries (December 30, 2014; 79 FR 78311). More detail on these proposed measures is provided in the following sections.

TABLE 1—SUMMARY OF 2015 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS RECREATIONAL MANAGEMENT MEASURES

	Minimum size	Possession limit	Season
Summer Flounder, through December 31, 2015.	Conservation equivalency—specific management measures determined by state of landing (see Table 2).		
Summer Flounder, beginning January 1, 2016.	18 inches (45.7 cm)	4 fish	May 1–September 30.
Scup	9 inches (25.4 cm)	50 fish	January 1–December 31.
Black Sea Bass	12.5 inches (31.8 cm)	15 fish	May 15–September 18, October 22–December 31.

Summer Flounder Recreational Management Measures

This rule implements the Council and Commission recommendation to use conservation equivalency to manage the 2015 summer flounder recreational fishery. The 2015 recreational harvest limit for summer flounder is 7.38 million lb (3,347 mt). Final landings for 2014 were 7.39 million lb (3,354 mt), just above the recreational harvest limit for 2015.

Conservation equivalency, as established by Framework Adjustment 2 (July 29, 2011; 66 FR 36208), allows each state to establish its own recreational management measures to achieve its state harvest limit partitioned by the Commission from the coastwide recreational harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures. Framework Adjustment 6 (July 26, 2006; 71 FR 42315) allowed states to form regions for conservation equivalency in order to minimize differences in regulations for anglers fishing in adjacent waters.

The Council and Board voted to maintain the conservation equivalency structure that was in place for fishing year 2014, as follows: (1) Massachusettes; (2) Rhode Island; (3) Connecticut, New York, and New Jersey; (4) Delaware, Maryland, and Virginia; and (5) North Carolina. All states within a region must implement identical measures (*i.e.,* minimum size, possession limit, and season length). By implementing conservation equivalency, the Federal summer flounder regulations are suspended, and vessels are only subject to the measures for the state in which they land. This means that minimum fish sizes, possession limits, and fishing seasons developed and adopted by the five regions from Massachusetts to North Carolina replace the Federal waters measures for 2015.

The Commission notified the NMFS Greater Atlantic Regional Administrator by letter dated April 30, 2015, that the 2015 summer flounder recreational fishery management measures implemented by the states and regions described above have been reviewed by the Commission's Technical Committee and approved by the Commission's Summer Flounder Management Board. The correspondence indicates that the Commission-approved management measures are projected to restrict 2015 recreational summer flounder coastwide landings consistent with the state-specific requirements established by the Technical Committee and Board through the Commission process.

Based on the recommendation of the Commission, we find that the recreational summer flounder fishing measures implemented for 2015 in state waters are, collectively, the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106(a), respectively. According to § 648.107(a)(1), vessels subject to the recreational fishing measures of this part and landing summer flounder in a state with an approved conservation equivalency program shall not be subject to Federal measures, and shall instead be subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) has been amended to recognize state-implemented measures as conservation equivalent of the coastwide recreational management measures for 2015. The 2015 summer flounder management measures adopted by the individual states vary according to the state of landing, as specified in Table 2.

TABLE 2—2015 COMMISSION-APPROVED CONSERVATION EQUIVALENT RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER

State	Minimum size (inches)	Minimum size (cm)	Possession limit (number of fish)	Open season
Massachusetts	16	40.6	5	May 22–September 30.
Rhode Island	18	45.7	8	May 1–December 31.
Connecticut*	18	45.7	5	May 17–September 21.
New York	18	45.7	5	May 17–September 21.
New Jersey*	18	45.7	5	May 23–September 26.
Delaware	16	40.6	4	All Year.
Maryland	16	40.6	4	All Year.
Potomac River Fisheries Commission	16	40.6	4	All year.
Virginia	16	40.6	4	All year.
North Carolina	15	38.1	6	All Year.

* **Note:** At 46 designated shore sites in Connecticut, anglers may keep 5 fish at 16 inches (40.6 cm), May 17–September 21. At 1 designated site in New Jersey, anglers may keep 2 fish at 16.0 inches (40.6 cm), May 23–September 26.

In addition, this action maintains the current default coastwide measures (18-inch (45.7-cm) minimum size, 4-fish possession limit, May 1–September 30 open fishing season), that become effective January 1, 2016, when conservation equivalency expires.

Scup Recreational Management Measures

NMFS is implementing the Council and Commission's recommended scup recreational management measures for 2015 in Federal waters. The measures for the 2015 scup recreational fishery are: 9-inch (22.9-cm) minimum fish size; 50-fish per person per trip possession limit; and an open season of January 1 through December 31.

The 2015 scup recreational harvest limit is 6.80 million lb (3,084 mt). Final 2014 scup recreational landings were 4.12 million lb (1,870 mt). The increase in the possession limit from 30 to 50 fish is intended to promote an increase in recreational scup fishing in order to more fully achieve, but not exceed, the recreational harvest limit.

Black Sea Bass Recreational Management Measures

This final rule implements the Council and Commission's recommended recreational management measures to constrain landings for black sea bass in 2015: A 12.5-inch (31.8-cm) minimum size, 15-fish possession limit, and open seasons of May 15–September 21 and October 22–December 31. The 2015 black sea bass recreational harvest limit is 2.33 million lb (1,056 mt). The final 2014 landings were 3.65 million lb (1,656 mt). During development of these and the state measures, projected landings for 2014 were 3.45 million lb (1,565 mt), which requires a 33-percent reduction in landings relative to the 2015 recreational harvest limit.

Recreational black sea bass catch occurs primarily in state waters in the states of New Jersey through Massachusetts (*i.e.,* the northern region). Since 2011, the management measures in the northern region have been more restrictive than in Federal waters. The northern states, through the Commission process, have implemented 2015 measures to achieve the 33-percent reduction in landings from each state that was projected to be needed when this action was under development. This reduction, in combination with the Council's recommendation of maintaining the status quo measures in Federal waters, are intended to achieve, but not exceed, the recreational harvest limit and recreational annual catch limit in 2015. The southern region states (Delaware through Cape Hatteras, North Carolina) have implemented state waters measures that are equivalent to the Federal measures. The states of Maine and New Hampshire have implemented recreational black sea bass measures for the first time in response to the stock being more commonly found in these states' waters.

In 2012, recreational black sea bass catch exceeded the annual catch limit of 2.52 million lb (1,143 mt) by 129 percent. In 2013, recreational black sea bass catch exceeded the annual catch limit of 2.9 million lb (1,315 mt) by 5 percent. Because the average catch for these two years exceeds the average annual catch limit from the same timeframe, as described in the regulations, an accountability measure is applicable to the 2015 fishery. An accountability measure was implemented for the 2014 fishing year because of the 2012 overage. The 2015 measures are functionally the same as those implemented last year to comply with the accountability measure (12.5-inch (31.8-cm) minimum size, 15-fish possession limit, and 201-day fishing season). Continuing these regulations preserves the accountability measure that was applied last year; as such, no further accountability measures are necessary for 2015.

Additional Regulatory Change

This rule also clarifies that the regulations for summer flounder, scup, and black sea bass possession limits are per person, *per trip.* While it is clear in the FMP and subsequent amendments and framework adjustments that the possession limits are intended to apply for the entirety of a fishing trip, regardless of the length of that trip, the regulations were less specific. This action corrects that oversight.

Comments and Responses

Three comments were received on the proposed rule. These comments were not directly related to the 2015 recreational management measures as proposed, but raised more general issues. No changes to the 2015 recreational management measures are being made as a result.

Comment 1: The first commenter expressed concern that reduced black sea bass fishing would result in increased pressure on other stocks, such as red hake, bluefish, and winter flounder, and noted a marked increase in fishing on red hake when other recreational fisheries have restrictive measures. The commenter advised leaving the fishery open during the summer months.

Response: The Federal black sea bass fishery will be open during the summer months, but some states may implement more restrictive seasons in order to achieve the reduction necessary, described above. NMFS has no authority over the states' measures and they are not the subject of this rule. In addition, the other species noted by the commenter are all federally managed species with annual catch limits and accountability measures designed to ensure catch stays within scientifically-based levels.

Comment 2: The second commenter was not specific to which measures he was referring, but noted that recreational measures should not be made more restrictive and that more restrictive measures should be placed on the commercial fishery.

Response: This rulemaking is specific to the recreational fisheries for summer flounder, scup, and black sea bass only. For all three species managed under the Summer Flounder, Scup, and Black Sea Bass FMP, the commercial and recreational sectors have separate annual catch limits. The amount of landings allocated to each sector is specified in the FMP. This allocation structure is intended to ensure that neither sector is held accountable for catch overages in the other sector. The commercial fisheries are regulated with seasonal, gear, permit, and landings restrictions. These combinations of measures, both in Federal and state waters, are designed to achieve, but not exceed, the commercial coastwide landings quotas. The commercial accountability measures require a pound-for-pound payback of any quota or annual catch limit overages. In recent years, small overages of the commercial quota or commercial annual catch limit have been accounted for by reducing the following year's quota equal to the amount of the overage, as needed. Further restrictions on the commercial fishery are not warranted at this time. Should the commercial catch need to be reduced for any of these species, those changes would be implemented in a commercial sector-specific rulemaking.

Comment 3: The commenter noted that limits on the number and size of fish caught recreationally were important to the long-term sustainability of the fisheries.

Response: NMFS agrees and is implementing these measures specifically to ensure that the scientifically-based recreational harvest limits are not exceeded.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that the rule implementing the 2015 summer flounder, scup, and black sea bass recreational management measures is necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries and that it is consistent with the Magnuson-Stevens Fishery Conservation and

Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement for a 30-day delay in effectiveness under the provisions of section 553(d) of the Administrative Procedure Act because a delay in its effectiveness would not serve any legitimate purpose, while unfairly prejudicing federally permitted charter/party vessels. This action will increase the possession limit for the recreational scup fishery in Federal waters and allow federally permitted charter/party vessels to be subject to the new summer flounder measures in their respective states. Because some states' summer flounder fisheries are already open or will open during the 30-day period following publication of this rule, federally permitted charter/party vessels would be restricted to the existing summer flounder coastwide regulations (18-inch (45.7-cm) minimum size and a 4-fish per person possession limit) until the Federal regulations are effective. This would unnecessarily disadvantage federally permitted vessels, which would be subject to the more restrictive measures while state-licensed vessels could be engaged in fishing activities under this year's management measures. If this final rule were delayed for 30 days, the fishery would likely forego some amount of landings and revenues during the delay period.

While these restrictions would be alleviated after this rule becomes effective, fishermen may be not able to recoup the lost economic opportunity of foregone trips that would result from delaying the effectiveness of this action. Finally, requiring a 30-day delay before the final rule becomes effective would not provide any benefit to the regulated parties. Unlike actions that require an adjustment period to comply with new rules, charter/party operators will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the published management measures for each relevant species of fish while the charter/party operators are engaged in fishing activities.

For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay and to implement this rule upon publication in the **Federal Register**.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared. There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 15, 2015.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.106, paragraphs (a) and (c) are revised to read as follows:

§ 648.106 Summer flounder possession restrictions.

(a) *Party/charter and recreational possession limits.* Unless otherwise specified pursuant to § 648.107, no person shall possess more than four summer flounder in, or harvested from, the EEZ, per trip unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit. Persons aboard a commercial vessel that is not eligible for a summer flounder moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a summer flounder moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.102.

* * * * *

(c) Summer flounder harvested by vessels subject to the possession limit with more than one person on board may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of summer flounder on board by the number of persons on board, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator of the vessel.

* * * * *

■ 3. In § 648.107, paragraph (a) introductory text is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures implemented by the states of Maine through North Carolina for 2015 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

* * * * *

■ 4. In § 648.128, paragraphs (a) and (c) are revised to read as follows:

§ 648.128 Scup possession restrictions.

(a) *Party/Charter and recreational possession limits.* No person shall possess more than 50 scup in, or harvested from, per trip the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. Persons aboard a commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.122.

* * * * *

(c) Scup harvested by vessels subject to the possession limit with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of scup on board by the number of persons aboard other than the captain and crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to

have been committed by the owner and operator.

* * * * *

■ 5. In § 648.145, paragraphs (a) and (c) are revised to read as follows:

§ 648.145 Black sea bass possession limit.

(a) During the recreational fishing season specified at § 648.146, no person shall possess more than 15 black sea bass in, or harvested from, per trip the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit may not retain more than 15 black sea bass during the recreational fishing season specified at § 648.146. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.142.

* * * * *

(c) Black sea bass harvested by vessels subject to the possession limit with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of black sea bass on board by the number of persons aboard, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator of the vessel.

* * * * *

■ 6. Section 648.146 is revised to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from May 15 through September 21, and October 22 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

[FR Doc. 2015–15086 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 80, No. 118

Friday, June 19, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0909; Directorate Identifier 96–ANE–24–AD]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Inc. and Rajay Inc. Oil Scavenge Pumps

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM). The NPRM proposed a new airworthiness directive (AD) that had applied to AlliedSignal oil scavenge pumps, part numbers (P/Ns) 101633–01 and –02 and Rajay Inc. oil scavenge pumps, P/Ns 1025–1 and –2 installed on Continental Motors, Inc. (CMI) IO–470 and TSIO–520 reciprocating engines and on Lycoming Engines, Inc., (Lycoming) IO–360, IO–540, and O–360 reciprocating engines. We have found no service difficulties with these model oil scavenge pumps when installed on the affected engines. Accordingly, we withdraw the proposed rule.

DATES: As of June 19, 2015, the proposed rule published February 20, 1997 at 62 FR 7730 is withdrawn.

FOR FURTHER INFORMATION CONTACT: Richard McCauley, Aerospace Engineer, Seattle Aircraft Certification Office, FAA, Transport Directorate, 1601 Lind Avenue SW., Renton, WA 98055–4056; phone: 425–917–6502; fax: 425–917–6590; email: *richard.mccauley@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD (62 FR 7730, February 20, 1997). The proposed AD had applied to AlliedSignal oil scavenge pumps, P/Ns 101633–01 and –02 and Rajay Inc. oil scavenge pumps, P/Ns 1025–1 and –2 installed on CMI IO–470 and TSIO–520 reciprocating engines and on Lycoming IO–360, IO–540, and O–360 reciprocating engines. The NPRM proposed to require initial and repetitive inspections of the oil scavenge pump for the security of the snap ring installation, snap ring and washer wear, and shaft groove wear, and their replacement, if necessary, with serviceable parts. The proposed action was prompted by reports of severe wear on the end plate of the oil scavenge pump. The proposed actions were intended to prevent oil scavenge pump snap ring failure causing severe wear on the pump end plate, which could result in loss of engine oil and subsequent engine shutdown.

Since we issued the NPRM (62 FR 7730, February 20, 1997), additional information became available after the public comment period closed on April 21, 1997.

Upon further consideration, we hereby withdraw the proposed rule for the following reason:

- We reviewed service difficulty reports, AD databases, and airplane manufacturer's data and found no unsafe condition in the last 19 years of service history associated with these oil scavenge pumps installed on the affected engines.

Withdrawal of the NPRM (62 FR 7730, February 20, 1997) constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule. Therefore, Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) do not cover this withdrawal.

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket No. FAA–2015–0909; Directorate Identifier 96–ANE–24–AD, published in the **Federal Register** on February 20, 1997 (62 FR 7730), is withdrawn.

Issued in Burlington, Massachusetts, on June 10, 2015.

Ann C. Mollica,

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

[FR Doc. 2015–14993 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0486; Directorate Identifier 2015–NE–07–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Pratt & Whitney Canada Corp. (P&WC) PT6B–37A turboshaft engines. This proposed AD was prompted by reports of incorrect engine torque for PT6B–37A engines. This proposed AD would require initial and repetitive inspections until replacement of the No. 10 bearing, and eventual replacement of the No. 9 bearing, both located in the engine reduction gearbox (RGB) assembly. We are proposing this AD to prevent axial migration of the No. 10 bearing in the engine RGB assembly, which could lead to engine overtorque, failure of the engine, in-flight shutdown, and loss of the rotorcraft.

DATES: We must receive comments on this proposed AD by August 18, 2015.

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

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

• *Fax:* 202–493–2251.

For service information identified in this proposed AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *www.pwc.ca.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0486; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0486; Directorate Identifier 2015–NE–07–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canada AD CF–2015–01, dated January 20, 2015 (referred to hereinafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Five incidences of incorrect engine torque indication have been reported for PT6B–37A engine installations on AW119MKII helicopters. A lower than actual engine torque indication due to a faulty indication system, particularly on a helicopter being operated at max allowable torque (90 to 110%) range, may result in undetected over-torque condition.
>
> Repeated over-torque conditions that are undetected and consequently are not corrected in accordance with conditional inspection requirements of original equipment manufacturer (OEM) Instructions for Continued Airworthiness (ICAs), may have a negative impact on the operational safety of the aircraft. Investigation by P&WC has determined the root cause of the subject torque indication anomaly to be the axial migration of part number (P/N) 3310433–03 bearings at the engine torque sensing gear location.

The axial migration of the No. 10 bearing is caused by non-optimal bearing internal clearance. This migration may cause an erroneous torque reading, possibly leading to engine overtorque and engine failure. We are also requiring replacement of the No. 9 bearing since it may also migrate, has the same part number as a No. 10 bearing, and could be installed in the same location as a No. 10 bearing.

You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0486.

Related Service Information Under 1 CFR Part 51

P&WC has issued Service Bulletin (SB) No. PT6B–72–39095, Revision No. 3, dated December 29, 2014. The service information describes procedures for inspecting affected bearings. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

Other Related Service Information

P&WC has also issued SB No. PT6B–72–39092, Revision No. 4, dated December 29, 2014. The service information describes procedures for removing affected bearings.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of Canada, and is approved for operation in the United States. Pursuant to our bilateral agreement with Canada, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by Transport Canada Civil Aviation and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require initial and repetitive inspections until replacement of the No. 10 bearing, as well as eventual replacement of the No. 9 bearing, in the engine RGB assembly.

Costs of Compliance

We estimate that this proposed AD affects 83 engines installed on rotorcraft of U.S. registry. We estimate that it would take about 3 hours per engine to perform the initial and repetitive inspections to comply with this proposed AD. We also estimate that it would take about 1 hour per engine to replace the affected bearings. The average labor rate is $85 per hour. Required parts cost about $49,800 per engine. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $4,161,620.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney Canada Corp.: Docket No. FAA–2015–0486; Directorate Identifier 2015–NE–07–AD.

(a) Comments Due Date

We must receive comments by August 18, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PT6B–37A turboshaft engines with engine serial numbers identified in Table 1 of paragraph 4, Appendix, in P&WC Service Bulletin (SB) No. PT6B–72–39095, Revision No. 3, dated December 29, 2014.

(d) Reason

This AD was prompted by reports of incorrect engine torque for PT6B–37A turboshaft engines. We are issuing this AD to prevent axial migration of the No. 10 bearing in the engine reduction gearbox (RGB) assembly, which could lead to engine overtorque, failure of the engine, in-flight shutdown, and loss of the rotorcraft.

(e) Actions and Compliance

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

(1) Initial Inspection

(i) Within 50 flight hours (FHs) time in service after the effective date of this AD, inspect the No. 10 bearing, part number (P/N) 3310433–03, in the RGB assembly for axial movement. Use paragraphs 3.A. to 3.C. in the Accomplishment Instructions in P&WC SB No. PT6B–72–39095, Revision No. 3, dated December 29, 2014, to do the inspection. If the bearing fails the inspection, replace the No. 9 and No. 10 bearings before further flight.

(2) Repetitive Inspection

(i) For engines with 500 FHs or less total time since new (TSN), repeat the inspection required by paragraph (e)(1) of this AD every 100 FHs time since last inspection (TSLI) until 500 hours total TSN, and, thereafter, every 200 FHs TSLI until removal.

(ii) For engines with more than 500 FHs total TSN perform the inspection required by paragraph (e)(1) to this AD within 200 FHs TSLI, and, thereafter, every 200 FHs TSLI until removal.

(3) Removal and Replacement of Affected Bearings

(i) For engine serial numbers (S/Ns) PCE–PU0192, PU0193, PU0201, PU0208, PU0209, PU0212, PU0213, PU0214, PU0216, PU0219, and PU0220, remove the No. 9 and No. 10 bearings, P/N 3310433–03, within 450 FHs or 42 months after the effective date of this AD, whichever occurs first, and replace with parts eligible for installation.

(ii) For all engine S/Ns identified in Applicability paragraph (c) of this AD, other than those listed in paragraph (e)(3)(i) of this AD, remove the No. 9 and No. 10 bearings, P/N 3310433–03, and replace with parts eligible for installation within 42 months after the effective date of this AD.

(iii) Replacement of the No. 9 and No. 10 bearing, P/N 3310433–03, with the No. 9 and No. 10 bearing, P/N 3310233–03 or P/N 3310533–03, is terminating action for this AD.

(f) Reporting Requirements

You do not have to contact your Local Field Service Representative as discussed in paragraph 3.C.(3) of P&WC SB No. PT6B–72–39095, Revision No. 3, dated December 29, 2014.

(g) Credit for Previous Action

If you previously replaced the No. 9 and No. 10 bearings in accordance with the instructions contained in P&WC SB No. PT6B–72–39092, Revision No. 2, dated August 8, 2014, or earlier revisions, then you have complied with this AD.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(i) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

(2) Refer to MCAI Transport Canada AD CF–2015–01, dated January 20, 2015, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2015–0486.

(3) P&WC SB No. PT6B–72–39092, Revision No. 4, dated December 29, 2014, and SB No. PT6B–72–39095, Revision No. 3, dated December 29, 2014, can be obtained from P&WC using the contact information in paragraph (i)(4) of this proposed AD.

(4) For service information identified in this proposed AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Internet: *www.pwc.ca.*

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

Issued in Burlington, Massachusetts, on June 10, 2015.

Ann C. Mollica,

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

[FR Doc. 2015–14986 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–102648–15]

RIN 1545–BM66

Suspension of Benefits Under the Multiemployer Pension Reform Act of 2014

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking, notice of proposed rulemaking by cross-reference to temporary regulations, and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to multiemployer pension plans that are projected to have insufficient funds, at some point in the future, to pay the full benefits to which individuals will be entitled under the plans (referred to as plans in ''critical and declining status''). The Multiemployer Pension Reform Act of 2014 (''MPRA'') amended the Internal Revenue Code to incorporate suspension of benefits provisions that permit these multiemployer plans to reduce pension benefits payable to participants and beneficiaries if certain

conditions are satisfied. MPRA requires the Secretary of the Treasury, in consultation with the Pension Benefit Guaranty Corporation and the Secretary of Labor, to approve or deny applications by these plans to reduce benefits. As required by MPRA, these proposed regulations, together with temporary regulations being published at the same time, provide guidance implementing these statutory provisions. These proposed regulations would affect active, retired, and deferred vested participants and beneficiaries of multiemployer plans that are in critical and declining status as well as employers contributing to, and sponsors and administrators of, those plans.

DATES: Comments must be received by August 18, 2015. Outlines of topics to be discussed at the public hearing scheduled for September 10, 2015 must be received by August 18, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–102648–15), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–102648–15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–102648–15). The public hearing will be held in the Amphitheater of the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Ave. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, the Department of the Treasury MPRA guidance information line at (202) 622–1559; concerning submission of comments or the hearing, Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

The collection of information in the paragraphs of these proposed regulations that cross-reference the temporary regulations that are being published elsewhere in this issue of the **Federal Register** is required for a multiemployer defined benefit plan in critical and declining status to satisfy the criteria for approval of an application for a suspension of benefits, including providing notice of the application to specified individuals (containing an individualized estimate of the size of the benefit suspension) and other interested parties. The collection is also required for a plan sponsor to obtain approval of the ballot for the vote on the suspension of benefits that follows approval of the application.

The collection of information in the paragraphs of these proposed regulations that do not cross-reference the temporary regulations is required for a multiemployer defined benefit plan in critical and declining status to maintain an annual written record of its determinations that all reasonable measures to avoid insolvency have been taken and that the plan is not projected to avoid insolvency without a suspension of benefits.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by August 18, 2015. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

For the paragraphs of the proposed regulations that cross-reference the temporary regulations:

Estimated total average annual reporting or recordkeeping burden: 13,888 hours.

Estimated average annual burden per recordkeeper: 496 hours.

Estimated number of recordkeepers: 28.

For the paragraphs of the proposed regulations that do not cross-reference the temporary regulations:

Estimated total average annual reporting or recordkeeping burden: 140 hours.

Estimated average annual burden per recordkeeper: 5 hours.

Estimated number of recordkeepers: 28.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 432(e)(9) [1] of the Internal Revenue Code (Code) permits the plan sponsor of a multiemployer plan that is projected to have insufficient funds, at some point in the future, to pay the full benefits to which individuals will be entitled under the plan (referred to as a plan in ''critical and declining status'') to reduce the pension benefits payable to participants and beneficiaries under the plan if certain conditions are satisfied (referred to as a ''suspension of benefits''). MPRA requires the Secretary of the Treasury, in consultation with the Pension Benefit Guaranty Corporation (PBGC) and the Secretary of Labor (generally referred to in this preamble as the Treasury Department, PBGC, and Labor Department, respectively), to issue appropriate guidance to implement the provisions of section 432(e)(9). This document contains proposed regulations under section 432(e)(9) that, together with temporary regulations that are being published elsewhere in this issue of the **Federal Register** and a revenue procedure being published in the Internal Revenue Bulletin, Rev. Proc. 2015–34, implement section 432(e)(9), as required by the statute. The Treasury Department consulted with the PBGC and the Labor Department on these proposed regulations.

The temporary regulations, which are applicable immediately, provide

[1] Section 432(e)(9) was added to the Internal Revenue Code by the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06) and amended by the Multiemployer Pension Reform Act of 2014, Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (128 Stat. 2130 (2014)) (MPRA).

sufficient guidance to enable a plan sponsor that wishes to apply for approval of a suspension of benefits to prepare and submit such an application, and to enable the Department of the Treasury to begin the processing of such an application. The temporary regulations provide general guidance regarding section 432(e)(9), including guidance regarding the meaning of the term ''suspension of benefits,'' the general conditions for a suspension of benefits, and the implementation of a suspension after a participant vote. This notice of proposed rulemaking requests comments on the provisions of the temporary regulations, and the provisions of the temporary regulations and proposed regulations are expected to be integrated and issued as a single set of final regulations with any changes that are made following consideration of the comments.

The proposed regulations included in this document are not applicable immediately. The proposed regulations provide additional guidance regarding section 432(e)(9), including guidance relating to the standards that will be applied in reviewing an application for suspension of benefits and the statutory limitations on a suspension of benefits. For further background on the statutory provisions that these proposed regulations and the temporary regulations that are incorporated by cross-reference into these proposed regulations are designed to implement, see the preamble to the temporary regulations in the Rules and Regulations section of this issue of the **Federal Register**.

The regulations implementing the statutory suspension of benefits provisions have been divided, as described, into proposed regulations and temporary regulations in order to balance the interest in considering public comments on rules before they apply with the evident statutory intent, reflected in MPRA, to implement the statutory provisions without undue delay. Although the Treasury Department has issued proposed and temporary regulations under section 432(e)(9), it is expected that no application proposing a benefit suspension will be approved prior to the issuance of final regulations. If a plan sponsor chooses to submit an application for approval of a proposed benefit suspension in accordance with the proposed and temporary regulations before the issuance of final regulations, then the plan sponsor may need to revise the proposed suspension (and potentially the related notices to plan participants) or supplement the application to take into account any differences in the requirements relating to suspensions of benefits that might be included in the final regulations.

Rev. Proc. 2015–34 prescribes the specifics of the application process for approval of a proposed benefit suspension. The revenue procedure also provides a model notice that a plan sponsor proposing a benefit suspension may use to satisfy the statutory notice requirement.

Conditions for Suspensions

As a condition for suspension of benefits, the statute requires a plan sponsor to determine, in a written record to be maintained throughout the period of the benefit suspension, that although all reasonable measures to avoid insolvency have been taken (and continue to be taken during the period of the benefit suspension), the plan is still projected to become insolvent unless benefits are suspended. In making this determination, the plan sponsor may take into account factors including a specified list of 10 statutory factors.[2] See section 432(e)(9)(C)(ii).

Limitations on Suspensions

Section 432(e)(9)(D) contains limitations on the benefits that may be suspended, some of which apply to plan participants and beneficiaries on an individual basis and some of which apply on an aggregate basis. Under the statute, an individual's monthly benefit may not be reduced below 110 percent of the monthly benefit that is guaranteed by the PBGC under section 4022A of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA) on the date of the suspension. In addition, no benefits based on disability (as defined under the plan) may be suspended.

In the case of a participant or beneficiary who has attained age 75 as of the effective date of a suspension, the statute provides that the suspension may not exceed the applicable percentage of the individual's maximum suspendable benefit (the age-based limitation). The maximum suspendable benefit is the maximum amount of an individual's benefit that would be suspended without regard to the age-based limitation. The applicable percentage is a percentage that is determined by dividing (i) the number of months during the period that begins with the month after the month in which the suspension is effective and ends with the month in which that participant or beneficiary attains the age of 80 by (ii) 60 months.

Section 432(e)(9)(D) also requires the aggregate benefit suspensions (considered, if applicable, in connection with a plan partition under section 4233 of ERISA (partition)) to be reasonably estimated to achieve, but not materially exceed, the level that is needed to avoid insolvency.

Under the statute, any suspension of benefits must be equitably distributed across the participant and beneficiary population, taking into account factors that may include one or more of a list of 11 statutory factors.[3] See section 432(e)(9)(D)(vi). Finally, with regard to a suspension of benefits that is made in combination with a plan partition, the suspension may not occur before the effective date of the partition.

Benefit Improvements

Section 432(e)(9)(E) sets forth rules relating to benefit improvements made while a suspension of benefits is in effect. Under this provision, a benefit improvement is defined as a resumption of suspended benefits, an increase in benefits, an increase in the rate at which benefits accrue, or an increase in the rate at which benefits become nonforfeitable under the plan.

The statute also provides that, while a suspension of benefits is in effect, a plan sponsor generally has discretion to provide benefit improvements. However, a sponsor may not increase plan liabilities by reason of any benefit improvement for any participant or beneficiary who is not in pay status (in other words, those who are not yet receiving benefits, such as active employees or deferred vested employees) unless (1) this benefit improvement is accompanied by an equitable distribution of benefit improvements for those who have begun

[2] These 10 factors are current and past contribution levels; levels of benefit accruals (including prior reductions in the rate of benefit accruals); prior adjustable benefit reductions and suspensions of benefits; the impact on plan solvency of the subsidies and ancillary benefits available to active participants; compensation levels of active participants relative to employees in the participants' industry generally; competitive and other economic factors facing contributing employers; the impact of benefit and contribution levels on retaining active participants and bargaining groups under the plan; the impact of past and anticipated contribution increases under the plan on employer attrition and retention levels; and measures undertaken by the plan sponsor to retain or attract contributing employers.

[3] These 11 factors are age and life expectancy; length of time in pay status; amount of benefit; type of benefit; extent of a subsidized benefit; extent of post-retirement benefit increases; history of benefit increases and reductions; years to retirement for active employees; any discrepancies between active employees and retirees; extent to which participants are reasonably likely to withdraw support for the plan, resulting in accelerated employer withdrawal; and the extent to which the benefits are attributed to service with an employer that failed to pay its withdrawal liability.

to receive benefits (typically, retirees), and (2) the plan actuary certifies that, after taking those benefit improvements into account, the plan is projected to avoid insolvency indefinitely.[4] Whether an individual is in pay status for this purpose is generally based on whether the individual's benefits began before the first day of the plan year for which the benefit improvement took effect.

In order for benefit improvements to be equitably distributed, the projected value of the total liabilities attributable to benefit improvements for participants and beneficiaries who are not in pay status may not exceed the projected value of the liabilities attributable to benefit improvements for participants and beneficiaries who are in pay status. See section 432(e)(9)(E)(ii). The plan sponsor must equitably distribute any increase in total liabilities attributable to the benefit improvements among the participants and beneficiaries who are in pay status, taking into account the factors relevant to the equitable distribution of benefit suspensions among participants and beneficiaries (described in section 432(e)(9)(D)(vi)) and the extent to which their benefits were suspended.

The statute allows a plan sponsor to increase plan liabilities through a resumption of benefits for participants and beneficiaries in pay status without providing any benefit improvements for those who are not yet in pay status, but only if it equitably distributes the value of resumed benefits among participants and beneficiaries in pay status, taking into account the factors relevant to the equitable distribution of benefit suspensions.

The restrictions on benefit improvements in section 432(e)(9)(E) apply in addition to any other applicable limitations on increases in benefits that apply to a plan, except with respect to resumptions of suspended benefits only for participants and beneficiaries in pay status (described in the preceding sentence).

Suspension Applications

Section 432(e)(9)(G) describes the process for approval or rejection of a plan sponsor's application for a suspension of benefits. Under the statute, the Treasury Department, in consultation with the PBGC and the Labor Department, must approve an application upon finding that the plan is eligible for the suspensions and has satisfied the criteria of sections 432(e)(9)(C), (D), (E), and (F). In evaluating whether a plan sponsor has met the criteria in section 432(e)(9)(C)(ii) (a plan sponsor's determination that, although all reasonable measures have been taken, the plan will become insolvent if benefits are not suspended), the plan sponsor's consideration of factors under that clause must be reviewed. The statute also requires that the plan sponsor's determinations in an application for a suspension of benefits be accepted unless they are clearly erroneous.

Participant Vote on Proposed Benefit Reduction

If a suspension application is approved, the proposed suspension then goes to a vote of plan participants and beneficiaries. See section 432(e)(9)(H). The vote will be administered by the Treasury Department, in consultation with the PBGC and the Labor Department, within 30 days after approval of the suspension application. The plan sponsor is required to provide a ballot for a vote (subject to approval by the Treasury Department, in consultation with the PBGC and the Labor Department). The statute specifies information that the ballot must include.[5] If a majority of plan participants and beneficiaries do not vote to reject the suspension, the statute requires the Treasury Department to issue a final authorization to suspend benefits within seven days after the vote.

Explanation of Provisions

I. Overview

These proposed regulations provide guidance on certain requirements under section 432(e)(9) regarding suspension of benefits for multiemployer defined benefit plans in critical and declining status. The proposed regulations cross-reference certain requirements that are addressed in the temporary regulations issued in the Rules and Regulations section of this issue of the **Federal Register**. In addition to the proposed and temporary regulations, the procedural requirements for submitting an application to suspend benefits, as well as a model notice, are provided in Rev. Proc. 2015–34.

II. General Rules on Suspension of Benefits

Under the temporary regulations, once a plan is amended to suspend benefits, a plan may pay or continue to pay a reduced level of benefits pursuant to the suspension only if the terms of the plan are consistent with the requirements of section 432(e)(9) and the regulations. The proposed regulations would provide that a plan's terms are consistent with the requirements of section 432(e)(9) even if they provide that, instead of a suspension of benefits occurring in full on a specified effective date, the amount of a suspension will phase in or otherwise change in a definite, pre-determined manner as of a specified future effective date or dates. However, the proposed regulations would provide that a plan's terms are inconsistent with the statutory requirements if they provide that the amount of a suspension will change contingent upon the occurrence of any other specified future event, condition, or development. For example, a plan is not permitted to provide that an additional or larger suspension of benefits is triggered if the plan's funded status deteriorates. Similarly, a plan is not permitted to provide that, contingent upon a specified future event, condition, or development, a suspension of benefits will be automatically reduced (except upon a failure to satisfy the annual requirement, described in the proposed regulations, that the plan sponsor determine that the plan is projected to become insolvent unless benefits are suspended).

In the case of an individual who has commenced benefits, the proposed regulations provide that the effective date of a suspension of benefits is the first date as of which a portion of the individual's benefits are not paid as a result of the suspension. In the case of an individual who has not yet commenced benefits, the effective date of a suspension of benefits is the first date as of which the participant's accrued benefit is reduced as a result of the suspension. The effective date of a suspension may not precede the date on which a final authorization to suspend benefits is issued.

[4] Avoidance of insolvency is determined by reference to section 418E under which a plan is insolvent if it is unable to pay scheduled benefits for a year. Pursuant to section 432(e)(9)(E)(iv), this restriction does not apply to certain benefit improvements if the Treasury Department determines either that the benefit improvements are reasonable and provide for only de minimis increases in plan liabilities or that the benefit improvements are required as a condition of qualification or to comply with other applicable law.

[5] This information includes a statement from the plan sponsor in support of the suspension; a statement in opposition to the suspension compiled from comments received in response to the **Federal Register** notice issued by Treasury within 30 days of receiving the suspension application; a statement that the suspension has been approved by the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor; a statement that the plan sponsor has determined that the plan will become insolvent unless the suspension takes effect; a statement that insolvency of the plan could result in benefits lower than benefits paid under the suspension; and a statement that insolvency of the PBGC would result in benefits lower than benefits otherwise paid in the case of plan insolvency.

If a suspension of benefits provides for more than one reduction in benefits over time, such that benefits are scheduled to be reduced by an additional amount after benefits are first reduced pursuant to the suspension, then each date as of which benefits are reduced is treated as a separate effective date of the suspension, which would require, for example, that the age-based limitation be separately applied as of each effective date. However, if the effective date of the final scheduled reduction in benefits in a series of reductions pursuant to a suspension is less than three years after the effective date of the first reduction, the effective date of the first reduction will be treated as the effective date of all subsequent reductions pursuant to that suspension. For example, if a suspension provides that benefits will be reduced by a specified percentage effective January 1, 2017, by an additional percentage effective January 1, 2018, and by an additional percentage effective January 1, 2019, with no subsequent changes scheduled, it would meet the three-year condition to treat January 1, 2017 as the effective date for all three reductions. However, if the suspension provided for a further reduction effective January 1, 2020, the suspension would not be treated as satisfying the three-year condition and therefore would be treated under the proposed regulations as having four separate effective dates.

III. Conditions for Suspensions

The regulations provide that a plan may not suspend benefits unless the plan sponsor makes initial and annual determinations that the plan is projected to become insolvent unless benefits are suspended, although all reasonable measures to avoid insolvency have been taken. These determinations are based on the nonexclusive list of factors described in section 432(e)(9)(C)(ii).

Under the proposed regulations, a plan sponsor satisfies the annual-plan-sponsor determinations requirement for a plan year only if the plan sponsor determines, no later than the last day of the plan year, that (1) all reasonable measures to avoid insolvency have been taken, and (2) the plan is projected to become insolvent unless the suspension of benefits continues (or another suspension of benefits under section 432(e)(9) is implemented) for the plan. For this purpose, the projection of the plan's insolvency must be made using the standards that apply for purposes of determining whether a suspension is sufficient to avoid insolvency and not materially in excess of the level needed to avoid insolvency that are described in paragraph IV.B.1 of this preamble.

If there is favorable actuarial experience so that the plan could avoid insolvency even if the benefit suspension were reduced (but not eliminated), the plan sponsor may wish to adopt a benefit increase that partially restores suspended benefits in order to share that favorable experience with the participants. The statute contemplates this circumstance by providing in section 432(e)(9)(E) the requirements for such a partial restoration of suspended benefits and for other benefit improvements. Moreover, if favorable actuarial experience would allow the plan to avoid insolvency if the benefit suspension were eliminated entirely, the proposed regulations would require the plan sponsor to eliminate the suspension.

The proposed regulations provide that, in order to satisfy the annual-plan-sponsor determinations requirement, the plan sponsor must maintain a written record of its annual determinations. The written record must be included in an update to the rehabilitation plan, whether or not there is otherwise an update for that year or, if the plan is no longer in critical status, in the documents under which the plain is maintained (so that it is available to plan participants and beneficiaries). The plan sponsor's consideration of factors required for its determination of whether all reasonable measures have been taken must be reflected in that determination.

If a plan sponsor fails to satisfy the annual-plan-sponsor determinations requirement for a plan year (including maintaining the written record), then the suspension of benefits expires as of the first day of the next plan year. For example, if in a plan year the plan sponsor is unable to determine that all reasonable measures to avoid insolvency have been taken, then the plan sponsor must take those additional reasonable measures before the end of the plan year in order to avoid the expiration of the suspension as of the first day of the next plan year.

IV. Limitations on Suspensions

The proposed and temporary regulations reflect the individual and aggregate limitations on a suspension of benefits under section 432(e)(9)(D).[6] The temporary regulations provide that after applying the individual limitations, the overall size and distribution of the suspension is subject to the aggregate limitations.

[6] The temporary regulations refer to section 432(e)(9)(D)(vii) for additional rules applicable to certain plans.

A. Individual Limitations

1. Guarantee-Based Limitation

The temporary regulations provide that benefits may not be suspended below 110 percent of the monthly benefit payable to a participant, beneficiaries, or alternate payee that would be guaranteed by the PBGC under section 4022A of ERISA if the plan were to become insolvent as of the effective date of the suspension.

The proposed regulations provide that under section 4022A of ERISA, the monthly benefit of a participant or beneficiary that would be guaranteed by the PBGC with respect to a plan if the plan were to become insolvent as of the effective date of the suspension is generally based on section 4022A(c)(1) of ERISA. Under section 4022A(c)(1) of ERISA, that guaranteed amount is a dollar amount multiplied by the participant's years and months of credited service as of the date as of which the guarantee is determined. The dollar amount is 100 percent of the accrual rate up to $11, plus 75 percent of the lesser of (1) $33, or (2) the accrual rate, if any, in excess of $11. The accrual rate is a participant's or beneficiary's monthly benefit (described in section 4022A(c)(2)(A) of ERISA) by the participant's years of credited service (described in section 4022A(c)(3) of ERISA) as of the effective date of the suspension.

The proposed regulations provide a number of examples of how the PBGC guarantee is calculated. These examples reflect the interpretation of section 4022A of ERISA provided by the PBGC.

In determining the participant's monthly benefit for purposes of the accrual rate, only nonforfeitable benefits (other than benefits that become nonforfeitable on account of plan termination) are taken into account, pursuant to section 4022A(a) of ERISA. The proposed regulations treat benefits that are forfeitable on the effective date of a suspension as nonforfeitable, provided that the participant is in covered employment on that date and would have a nonforfeitable right to those benefits upon completion of vesting service following that date. For example, if an active participant had only three out of five years necessary for the participant's benefit to become 100 percent vested under a plan as of the effective date of a suspension, the participant's accrued benefit will be treated as 100 percent vested as of that date.

2. Disability-Based Limitation

The temporary regulations incorporate the statutory requirement

that benefits based on disability may not be suspended. For this purpose, disability is defined in accordance with the definition of that term in the plan. The proposed regulations would provide rules for implementing this limitation.

The proposed regulations provide that benefits based on disability means the entire amount paid to a participant pursuant to the participant becoming disabled, regardless of whether a portion of that amount would have been paid if the participant had not become disabled. For example, assume that a participant with an accrued benefit of $1,000 per month, payable at age 65, becomes entitled under the plan to an early retirement benefit at age 55 on account of a disability (as defined in the plan). Under the plan, the participant (absent disability) would be entitled to a reduced early retirement benefit of $600 per month commencing at age 55, but the reduction for early retirement does not apply because the participant became entitled to a benefit on account of a disability. The participant's disability benefit payment of $1,000 per month commencing at age 55 is a benefit based on disability, even though the participant would have received a portion of these benefits at retirement regardless of the disability.

The proposed regulations also provide that if a participant begins receiving an auxiliary or other temporary disability benefit and the sole reason the participant ceases receiving that benefit is commencement of retirement benefits, the benefit based on disability after commencement of retirement benefits is the lesser of (1) the periodic payment the participant was receiving immediately before the participant's retirement benefits commenced, or (2) the total periodic payments to the participant under the plan.

For example, assume that a participant begins receiving a disability pension of $1,000 per month payable at age 55. When the participant reaches age 65, the participant's disability pension is discontinued and the participant elects to commence payment of the participant's accrued benefit in the form of an actuarially equivalent joint and survivor annuity payable in the amount of $850 per month. Before age 65, the participant's benefit based on disability is $1,000 per month. After age 65, the participant's benefit based on disability is $850 per month. (Alternatively, if the participant had elected to commence payment of the participant's accrued benefit in the form of a single life annuity payable in the amount of $1,000 per month, the participant's benefit based on disability after age 65 would be $1,000 per month.) A suspension of benefits is not permitted to apply to any portion of those benefits at any time.

3. Age-Based Limitation

The proposed regulations would provide that no suspension of benefits is permitted to apply to a participant, beneficiary, or alternate payee who has commenced receiving benefits as of the effective date of the suspension and has reached age 80 no later than the end of the month that includes the effective date of the suspension. For example, assume that a suspension of benefits has an effective date of December 1, 2017. If a retiree is 79 years old on December 1, 2017, and turns 80 on December 15, 2017, a suspension of benefits is not permitted to apply to the retiree's monthly benefit.

In addition, no more than the applicable percentage of the maximum suspendable benefit may be suspended for a participant, beneficiary, or alternate payee who has commenced receiving benefits as of the effective date of the suspension and has reached age 75 by the end of the month that includes the effective date of the suspension.

The maximum suspendable benefit is the portion of an individual's benefits that would be suspended without regard to the age-based limitation, after the application of the guarantee-based limitation and the disability-based limitation, described earlier in paragraphs IV.A.1 and IV.A.2 of this preamble.

The applicable percentage is the percentage obtained by dividing: (1) The number of months during the period beginning with the month after the month in which the suspension of benefits is effective and ending with the month during which the participant or beneficiary attains the age of 80, by (2) 60.

The proposed regulations explain how to apply the age-based limitation if benefits have not commenced to either a participant or beneficiary as of the effective date of the suspension. If the participant is alive on the effective date, the participant is treated as having commenced benefits on that date. If the participant is deceased on the effective date, the beneficiary is treated as having commenced benefits on that date.

The age-based limitation applies to a suspension of benefits in which an alternate payee has an interest, whether or not the alternate payee has commenced benefits as of the effective date of the suspension. If the alternate payee's right to the suspended benefits derives from a qualified domestic relations order within the meaning of section 414(p)(1)(A) (QDRO) under which the alternate payee shares in each benefit payment but the participant retains the right to choose the time and form of payment with respect to the benefit to which the suspension applies (shared payment QDRO), the applicable percentage for the alternate payee is calculated by using the participant's age as of the effective date of the suspension. If the alternate payee's right to the suspended benefits derives from a QDRO under which the alternate payee has a separate right to receive a portion of the participant's retirement benefit to be paid at a time and in a form different from that chosen by the participant (separate interest QDRO), the applicable percentage for the alternate payee is calculated by substituting the alternate payee's age as of the effective date of the suspension for the participant's age.

If the age-based limitation applies to a participant on the effective date of the suspension, then the age-based limitation also applies to the beneficiary of the participant, based on the age of the participant on the effective date of the suspension.

B. Aggregate Limitations

1. Avoidance of Insolvency

The proposed regulations reflect the requirement in section 432(e)(9)(D)(iv) that any suspension of benefits, in the aggregate (considered, if applicable, in combination with a partition of the plan), must be at a level that is reasonably estimated to enable the plan to avoid insolvency and not materially exceed the level that is necessary to enable the plan to avoid insolvency.

A suspension of benefits (considered, if applicable, in combination with a partition of the plan) will satisfy the requirement that it is at a level that is reasonably estimated to enable the plan to avoid insolvency if: (1) For each plan year throughout an extended period beginning on the first day of the plan year that includes the effective date of the suspension, the plan's solvency ratio is projected on a deterministic basis to be at least 1.0; (2) based on stochastic projections reflecting variance in investment return, the probability that the plan will avoid insolvency throughout the extended period is more than 50 percent; and (3) unless the plan's projected funded percentage (within the meaning of section 432(j)(2)) at the end of the extended period using a deterministic projection exceeds 100 percent, then the projection shows that at all times during the last five plan years of that period, there is no projected decrease in either the plan's

solvency ratio or its available resources (as defined in section 418E(b)(3)). In the case of a plan that is not large enough to be required to select a retiree representative, the determination of whether a benefit suspension (considered, if applicable, in combination with a plan partition) will satisfy the requirement that it is at a level that is reasonably estimated to enable the plan to avoid insolvency is permitted to be made without regard to clause (2).

A plan's solvency ratio for a plan year means the ratio of the plan's available resources (as defined in section 418E(b)(3)) for the plan year to the scheduled benefit payments under the plan for the plan year. An extended period means a period of at least 30 plan years. However, in the case of a temporary suspension of benefits that is scheduled to cease as of a date that is more than 25 years after the effective date of the suspension, the extended period must be lengthened so that it ends no earlier than five plan years after the cessation of the suspension.

Under the proposed regulations, a suspension of benefits will satisfy the requirement that the suspension be at a level that is reasonably estimated to not materially exceed the level necessary for the plan to avoid insolvency if an alternative, similar but smaller suspension of benefits, under which the dollar amount of the suspension for each participant and beneficiary were reduced by five percent, would not be sufficient to enable the plan to satisfy the requirement that the suspension be at a level that is reasonably estimated to enable the plan to avoid insolvency. In addition, if the PBGC issues an order partitioning the plan, then a suspension of benefits with respect to the plan will be deemed to satisfy this requirement. This test based on a five percent reduction of a suspension is roughly comparable to the common use in accounting standards of a five-percent threshold for materiality.

The proposed regulations would require the actuarial projections used for purposes of these requirements to reflect the assumption that the suspension of benefits continues indefinitely (or, if the suspension expires on a specified date by its own terms, until that date). The actuarial assumptions and methods used for the actuarial projections must be reasonable in accordance with the rules of section 431(c)(3). The actuary's selection of assumptions about future covered employment and contribution levels (including contribution base units and average contribution rate) is permitted to be based on information provided by the plan sponsor, which must act in good faith in providing the information. In addition, to the extent that the actuarial assumptions used for the projections differ from those used to certify whether the plan is in critical and declining status pursuant to section 432(b)(3)(B)(iv), a justification for that difference generally must be provided.

The cash flow projections must be based on the fair market value of assets as of the end of the most recent calendar quarter, projected benefit payments that are consistent with the projected benefit payments under the most recent actuarial valuation, and appropriate adjustments to projected benefit payments to include benefits for new hires who are reflected in the projected contribution amounts. The projected cash flows relating to contributions, withdrawal liability payments, and benefit payments must also be adjusted to reflect significant events that occurred after the most recent actuarial valuation. Significant events include: (1) A plan merger or transfer; (2) the withdrawal or the addition of employers that changed projected cash flows relating to contributions, withdrawal liability payments, or benefit payments by more than five percent; (3) a plan amendment, a change in a collective bargaining agreement, or a change in a rehabilitation plan that changed projected cash flows relating to contributions, withdrawal liability, or benefit payments by more than five percent; or (4) any other event or trend that resulted in a material change in the projected cash flows.

The application for suspension must include a disclosure of the total contributions, total contribution base units and average contribution rate, withdrawal liability payments, and the rate of return on plan assets for each of the 10 plan years preceding the plan year in which the application is submitted. In addition, the application must include deterministic projections of the plan's solvency ratio over the extended period using two alternative assumptions that the plan's future rate of return was lower than the assumed rate of return by (1) one percentage point and (2) two percentage points.

The application must include deterministic projections of the plan's solvency ratio over the extended period using two alternative assumptions for the future contribution base units. These alternatives are that the future contribution base units (1) continue under the same trend as the plan experienced over the past 10 years, and (2) continue under that 10-year trend reduced by one percentage point.

The application must include an illustration, prepared on a deterministic basis, of the projected value of plan assets, the accrued liability of the plan (calculated using the unit credit funding method), and the funded percentage for each year in the extended period.

2. Equitable Distribution

The proposed regulations would require any suspension of benefits to be equitably distributed across the participant and beneficiary population. If a suspension of benefits applies differently to different categories or groups of participants and beneficiaries, then the suspension of benefits is equitably distributed across the participant and beneficiary population only if under the suspension: (1) Within each such category or group, the individuals are treated consistently; (2) any difference in treatment among the different categories or groups is based on relevant factors reasonably selected by the plan sponsor; and (3) any such difference in treatment is based on a reasonable application of the relevant factors.

The proposed regulations contain examples illustrating the equitable distribution rules.

V. Benefit Improvements

The proposed regulations set forth rules for the application of section 432(e)(9)(E), regarding benefit improvements. The proposed regulations provide that a plan satisfies the criteria in section 432(e)(9)(E) only if, during the period that any suspension of benefits remains in effect, the plan sponsor does not implement any benefit improvement except as provided in the proposed regulations.

Section 432(e)(9)(E)(vi) and the proposed regulations define the term benefit improvement to mean, with respect to a plan, a resumption of suspended benefits, an increase in benefits, an increase in the rate at which benefits accrue, or an increase in the rate at which benefits become nonforfeitable under the plan. In the case of a suspension of benefits that expires as of a date that is specified in the original plan amendment providing for the suspension, the resumption of benefits solely from the expiration of that period is not treated as a benefit improvement.

A. Limitations on Benefit Improvements for Those Not in Pay Status

The proposed regulations provide that, during the period any suspension of benefits under a plan remains in effect, the plan sponsor may not increase the liabilities of the plan by reason of any benefit improvement for any participant or beneficiary who was

not in pay status for any plan year before the plan year for which the benefit improvement takes effect, unless several conditions are satisfied.

One condition is that the present value of the total liabilities for a benefit improvement for participants and beneficiaries whose benefit commencement dates occurred before the first day of the plan year for which the benefit improvement takes effect is not less than the present value of the total liabilities for a benefit improvement for participants and beneficiaries who were not in pay status by that date. For this purpose, present value is the present value as of the first day of the plan year in which the benefit improvement is proposed to take effect, using actuarial assumptions in accordance with section 431.

The plan sponsor must also equitably distribute the benefit improvement among participants and beneficiaries whose benefit commencement dates occurred before the first day of the plan year in which the benefit improvement is proposed to take effect. The evaluation of whether a benefit improvement is equitably distributed must take into account the factors relevant to whether a suspension of benefits is equitably distributed, described in paragraph IV.B.2 of this preamble, and the extent to which the benefits of the participants and beneficiaries were suspended.

In addition, the plan actuary must certify that, after taking into account the benefit improvement, the plan is projected to avoid insolvency indefinitely. This certification must be made using the standards that apply for purposes of determining whether a suspension is sufficient to avoid insolvency that are described in paragraph IV.B.1 of this preamble.

These limitations do not apply to a resumption of suspended benefits or plan amendment that increases liabilities with respect to participants and beneficiaries not in pay status by the first day of the plan year in which the benefit improvement took effect that: (1) The Treasury Department, in consultation with the PBGC and the Labor Department, determines to be reasonable and which provides for only de minimis increases in plan liabilities, or (2) is required as a condition of qualification under section 401 or to comply with other applicable law, as determined by the Treasury Department.

B. Limitations on Benefit Improvements for Those in Pay Status

Under the proposed regulations, the plan sponsor may increase liabilities of the plan by eliminating some or all of the suspension that applies solely to participants and beneficiaries in pay status at the time of the resumption, provided that the plan sponsor equitably distributes the value of those resumed benefits among participants and beneficiaries in pay status, taking into account factors relevant to whether a suspension of benefits is equitably distributed. Such a resumption of benefits is not subject to the limitations on a benefit improvement under section 432(f) (relating to restrictions on benefit increases for plans in critical status).

C. Other Limitations on Benefit Increases

The proposed regulations would provide that the limitations on benefit improvements generally apply in addition to other limitations on benefit increases that apply to a plan. Except for a resumption of suspended benefits described in paragraph V.B. of this preamble, the limitations on a benefit improvement are in addition to the limitations in section 432(f) and any other applicable limitations on increases in benefits imposed on a plan.

VI. Notice of Proposed Suspension

Section 432(e)(9)(F)(iii) states that notice must be provided in a form and manner prescribed in guidance and that notice may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided. The temporary regulations include rules implementing the statutory notice requirements in section 432(e)(9)(F). The proposed regulations would provide that notice must exclusively be provided in written or electronic form (that is, there is no other appropriate form).

VII. Approval or Denial of an Application for Suspension of Benefits

A plan sponsor cannot implement a suspension of benefits unless, among other things, its application for a proposed suspension of benefits is approved. The temporary regulations contain rules regarding the submission and review of an application, and related guidelines and procedures are set forth in Rev. Proc. 2015–34. The temporary regulations provide that a complete application will be deemed approved unless, within 225 days after a complete application is received, the Treasury Department notifies the plan sponsor that its application does not satisfy one or more of the requirements for approval. The proposed regulations would provide that, if necessary under the circumstances, the Treasury Department and the plan sponsor may mutually agree in writing to stay the 225-day period. Any such agreement would be expected to be used only in unusual circumstances.

As required by section 432(e)(9)(G)(iv), the proposed regulations provide that in evaluating whether the plan sponsor has satisfied the condition (in section 432(e)(9)(C)(ii)) that it determine that all reasonable measures to avoid insolvency within the meaning of section 418E have been taken, the Treasury Department, in consultation with the PBGC and the Labor Department, will review the plan sponsor's consideration of each of the factors enumerated in section 432(e)(9)(C)(ii) and each other factor it took into account in making that determination. The proposed regulations, like the statute, do not require the plan sponsor to take any particular measure or measures to avoid insolvency but do require, in the aggregate, that the plan sponsor take all reasonable measures to avoid insolvency. In accordance with section 432(e)(9)(G)(v), the proposed regulations provide that, in evaluating the plan sponsor's application, the Treasury Department will accept the plan sponsor's determinations under section 432(e)(9)(C)(ii) unless the Treasury Department concludes, in consultation with the PBGC and the Labor Department, that the determinations were clearly erroneous. This statutory structure reflects the view that particular measures to avoid insolvency may be inappropriate for some plans and requires the Treasury Department to review the plan sponsor's consideration of the appropriateness of each of the statutory factors, but recognizes that the plan sponsor is generally in a better position than the Treasury Department to determine the most effective measures that a particular plan should take to avoid insolvency.

The proposed regulations provide that an application to suspend benefits will not be approved unless the plan sponsor certifies that, if it receives final authorization to suspend benefits (described in paragraph VIII. of this preamble), chooses to implement the suspension, and adopts a plan amendment to implement the suspension, it will timely amend the plan to provide that (1) the suspension of benefits will cease as of the first day of the first plan year following the first plan year in which the plan sponsor fails to make the annual determinations in section 432(e)(9)(C)(ii); and (2) any future benefit improvement must satisfy the section 432(e)(9)(E) rules for benefit improvements.

VIII. Participant Vote on Proposed Benefit Reduction

Section 432(e)(9)(H)(ii) provides that if an application for a suspension of benefits is approved, then the Treasury Department, in consultation with the PBGC and the Labor Department, will administer a vote of all plan participants and all beneficiaries of deceased participants (eligible voters). Any suspension of benefits will take effect only after the vote and after a final authorization to suspend benefits. Many of the rules relating to the vote are set forth in the temporary regulations. However, both the temporary and the proposed regulations reserve, for later issuance, provisions on the administration of the vote.

The proposed regulations would provide that if an application for suspension is approved, the plan sponsor must take reasonable steps to inform eligible voters about the proposed suspension and the vote. This includes all eligible voters who can be contacted by reasonable efforts pursuant to section 432(e)(9)(F). Anyone whom the plan sponsor has been able to locate through these means (or who has otherwise been located by the plan sponsor) must be sent a ballot.

The proposed regulations would require the plan sponsor to provide a ballot for the vote [7] that includes the following:

- A description of the proposed suspension and its effect, including the effect of the suspension on each category or group of individuals affected by the suspension and the extent to which they are affected;
- A description of the factors considered by the plan sponsor in designing the benefit suspension, including but not limited to the factors in section 432(e)(9)(D)(vi);
- A description of whether the suspension will remain in effect indefinitely or will expire by its own terms (and, if it will expire by its own terms, when that will occur);
- A statement from the plan sponsor in support of the proposed suspension;
- A statement in opposition to the proposed suspension compiled from comments received pursuant to the solicitation of comments in the **Federal Register** notice with respect to the application;
- A statement that the proposed suspension has been approved by the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor;
- A statement that the plan sponsor has determined that the plan will become insolvent unless the proposed suspension takes effect (including the year in which insolvency is projected to occur without a suspension of benefits), and an accompanying statement that this determination is subject to uncertainty;
- A statement that insolvency of the plan could result in benefits lower than benefits paid under the proposed suspension and a description of the projected benefit payments in the event of plan insolvency;
- A statement that insolvency of the PBGC would result in benefits lower than benefits otherwise paid in the case of plan insolvency;
- A statement that the plan's actuary has certified that the plan is projected to avoid insolvency, taking into account the proposed suspension of benefits (and, if applicable, a proposed partition plan), and an accompanying statement that the actuary's projection is subject to uncertainty;
- A statement that the suspension will go into effect unless a majority of eligible voters vote to reject the suspension and that, therefore, a failure to vote has the same effect on the outcome of the vote as a vote in favor of the suspension;
- A copy of the individualized estimate that was provided as part of the earlier notice described in section 432(e)(9)(F) (or, if that individualized estimate is no longer accurate, a corrected version of that estimate); and
- A description of the voting procedures, including the deadline for voting.

A proposed suspension is generally permitted to be implemented unless rejected by a majority vote of all eligible voters. In determining whether a majority of all eligible voters have voted to reject the suspension under section 432(e)(9)(H)(ii), the proposed regulations would treat any eligible voters to whom ballots have not been provided (because the individuals could not be located) as voting to reject the suspension at the same rate (in other words, in the same percentage) as those to whom ballots have been provided.

Proposed Effective Date

These regulations are proposed to be effective on and after the date of publication in the **Federal Register** of the Treasury decision adopting these rules as final regulations. Until regulations finalizing these proposed regulations are issued, taxpayers may not rely on the rules set forth in these proposed regulations.

Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, please visit the IRS Web site at *http://www.irs.gov* or contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

The Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. In this case, the IRS and Treasury believe that the regulations likely would not have a ''significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605. This certification is based on the fact that the number of small entities affected by this rule is unlikely to be substantial because it is unlikely that a substantial number of small multiemployer plans in critical and declining status will suspend benefits under section 432(e)(9). Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the Treasury Department and the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules (including both the provisions set forth in this notice of proposed rulemaking and the provisions set forth in the cross-referenced temporary regulations). Comments are specifically requested on the demonstration of avoidance of insolvency, including the rules related to the use of the extended period for this purpose. In addition, comments are requested on the rules

[7] The ballot is subject to approval by the Treasury Department, in consultation with the PBGC and the Labor Department. See section 432(e)(9)(H) and § 1.432(e)(9)–1T(h).

relating to the demonstration that the suspension is not materially in excess of the level necessary to avoid insolvency.

All comments will be available for public inspection and copying at *www.regulations.gov* or upon request. **Please Note:** All comments will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

A public hearing on these proposed regulations has been scheduled for September 10, 2015, beginning at 9:00 a.m. in the Amphitheater of the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Ave. NW., Washington, DC.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by August 18, 2015, and an outline of topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight (8) copies) by August 18, 2015. A period of up to 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

For information about the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

Contact Information

For general questions regarding these regulations, please contact the Department of the Treasury at (202) 622–1559 (not a toll-free number). For information regarding a specific application for a suspension of benefits, please contact the Department of the Treasury at (202) 622–1534 (not a toll-free number).

List of Subjects in 26 CFR Part 1

Income taxes, reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.432(e)(9)–1 is added to read as follows:

§ 1.432(e)(9)–1 Benefit suspensions for multiemployer plans in critical and declining status.

(a) *General rules on suspension of benefits*—(1) *General rule.* [The text of the proposed amendments to § 1.432(e)(9)–1(a)(1) is the same as § 1.432(e)(9)–1T(a)(1) published elsewhere in this issue of the **Federal Register**.]

(2) *Adoption of plan terms inconsistent with suspension requirements*—(i) *General rule.* [The text of the proposed amendments to § 1.432(e)(9)–1(a)(2)(i) is the same as § 1.432(e)(9)–1T(a)(2)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Changes in level of suspension.* A plan's terms are consistent with the requirements of section 432(e)(9) even if the plan provides that, instead of a suspension of benefits occurring in full on a specified effective date, the amount of a suspension will phase in or otherwise change in a definite, pre-determined manner as of a specified future effective date or dates. However, a plan's terms are inconsistent with the requirements of section 432(e)(9) if they provide that the amount of a suspension will change contingent upon the occurrence of any other specified future event, condition, or development. For example, a plan is not permitted to provide that an additional or larger suspension of benefits is triggered if the plan's funded status deteriorates. Similarly, a plan is not permitted to provide that, contingent upon a specified future event, condition, or development, a suspension of benefits will be automatically reduced (except upon a failure to satisfy the annual requirement, described in paragraph (c)(4) of this section, that the plan sponsor make determinations that the plan is projected to avoid insolvency unless benefits are suspended).

(3) *Organization of the regulation.* This paragraph (a) contains definitions and general rules relating to a suspension of benefits by a multiemployer plan under section 432(e)(9). Paragraph (b) of this section defines a suspension of benefits and describes the length of a suspension, the treatment of beneficiaries and alternate payees under this section, and the requirement to select a retiree representative. Paragraph (c) of this section contains rules for the actuarial certification and plan-sponsor determinations that must be made in order for a plan to suspend benefits. Paragraph (d) of this section describes limitations on suspensions of benefits. Paragraph (e) of this section describes limitations on benefit improvements that may be made while a suspension of benefits is in effect. Paragraph (f) of this section describes the requirement to provide notice in connection with an application to suspend benefits. Paragraph (g) of this section describes the approval or denial of an application for a suspension of benefits. Paragraph (h) of this section contains certain rules relating to the vote on an approved suspension, systemically important plans, and the issuance of a final authorization to suspend benefits.

(4) *Definitions.* The following definitions apply for purposes of this section—(i) *Pay status.* [The text of the proposed amendments to § 1.432(e)(9)–1(a)(4)(i) is the same as § 1.432(e)(9)–1T(a)(4)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Plan sponsor.* [The text of the proposed amendments to § 1.432(e)(9)–1(a)(4)(ii) is the same as § 1.432(e)(9)–1T(a)(4)(ii) published elsewhere in this issue of the **Federal Register**.]

(iii) *Effective date of suspension of benefits*—(A) *In general.* In the case of an individual who has commenced benefits, the effective date of a suspension of benefits is the first date as of which a portion of the individual's benefits are not paid as a result of the suspension. In the case of an individual who has not yet commenced benefits, the effective date of a suspension of benefits is the first date as of which the individual's accrued benefit is reduced as a result of the suspension.

(B) *Phased-in suspension.* If a suspension of benefits provides for more than one reduction in benefits over time, such that benefits are scheduled to be reduced by an additional amount after benefits are first reduced pursuant to the suspension, then each date as of which benefits are reduced is treated as a separate effective date of the suspension. However, if the effective date of the final scheduled reduction in benefits in a series of reductions pursuant to a suspension is less than three years later than the effective date of the first reduction, the effective date of the first reduction will be treated as the effective date of all subsequent reductions pursuant to that suspension.

(C) *Effective date may not be retroactive.* The effective date of a suspension may not precede the date on which a final authorization to suspend benefits is issued pursuant to paragraph (h)(6) of this section.

(b) *Definition of suspension of benefits and related rules.* [The text of the proposed amendments to § 1.432(e)(9)–1(b) is the same as

§ 1.432(e)(9)–1T(b) published elsewhere in this issue of the **Federal Register**.]

(c) *Conditions for suspension*—(1) *In general*—(i) *Actuarial certification and initial-plan-sponsor determinations.* [The text of the proposed amendments to § 1.432(e)(9)–1(c)(1)(i) is the same as § 1.432(e)(9)–1T(c)(1)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Annual requirement to make plan-sponsor determinations.* As provided in paragraph (c)(5) of this section, the suspension will continue only if the plan sponsor continues to make the annual-plan-sponsor determinations described in paragraph (c)(4) of this section.

(2) *Actuarial certification.* [The text of the proposed amendments to § 1.432(e)(9)–1(c)(2) is the same as § 1.432(e)(9)–1T(c)(2) published elsewhere in this issue of the **Federal Register**.]

(3) *Initial-plan-sponsor determinations.* [The text of the proposed amendments to § 1.432(e)(9)–1(c)(3) is the same as § 1.432(e)(9)–1T(c)(3) published elsewhere in this issue of the **Federal Register**.]

(4) *Annual-plan-sponsor determinations*—(i) *General rule.* A plan satisfies the annual-plan-sponsor determinations requirement of this paragraph (c)(4) for a plan year only if the plan sponsor determines, no later than the last day of the plan year, that—

(A) All reasonable measures to avoid insolvency have been and continue to be taken; and

(B) The plan is not projected to avoid insolvency (determined using the standards described in paragraphs (d)(5)(ii), (iv), and (v) of this section, substituting the current plan year for the plan year that includes the effective date of the suspension) unless the suspension of benefits continues (or another suspension of benefits under section 432(e)(9) is implemented) for the plan.

(ii) *Factors.* In making its determination that all reasonable measures to avoid insolvency have been and continue to be taken, the plan sponsor may take into account the non-exclusive list of factors in paragraph (c)(3)(ii) of this section.

(iii) *Requirement to maintain written record.* The plan sponsor must maintain a written record of the annual-plan-sponsor determinations made under this paragraph (c)(4). The written record must be included in an update to the rehabilitation plan, whether or not there is otherwise an update for that year (or, if the plan is no longer in critical status, must be included in the documents under which the plain is maintained). The written record of the determinations must describe the plan sponsor's consideration of factors, as described in paragraph (c)(4)(ii) of this section.

(5) *Failure to make annual-plan-sponsor determinations.* If a plan sponsor fails to satisfy the annual-plan-sponsor determinations requirement of paragraph (c)(4) of this section for a plan year (including maintaining the written record described in paragraph (c)(4)(iii) of this section), then the suspension of benefits will cease to be in effect beginning as of the first day of the next plan year.

(d) *Limitations on suspension*—(1) *In general.* [The text of the proposed amendments to § 1.432(e)(9)–1(d)(1) is the same as § 1.432(e)(9)–1T(d)(1) published elsewhere in this issue of the **Federal Register**.]

(2) *Guarantee-based limitation*—(i) *General rule.* [The text of the proposed amendments to § 1.432(e)(9)–1(d)(2)(i) is the same as § 1.432(e)(9)–1T(d)(2)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *PBGC guarantee.* Under section 4022A of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), the monthly benefit of a participant or beneficiary that would be guaranteed by the Pension Benefit Guaranty Corporation (PBGC) with respect to a plan if the plan were to become insolvent as of the effective date of the suspension is generally based on section 4022A(c)(1) of ERISA. Under that section, the monthly benefit that would be guaranteed if the plan were to become insolvent as of the date as of which the guarantee is determined is the product of—

(A) 100 percent of the accrual rate up to $11, plus 75 percent of the lesser of—

(*1*) $33; or

(*2*) The accrual rate, if any, in excess of $11; and

(B) The number of the participant's years and months of credited service as of that date.

(iii) *Calculation of accrual rate.* The accrual rate, as defined in section 4022A(c)(2) of ERISA, is calculated by dividing—

(A) The participant's or beneficiary's monthly benefit, described in section 4022A(c)(2)(A) of ERISA; by

(B) The participant's years of credited service, described in section 4022A(c)(3) of ERISA, as of the effective date of the suspension.

(iv) *Special rule for non-vested participants.* For purposes of this paragraph (d)(2), a participant's nonforfeitable benefits under section 4022A(a) of ERISA include benefits that are forfeitable as of the effective date of the suspension, provided that the participant would have a nonforfeitable right to those benefits if the participant continued to earn vesting service following that date.

(v) *Examples.* The following examples illustrate the limitation on a suspension of benefits in this paragraph (d)(2). Unless otherwise stated, the amount of guarantee payable by PBGC in these examples is based on section 4022A(c) of ERISA, and the rules under section 4022A(d) of ERISA (guarantee for benefits reduced under section 411(a)(3)(E)), section 4022A(e) of ERISA (benefits ineligible for guarantee), and section 4022A(h) of ERISA (guarantee for benefits accrued as of July 30, 1980) do not apply. In these examples, unless otherwise stated, the monthly benefits are nonforfeitable, are based on benefits that have been in effect for at least 60 months as of the effective date of the suspension, and are no greater than the monthly benefit that would be payable at normal retirement age in the form of a single life annuity.

Example 1. (i) *Facts.* A participant is receiving a benefit of $1,500 per month. The participant has 30 years of credited service under the plan.

(ii) *Calculation of accrual rate.* The participant's accrual rate is $50, calculated by dividing the participant's monthly benefit payment ($1,500) by the participant's years of credited service (30).

(iii) *Calculation of monthly PBGC-guaranteed benefit.* The first $11 of the accrual rate is fully guaranteed, and the next $33 of the accrual rate is 75% guaranteed ($33 × .75 = $24.75). The participant's monthly guaranteed benefit per year of credited service is $35.75 ($11 + $24.75 = $35.75). The PBGC guarantee formula is then applied to produce the amount of guarantee payable by PBGC, which is $1,072.50 ($35.75 × 30 years = $1,072.50).

(iv) *Calculation of guarantee-based limitation.* A suspension of benefits may not reduce the participant's benefits below the guarantee-based limitation, which is equal to 110% of the amount of guarantee payable by PBGC. That monthly amount is $1,179.75 ($1,072.50 × 1.1 = $1,179.75).

Example 2. (i) *Facts.* The facts are the same as in *Example 1,* except that the participant is deceased and the participant's beneficiary is receiving a monthly benefit of $750 under a 50% joint and survivor annuity.

(ii) *Calculation of accrual rate.* The beneficiary's accrual rate is $25, calculated by dividing the beneficiary's monthly benefit payment ($750) by the participant's years of credited service (30).

(iii) *Calculation of monthly PBGC-guaranteed benefit.* The first $11 of the accrual rate is fully guaranteed, and the next $14 ($25 − $11 = $14) of the accrual rate is 75% guaranteed ($14 × .75 = $10.50). The beneficiary's monthly guaranteed benefit is $21.50 per year of credited service ($11 + $10.50 = $21.50). The PBGC guarantee

formula is then applied to produce the amount of guarantee payable by PBGC, which is $645 ($21.50 × 30 years = $645).

(iv) *Calculation of guarantee-based limitation.* A suspension of benefits may not reduce the beneficiary's benefits below the guarantee-based limitation, which is equal to 110% of the monthly amount of guarantee payable by PBGC. That monthly guarantee-based limitation amount is $709.50 ($645 × 1.1 = $709.50).

Example 3. (i) *Facts.* A participant would be eligible for a monthly benefit of $1,000 payable as a single life annuity at normal retirement age, based on the participant's 25 years of credited service. The plan also permits a participant to receive a benefit on an unreduced basis as a single life annuity at early retirement age and permits participants to receive an early retirement benefit in the form of a Social Security level income option. Under the Social Security level income option, the participant receives a monthly benefit of $1,600 prior to normal retirement age (which is the plan's assumed Social Security retirement age) and $900 after normal retirement age.

(ii) *Calculation of accrual rate.* For purposes of calculating the accrual rate, the monthly benefit that is used to calculate the PBGC guarantee does not exceed the monthly benefit of $1,000 that would be payable at normal retirement age. In calculating the accrual rate, the amount of guarantee payable by PBGC would be based on a monthly benefit of $1,000 prior to normal retirement age and $900 after normal retirement age. Before normal retirement age, the participant's accrual rate is $40, determined by dividing the participant's monthly benefit payment ($1,000) by years of credited service (25). After normal retirement age, the participant's accrual rate is $36, calculated by dividing the participant's monthly benefit payment ($900) by the participant's years of credited service (25).

(iii) *Calculation of monthly PBGC-guaranteed benefit.* Before normal retirement age, the first $11 of the accrual rate is fully guaranteed, and the next $29 of the accrual rate is 75% guaranteed ($29 × .75 = $21.75). The participant's monthly guaranteed benefit per year of credited service is $32.75 ($11 + $21.75 = $32.75). The PBGC guarantee formula is then applied to produce the amount of guarantee payable by PBGC, which is $818.75 ($32.75 × 25 years = $818.75). After normal retirement age, the first $11 of the accrual rate is fully guaranteed, and the next $25 of the accrual rate is 75% guaranteed ($25 × .75 = $18.75). The participant's monthly guaranteed benefit per year of credited service is $29.75 ($11 + $18.75 = $29.75). The PBGC guarantee formula is then applied to produce the amount of guarantee payable by PBGC, which is $743.75 after normal retirement age ($29.75 × 25 years = $743.75).

(iv) *Calculation of guarantee-based limitation.* A suspension of benefits may not reduce the participant's benefits below the guarantee-based limitation, which is equal to 110% of the monthly amount of guarantee payable by PBGC. That monthly guarantee-based limitation amount is $900.63 ($818.75 × 1.1 = $900.63) before normal retirement age and $818.13 ($743.75 × 1.1 = $818.13) after normal retirement age.

Example 4. (i) *Facts.* A participant would be eligible for a monthly benefit of $1,000 payable as a single life annuity at normal retirement age, based on the participant's 20 years of credited service. The plan provides an actuarial increase for delaying benefits until after normal retirement age. The participant delays commencement of benefits until after normal retirement age and the participant's monthly benefit is $1,200 instead of $1,000.

(ii) *Calculation of accrual rate.* For purposes of calculating the accrual rate, the monthly benefit that is used to calculate the PBGC guarantee does not exceed the monthly benefit of $1,000 that would be payable at normal retirement age. Thus, in determining the accrual rate, the PBGC guarantee would be based on a monthly benefit of $1,000, whether benefits are paid at or after normal retirement age. The participant's accrual rate is $50, calculated by dividing the participant's monthly benefit payment ($1,000) by the participant's years of credited service (20).

(iii) *Calculation of monthly PBGC-guaranteed benefit.* The first $11 of the accrual rate is fully guaranteed, and the next $33 of the accrual rate is 75% guaranteed ($33 × .75 = $24.75). The participant's monthly guaranteed benefit per year of credited service is $35.75 ($11 + $24.75 = $35.75). The PBGC guarantee formula is then applied to produce the amount of guarantee payable by PBGC, which is $715 ($35.75 × 20 years = $715).

(iv) *Calculation of guarantee-based limitation.* A suspension of benefits may not reduce the participant's benefits below the guarantee-based limitation, which is equal to 110% of the monthly amount of guarantee payable by PBGC. That monthly guarantee-based limitation amount is $786.50 ($715 × 1.1 = $786.50).

Example 5. (i) *Facts.* A plan provides that a participant who has completed at least five years of service will have a nonforfeitable right to 100% of an accrued benefit (and will not have a nonforfeitable right to any portion of the accrued benefit prior to completing five years of service). The plan implements a suspension of benefits on January 1, 2017. As of that date, a participant has three years of vesting service, and none of the participant's benefits are nonforfeitable under the terms of the plan.

(ii) *Calculation of nonforfeitable benefits.* For purposes of applying the guarantee-based limitation, the participant is considered to have a nonforfeitable right to 100% of the accrued benefit under the plan as of January 1, 2017.

(3) *Age-based limitation*—(i) *No suspension for participants or beneficiaries who are age 80 and older.* No suspension of benefits is permitted to apply to a participant, beneficiary, or alternate payee who—

(A) Has commenced benefits as of the effective date of the suspension; and

(B) Has attained 80 years of age no later than the end of the month that includes the effective date of the suspension.

(ii) *Limited suspension for participants and beneficiaries between ages 75 and 80.* No more than the applicable percentage of the maximum suspendable benefit may be suspended for a participant, beneficiary, or alternate payee who—

(A) Has commenced benefits as of the effective date of the suspension; and

(B) Has attained 75 years of age no later than the end of the month that includes the effective date of the suspension.

(iii) *Maximum suspendable benefit*—(A) *In general.* For purposes of this paragraph (d)(3), the maximum suspendable benefit with respect to a participant, beneficiary, or alternate payee is the portion of the individual's benefits that would otherwise be suspended pursuant to this section (that is, the amount that would be suspended without regard to the limitation in this paragraph (d)(3)).

(B) *Coordination of limitations.* An individual's maximum suspendable benefit is calculated after the application of the guarantee-based limitation under paragraph (d)(2) of this section and the disability-based limitation under paragraph (d)(4) of this section.

(iv) *Applicable percentage.* For purposes of this paragraph (d)(3), the applicable percentage is the percentage obtained by dividing—

(A) The number of months during the period beginning with the month after the month in which the suspension of benefits is effective and ending with the month during which the participant or beneficiary attains the age of 80, by

(B) 60.

(v) *Applicability of age-based limitation to benefits paid to beneficiaries.* If the age-based limitation in this paragraph (d)(3) applies to a participant on the effective date of the suspension, then the age-based limitation also applies to the beneficiary of the participant, based on the age of the participant on the effective date of the suspension.

(vi) *Rule for benefits that have not commenced at the time of the suspension.* If benefits have not commenced to either a participant or beneficiary as of the effective date of the suspension, then in applying this paragraph (d)(3)—

(A) If the participant is alive on the effective date of the suspension, the participant is treated as having commenced benefits on that date; and

(B) If the participant is deceased on effective date of the suspension, the

beneficiary is treated as having commenced benefits on that date.

(vii) *Rules for alternate payees.* The age-based limitation in this paragraph (d)(3) applies to a suspension of benefits in which an alternate payee has an interest, whether or not the alternate payee has commenced benefits as of the effective date of the suspension. For purposes of this paragraph (d)(3), the applicable percentage for an alternate payee is calculated by—

(A) Using the participant's age as of the effective date of the suspension, if the alternate payee's right to the suspended benefits derives from a qualified domestic relations order within the meaning of section 414(p)(1)(A) (QDRO) under which the alternate payee shares in each benefit payment but the participant retains the right to choose the time and form of payment with respect to the benefit to which the suspension applies (shared payment QDRO); or

(B) Substituting the alternate payee's age as of the effective date of the suspension for the participant's age, if the alternate payee's right to the suspended benefits derives from a QDRO under which the alternate payee has a separate right to receive a portion of the participant's retirement benefit to be paid at a time and in a form different from that chosen by the participant (separate interest QDRO).

(viii) *Examples.* The following examples illustrate the rules of this paragraph (d)(3):

Example 1. (i) *Facts.* The plan sponsor of a plan in critical and declining status is implementing a suspension of benefits, effective December 1, 2017, that would reduce all benefit payments under the plan by 30%. On that date, a retiree is receiving a monthly benefit of $1,500 (which is not a benefit based on disability) and has 28 years of credited service under the plan. If none of the limitations in section 432(e)(9)(D)(i), (ii), and (iii) were to apply, a 30% suspension would reduce the retiree's monthly benefit by $450, to $1,050. Under the guarantee-based limitation in section 432(e)(9)(D)(i), the retiree's monthly benefit could not be reduced by more than $398.90, to $1,101.10 (1.1 × (28 × ($11 + (.75 × $33)))). The retiree is 77 years old on the effective date of the suspension, turns 78 on December 15, 2017, and turns 80 on December 15, 2019.

(ii) *Maximum suspendable benefit.* Because the retiree is not receiving a benefit based on disability under section 432(e)(9)(D)(iii), the retiree's maximum suspendable benefit is $398.90 (which is equal to the lesser of reduction that would apply pursuant to the 30% suspension ($450) or the amount of reduction that would be permitted under the guarantee-based limitation ($398.90)).

(iii) *Applicable percentage.* Because the retiree is between ages 75 and 80 on the effective date of the suspension, the reduction is not permitted to exceed the applicable percentage of the retiree's maximum suspendable benefit. The number of months during the period beginning with January 2018 (the month after the month that includes the effective date of the suspension) and ending with December 2019 (the month in which the retiree turns 80) is 24. The applicable percentage is equal to 40% (24 months divided by 60).

(iv) *Age-based limitation.* The retiree's maximum suspendable benefit is $398.90 and the applicable percentage is 40%. Thus, under the age-based limitation, the retiree's benefit may not be reduced by more than $159.56 ($398.90 × .40 = $159.56). Because the retiree was receiving a monthly benefit of $1,500, the suspension of benefits may not reduce the retiree's monthly benefit below $1,340.44 ($1,500 − $159.56 = $1,340.44).

Example 2. (i) *Facts.* The facts are the same as *Example 1,* except that the retiree is 79 years old on December 1, 2017, and turns 80 on December 15, 2017.

(ii) *Age-based limitation.* The suspension is not permitted to apply to the retiree because the retiree will turn 80 by the end of the month (December 2017) in which the suspension is effective.

Example 3. (i) *Facts.* The facts are the same as *Example 1,* but on the effective date of the suspension, the retiree is receiving a benefit in the form of a 50% joint and survivor annuity for himself and a contingent beneficiary who is age 71. The retiree dies in October 2018.

(ii) *Application of age-based limitation to contingent beneficiary.* Because the retiree had attained age 78 in the month that included the effective date of the suspension, the age-based limitation on the suspension of benefits for a 78-year-old individual applies to the retiree. The age-based limitation also applies to the contingent beneficiary, even though the contingent beneficiary had not commenced benefits under the plan as of the effective date of the suspension and had not attained age 75 by the end of the month containing the effective date of the suspension.

(iii) *Maximum suspendable benefit.* The contingent beneficiary's amount of guarantee payable by PBGC is based on the benefit the beneficiary would have received from the plan before the suspension ($750). The beneficiary's accrual rate is $26.7857 (calculated by dividing the monthly benefit payment ($750) by years of credited service (28)) and the beneficiary's amount of guarantee payable by PBGC is $639.50 (28 × ($11 + (.75 × $15.7857))). The beneficiary's maximum suspendable benefit is $46.55 (which is equal to the lesser of reduction that would apply pursuant to the 30% suspension ($225) or the amount of reduction that would be permitted under the guarantee-based limitation ($46.55, which is equal to ($750 − 1.1 × 639.50)).

(iv) *Applicable percentage.* The applicable percentage for the beneficiary is based on the retiree's age of 78 on the effective date of the suspension. Accordingly, the applicable percentage for the beneficiary is 40%.

(v) *Age-based limitation.* The beneficiary's maximum suspendable benefit is $46.55 and the applicable percentage is 40%. Thus, under the age-based limitation, the beneficiary's benefit may not be reduced by more than $18.62 ($46.55 × .40 = $18.62). Therefore, as a result of the retiree's age-based limitation, the suspension of benefits may not reduce the beneficiary's monthly benefit below $731.38 ($750 − $18.62 = $731.38).

Example 4. (i) *Facts.* The facts are the same as *Example 3,* except that on the effective date of the suspension the retiree is age 71 and the retiree's contingent beneficiary is age 77.

(ii) *Application of age-based limitation to contingent beneficiary.* Because the retiree had not reached age 75 as of the effective date of the suspension, the age-based limitation on the suspension of benefits does not apply to the retiree. The age-based limitation also does not apply to the retiree's contingent beneficiary, even though the contingent beneficiary had attained age 77 as of the effective date of the suspension, because the contingent beneficiary had not yet commenced benefits on that date. The beneficiary's post-suspension benefit may not be less than minimum benefit payable pursuant to the guarantee-based limitation, which is $703.45 ($639.50 × 1.1 = $703.45).

Example 5. (i) *Facts.* The facts are the same as in *Example 4,* except that the retiree died in October 2017, prior to the December 1, 2017 effective date of the suspension of benefits. The retiree's beneficiary commenced benefits on November 1, 2017.

(ii) *Application of age-based limitation to contingent beneficiary.* Because the retiree's beneficiary had commenced benefits before the effective date of the suspension and had reached age 75 by the end of the month that includes the effective date of the suspension, the age-based limitation applies to the beneficiary based on the beneficiary's age on the effective date of the suspension.

(4) *Disability-based limitation*—(i) *General rule* [The text of the proposed amendments to § 1.432(e)(9)-1(d)(4)(i) is the same as § 1.432(e)(9)–1T(d)(4)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Benefits based on disability*—(A) *In general.* For purposes of this section, benefits based on disability means the entire amount paid to a participant pursuant to the participant becoming disabled, without regard to whether a portion of that amount would have been paid if the participant had not become disabled.

(B) *Rule for auxiliary or other temporary disability benefits.* If a participant begins receiving an auxiliary or other temporary disability benefit and the sole reason the participant ceases receiving that benefit is commencement of retirement benefits, the benefit based on disability after commencement of retirement benefits is the lesser of—

(*1*) The periodic payment the participant was receiving immediately before the participant's retirement benefits commenced; or

(*2*) The total periodic payments to the participant under the plan.

(C) *Examples.* The following examples illustrate the disability-based limitation on a suspension of benefits under this paragraph (d)(4):

Example 1. (i) *Facts.* A participant with a vested accrued benefit of $1,000 per month, payable at age 65, becomes disabled at age 55. The plan applies a reduction to the monthly benefit for early commencement if the participant commences benefits before age 65. For a participant who commences receiving benefits at age 55, the actuarially adjusted early retirement benefit is 60% of the accrued benefit. However, the plan also provides that if a participant becomes entitled to an early retirement benefit on account of disability, as defined in the plan, the benefit is not reduced. On account of a disability, the participant commences an unreduced early retirement benefit of $1,000 per month at age 55 (instead of the $600 monthly benefit the participant would receive if the participant were not disabled). The participant continues to receive $1,000 per month after reaching age 65.

(ii) *Conclusion.* The participant's disability benefit payment of $1,000 per month commencing at age 55 is a benefit based on disability, even though the participant would have received a portion of these benefits at retirement regardless of the disability. Thus, both before and after attaining age 65, the participant's entire monthly payment amount ($1,000) is a benefit based on disability. A suspension of benefits is not permitted to apply to any portion of the participant's benefit at any time.

Example 2. (i) *Facts.* The facts are the same as *Example 1,* except that the terms of the plan provide that when a disabled participant reaches age 65, the disability pension is discontinued by reason of reaching age 65, and the retirement benefits commence. In this case, the amount of the participant's retirement benefits is the same as the amount that the participant was receiving immediately before commencing retirement benefits, or $1,000.

(ii) *Conclusion.* Before age 65, the participant's disability benefit payment of $1,000 per month commencing at age 55 is a benefit based on disability. After age 65, the periodic payment of $1,000 per month that the participant was receiving immediately before commencing retirement benefits is a benefit based on disability. Thus, both before and after attaining age 65, the participant's entire monthly payment amount ($1,000) is a benefit based on disability. A suspension of benefits is not permitted to apply to any portion of the participant's benefit at any time.

Example 3. (i) Facts. The facts are the same as *Example 2,* except that upon reaching age 65, the participant elects to commence payment of retirement benefits not in the form of a single life annuity payable in the amount of $1,000 per month but instead in the form of an actuarially equivalent joint and survivor annuity payable in the amount of $850 per month.

(ii) *Conclusion.* Before age 65, the participant's benefit based on disability is $1,000 per month. After age 65, the participant's benefit based on disability is $850 per month. Thus, a suspension of benefits is not permitted to apply to any portion of those benefits at any time.

Example 4. (i) *Facts.* A participant's disability pension is a specified amount unrelated to the participant's accrued benefit. The participant's disability benefit commencing at age 55 is $750 per month. Upon reaching age 65, the participant's disability pension is discontinued by reason of reaching age 65 and the participant elects to receive an accrued benefit payable in the amount of $1,000 per month.

(ii) *Conclusion.* Before age 65, the participant's benefit based on disability is $750 per month. After age 65, the participant's benefit based on disability continues to be $750 per month (even though the participant's payment is $1,000 per month), because the benefit based on disability is the lesser of the periodic disability pension the participant was receiving immediately before retirement benefits commenced ($750) and the periodic payment to the participant under the plan ($1,000). Thus, a suspension of benefits is not permitted to reduce the participant's benefit based on disability ($750 per month) at any time.

Example 5. (i) *Facts.* The facts are the same as *Example 2,* except that when the participant attains age 65, the participant's monthly benefit payment increases from $1,000 to $1,300 as a result of the plan providing additional accruals during the period of disability, as if the participant was not disabled.

(ii) *Conclusion.* As in *Example 2,* before age 65, the participant's benefit payment of $1,000 per month commencing at age 55 is a benefit based on disability. After age 65, the participant's benefit payment of $1,300 per month is a benefit based on disability because the $1,300 is payable based on additional accruals earned pursuant to the participant becoming disabled. Thus, both before and after attaining age 65, the participant's entire monthly payment amount is a benefit based on disability. A suspension of benefits is not permitted to apply to any portion of the participant's benefit at any time.

Example 6. (i) *Facts.* The facts are the same as *Example 3* of paragraph (d)(2)(v) of this section, except that the Social Security level income option is only available to a participant who incurs a disability as defined in the plan.

(ii) *Conclusion.* Before normal retirement age, the participant's benefit payment of $1,600 per month is a benefit based on disability. After normal retirement age, the participant's benefit based on disability is $900, which is the lesser of the $1,600 periodic payment that the participant was receiving immediately before the participant's normal retirement benefit commenced and the participant's $900 normal retirement benefit. Thus, a suspension of benefits is not permitted to apply to any portion of those benefits ($1,600 per month before and $900 per month after normal retirement age) at any time.

Example 7. (i) *Facts.* A plan applies a reduction to the monthly benefit for early commencement if a participant commences benefits before age 65. The plan also provides that if a participant becomes disabled, as defined in the plan, the benefit that is paid before normal retirement age is not reduced for early retirement. Under the plan, when a disabled participant reaches age 65, the disability pension is discontinued by reason of reaching age 65 and the retirement benefits commence. A participant with a vested accrued benefit of $1,000 per month, payable at age 65, becomes disabled at age 55. On account of the disability, the participant commences benefits at age 55 in the amount of $1,000 per month (instead of the $600 monthly benefit the participant could have received at that age if the participant were not disabled). The participant recovers from the disability at age 60, and the participant's disability benefits cease. At age 60, the participant immediately elects to begin an early retirement benefit of $800.

(ii) *Conclusion.* The participant's disability benefit payment of $1,000 per month commencing at age 55 is a benefit based on disability, even though the participant would have received a portion of these benefits at retirement regardless of the disability. Because the participant ceased receiving disability benefits on account of the participant no longer being disabled (and not solely on account of commencing retirement benefits), the participant's early retirement benefit of $800 per month that began after the disability benefit ended is not a benefit based on disability.

(5) *Limitation on aggregate size of suspension*—(i) *General rule.* Any suspension of benefits (considered, if applicable, in combination with a partition of the plan under section 4233 of ERISA (partition)) must be at a level that is reasonably estimated to—

(A) Enable the plan to avoid insolvency; and

(B) Not materially exceed the level that is necessary to enable the plan to avoid insolvency.

(ii) *Suspension sufficient to avoid insolvency*—(A) *General rule.* A suspension of benefits (considered, if applicable, in combination with a partition of the plan) will satisfy the requirement that it is at a level that is reasonably estimated to enable the plan to avoid insolvency if—

(*1*) For each plan year throughout an extended period (as described in paragraph (d)(5)(ii)(C) of this section) beginning on the first day of the plan year that includes the effective date of the suspension, the plan's solvency ratio is projected on a deterministic basis to be at least 1.0;

(*2*) Based on stochastic projections reflecting variance in investment return, the probability that the plan will avoid insolvency throughout the extended period is more than 50 percent; and

(*3*) Unless the plan's projected funded percentage (within the meaning of section 432(j)(2)) at the end of the

extended period using a deterministic projection exceeds 100 percent, then the projection shows that at all times during the last five plan years of that period, there is no projected decrease in either the plan's solvency ratio or its available resources (as defined in section 418E(b)(3)).

(B) *Solvency ratio.* For purposes of this section, a plan's solvency ratio for a plan year means the ratio of—

(*1*) The plan's available resources (as defined in section 418E(b)(3)) for the plan year; to

(*2*) The scheduled benefit payments under the plan for the plan year.

(C) *Extended period.* For purposes of this section, an extended period means a period of at least 30 plan years. However, in the case of a temporary suspension of benefits that is scheduled to cease as of a date that is more than 25 years after the effective date, the extended period must be lengthened so that it ends no earlier than five plan years after the cessation of the suspension.

(iii) *Suspension not materially in excess of level necessary to avoid insolvency*—(A) *General rule.* A suspension of benefits will satisfy the requirement under paragraph (d)(5)(i)(B) of this section that the suspension be at a level that is reasonably estimated to not materially exceed the level necessary for the plan to avoid insolvency only if an alternative, similar but smaller suspension of benefits, under which the dollar amount of the suspension for each participant and beneficiary is reduced by five percent would not be sufficient to enable the plan to satisfy the requirement to avoid insolvency under paragraph (d)(5)(i)(A) of this section.

(B) *Special rule for partitions.* If the PBGC issues an order partitioning the plan, then a suspension of benefits with respect to the plan will be deemed to satisfy the requirement under paragraph (d)(5)(i)(B) of this section that the suspension be at a level that is reasonably estimated to not materially exceed the level necessary for the plan to avoid insolvency.

(iv) *Actuarial basis for projections*—(A) *In general.* This paragraph (d)(5)(iv) sets forth rules for the actuarial projections that are required under this paragraph (d)(5). The projections must reflect the assumption that the suspension of benefits continues indefinitely (or, if the suspension expires on a specified date by its own terms, until that date).

(B) *Reasonable actuarial assumptions and methods.* The actuarial assumptions and methods used for the actuarial projections must be reasonable, in accordance with the rules of section 431(c)(3). The actuary's selection of assumptions about future covered employment and contribution levels (including contribution base units and average contribution rate) may be based on information provided by the plan sponsor, which must act in good faith in providing the information. In addition, to the extent that the actuarial assumptions used for the deterministic projection differ from those used to certify whether the plan is in critical and declining status pursuant to section 432(b)(3)(B)(iv), a justification for that difference must be provided. Similarly, to the extent that the actuarial assumptions used for the stochastic projection differ from those used for the deterministic projection (other than the rate of investment return), a justification for that difference must be provided.

(C) *Initial value of plan assets and cash flow projections.* Except as provided in paragraph (d)(5)(iv)(D) of this section, the cash flow projections must be based on—

(*1*) The fair market value of assets as of end of the most recent calendar quarter;

(*2*) Projected benefit payments that are consistent with the projected benefit payments under the most recent actuarial valuation; and

(*3*) Appropriate adjustments to projected benefit payments to include benefits for new hires who are reflected in the projected contribution amounts.

(D) *Requirement to reflect significant events.* The projected cash flows relating to contributions, withdrawal liability payments, and benefit payments must also be adjusted to reflect significant events that occurred after the most recent actuarial valuation. Significant events include—

(*1*) A plan merger or transfer;

(*2*) The withdrawal or the addition of employers that changed projected cash flows relating to contributions, withdrawal liability payments, or benefit payments by more than five percent;

(*3*) A plan amendment, a change in a collective bargaining agreement, or a change in a rehabilitation plan that changed projected cash flows relating to contributions, withdrawal liability payments, or benefit payments by more than five percent; or

(*4*) Any other event or trend that resulted in a material change in the projected cash flows.

(v) *Simplified determination for smaller plans.* In the case of a plan that is not large enough to be required to select a retiree representative under paragraph (b)(4) of this section, the determination of whether the benefit suspension (or a benefit suspension in combination with a partition of the plan) will satisfy the requirement that it is at a level that is reasonably estimated to enable the plan to avoid insolvency is permitted to be made without regard to paragraph (d)(5)(ii)(A)(*2*) of this section.

(vi) *Additional disclosure*—(A) *Disclosure of past experience for critical assumptions.* The application for suspension must include a disclosure of the total contributions, total contribution base units and average contribution rate, withdrawal liability payments, and the rate of return on plan assets for each of the 10 plan years preceding the plan year in which the application is submitted.

(B) *Sensitivity of results to investment return assumptions.* The application must include deterministic projections of the plan's solvency ratio over the extended period using two alternative assumptions for the plan's rate of return. These alternatives are that the plan's future rate of return will be lower than the assumed rate of return used under paragraph (d)(5)(iv)(B) of this section by—

(*1*) One percentage point; and

(*2*) Two percentage points.

(C) *Sensitivity of results to industry level assumptions.* The application must include deterministic projections of the plan's solvency ratio over the extended period using two alternative assumptions for the future contribution base units. These alternatives are that the future contribution base units—

(*1*) Continue under the same trend as the plan experienced over the past 10 years; and

(*2*) Continue under the trend identified in paragraph (d)(5)(vi)(C)(*1*) of this section reduced by one percentage point.

(D) *Projection of funded percentage.* The application must include an illustration, prepared on a deterministic basis, of the projected value of plan assets, the accrued liability of the plan (calculated using the unit credit funding method), and the funded percentage for each year in the extended period.

(6) *Equitable distribution*—(i) *In general.* Any suspension of benefits must be equitably distributed across the participant and beneficiary population, taking into account factors, with respect to participants and beneficiaries and their benefits, that may include one or more of the factors described in paragraph (d)(6)(ii) of this section. If a suspension of benefits applies differently to different categories or groups of participants and beneficiaries, then the suspension of benefits is equitably distributed across the

participant and beneficiary population only if under the suspension—

(A) Within each such category or group, the individuals are treated consistently;

(B) Any difference in treatment among the different categories or groups is based on relevant factors reasonably selected by the plan sponsor, such as the factors described in paragraph (d)(6)(ii) of this section; and

(C) Any such difference in treatment is based on a reasonable application of the relevant factors.

(ii) *Factors that may be considered*—(A) *In general.* In accordance with paragraph (d)(6)(i)(B) of this section, if there is any difference in the application of the suspension of benefits between one classification of participants and beneficiaries and another classification of participants and beneficiaries, that difference must be based reasonably on the statutory factors (described in paragraph (d)(6)(ii)(B) of this section) and any other factors reasonably selected by the plan sponsor. For example, it would be reasonable for a plan sponsor to conclude that the statutory factor described in paragraph (d)(6)(ii)(B)(*3*) of this section (amount of benefit) is a factor that should be taken into account as justifying a lesser benefit reduction for participants or beneficiaries whose benefits are closer to the level of the PBGC guarantee than for others. In addition, it would be reasonable for a plan sponsor to conclude that the presumed financial vulnerability of certain participants or beneficiaries who are reasonably deemed to be in greater need of protection than other participants or beneficiaries is a factor that should be taken into account as justifying a lesser benefit reduction (as a percentage or otherwise) for those participants or beneficiaries than for others.

(B) *Statutory factors.* Factors that may be selected as a basis for differences in the application of a suspension of benefits include, when reasonable under the circumstances, the following statutory factors:

(*1*) The age and life expectancy of the participant and/or beneficiary;

(*2*) The length of time that benefits have been in pay status;

(*3*) The amount of benefits;

(*4*) The type of benefit, such as survivor benefit, normal retirement benefit, or early retirement benefit;

(*5*) The extent to which a participant or beneficiary is receiving a subsidized benefit;

(*6*) The extent to which a participant or beneficiary has received post-retirement benefit increases;

(*7*) The history of benefit increases and reductions for participants and beneficiaries;

(*8*) The number of years to retirement for active employees;

(*9*) Any differences between active and retiree benefits;

(*10*) The extent to which active participants are reasonably likely to withdraw support for the plan, accelerating employer withdrawals from the plan and increasing the risk of additional benefit reductions for participants in and out of pay status; and

(*11*) The extent to which a participant's or beneficiary's benefits are attributable to service with an employer that failed to pay its full withdrawal liability.

(iii) *Reasonable application of factors.* A suspension of benefits will not satisfy the requirement to be equitably distributed if it is based on an unreasonable application of the factors referred to in paragraph (d)(6)(ii) of this section. For example, it would constitute an unreasonable application of the factor described in paragraph (d)(6)(ii)(B)(*3*) of this section (amount of benefit) if that factor were used to justify a larger suspension for participants with smaller benefits.

(iv) *Examples.* The following examples illustrate the rules on equitable distribution of a suspension of benefits in this paragraph (d)(6). As a simplifying assumption for purposes of these examples, it is assumed that the facts of each example describe all of the factors that are included in the application discussed in the example (provided, however, that, in the case of a plan described in section 432(e)(9)(D)(vii), the examples are not intended to illustrate the application of section 432(e)(9)(D)(vii) or its effect on the analysis or conclusions in the examples). Throughout these examples, the guarantee-based, age-based, and disability-based limitations of section 432(e)(9)(D)(i), (ii), and (iii) are referred to as the individual limitations on benefit suspensions.

Example 1. (i) *Facts.* A suspension of benefits provides that, subject to the individual limitations on benefit suspensions, benefits for all participants and beneficiaries are reduced by the same percentage, and explains the rationale for this reduction.

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations.

Example 2. (i) *Facts.* A suspension of benefits provides that, subject to the age-based and disability-based limitations of section 432(e)(9)(D)(ii) and (iii), the portion of each participant's and beneficiary's benefit that exceeds the guarantee-based limitation of section 432(e)(9)(D)(i) is reduced by the same percentage, and explains the rationale for this reduction.

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations. The result would be the same if, instead, the suspension of benefits applies only to benefits that exceed a multiple (in excess of 100%) of the guarantee-based limitation.

Example 3. (i) *Facts.* A plan was previously amended to provide an ad hoc 15% increase to the benefits of all participants and beneficiaries (including participants who, at the time, were no longer earning service under the plan, which therefore included retirees and deferred vested participants). The plan sponsor applies for a suspension of benefits. Under the suspension of benefits, subject to the individual limitations on benefit suspensions, benefits for all participants and beneficiaries who were no longer earning service under the plan at the time of the ad hoc amendment are reduced by eliminating the amendment for those individuals. The suspension application explains why the benefit reduction is based on the statutory factors in paragraph (d)(6)(ii)(B)(*6*) of this section (the extent to which a participant or beneficiary has received post-retirement benefit increases), including application of the reduction to those who, at the time of the previous benefit increase, were either retired participants or deferred vested participants, and in paragraph (d)(6)(ii)(B)(*7*) of this section (the history of benefit increases and reductions), and why it is reasonable to apply the factors in this manner.

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations. This is because the difference in treatment among the different groups of participants is based on whether a participant has received post-retirement benefit increases (in this case, whether a participant was earning service under the plan at the time of the benefit increase amendment), which under these facts is a relevant factor that may be reasonably selected by the plan sponsor, and the difference in treatment between the groups of participants (eliminating the amendment only for benefits with respect to participants who were no longer earning service at the time of the amendment) is based on a reasonable application of that factor.

Example 4. (i) *Facts.* A plan contains a provision that provides a ''thirteenth check'' in plan years for which the investment return is greater than 7% (which was the assumed rate of return under the plan's actuarial valuation). The plan sponsor applies for a suspension of benefits. Under the suspension of benefits, subject to the individual limitations on benefit suspensions, benefits for all participants and beneficiaries are reduced by eliminating the ''thirteenth check'' for all those individuals. The suspension application explains why the benefit reduction is based on the statutory factors in paragraph (d)(6)(ii)(B)(*6*) of this section (the extent to which a participant or beneficiary has received post-retirement benefit increases) and in paragraph

(d)(6)(ii)(B)(*7*) of this section (the history of benefit increases and reductions), and why it is reasonable to apply the factors in this manner.

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations.

Example 5. (i) *Facts.* A plan was previously amended to reduce future accruals from $60 per year of service to $50 per year of service. The plan sponsor applies for a suspension of benefits. Under the suspension of benefits, subject to the individual limitations on benefit suspensions, the accrued benefits for all participants and beneficiaries are reduced to $50 per year of service (and applies the plan's generally applicable adjustments for early retirement and form of benefit). The suspension application explains why the benefit reduction is based on the statutory factor in paragraph (d)(6)(ii)(B)(*7*) of this section (the history of benefit increases and reductions), and why it is reasonable to apply the factors in this manner.

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations. This is because the difference in treatment among the different groups of participants is based on the history of benefit reductions and a discrepancy between active and retiree benefits, which under these facts are relevant factors that may be reasonably selected by the plan sponsor, and the difference in treatment between the groups of participants (reducing the $60 benefit multiplier to $50 per year of service for those participants who had accrued any benefits under the $60 multiplier) is based on a reasonable application of those factors.

Example 6. (i) *Facts.* The facts are the same as in *Example 5,* except that no plan amendments have previously reduced future accruals or other benefits for active participants. Under the suspension of benefits, subject to the individual limitations on benefit suspensions, benefits for deferred vested participants, retirees and beneficiaries who have commenced benefits are reduced, but no reduction applies to active participants. The suspension of benefits is not accompanied by any reductions in future accruals or other benefits for active participants.

(ii) *Conclusion.* The suspension of benefits is not equitably distributed across the participant and beneficiary populations. This is because, under these facts, no relevant factor (such as a previous reduction in benefits applicable only to active participants) has been reasonably selected by the plan sponsor to justify the proposed difference in treatment among the categories.

Example 7. (i) *Facts.* The facts are the same as in *Example 6,* except that the suspension of benefits provides for a reduction that applies to both active and inactive participants. However, the reduction that applies to active participants is smaller than the reduction that applies to inactive participants because the plan sponsor concludes, as explained and supported in the application for suspension, that active participants are reasonably likely to withdraw support for the plan if any larger reduction is applied.

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations. This is because the difference in treatment among the different groups of participants is based on the extent to which active participants are reasonably likely to withdraw support for the plan, which under these facts is a relevant factor that may reasonably be selected by the plan sponsor, and the difference in treatment between the two groups of participants (applying a greater suspension to inactive than to active participants) is based on a reasonable application of that factor.

Example 8. (i) *Facts.* A suspension of benefits provides that, subject to the individual limitations on benefit suspensions, the benefits for participants and beneficiaries attributable to service with an employer that failed to pay its full withdrawal liability are reduced by 50%. The plan sponsor applies for a suspension of benefits. As explained in the suspension application, the present value of the benefit reduction with respect to the former employees of one such employer is significantly greater than the unpaid withdrawal liability for that employer. Benefits for participants and beneficiaries attributable to service with all other employers are reduced by 10%.

(ii) *Conclusion.* The suspension of benefits is not equitably distributed across the participant and beneficiary populations. This is because although the difference in treatment among the different groups of participants is based on a relevant factor that may reasonably be selected by the plan sponsor, the difference in treatment between the groups of participants is not based on a reasonable application of that factor.

Example 9. (i) *Facts.* A suspension of benefits provides that, subject to the individual limitations on benefit suspensions, the benefits for all participants and beneficiaries are reduced by the same percentage, except that the benefits for employees and former employees of a particular employer that is actively represented on the plan's Board of Trustees are reduced by a specified lesser percentage.

(ii) *Conclusion.* The suspension of benefits is not equitably distributed across the participant and beneficiary populations. This is because, under these facts, no relevant factor has been reasonably selected by the plan sponsor to justify the difference in treatment among the groups of employees.

Example 10. (i) *Facts.* The facts are the same as in *Example 9,* except that the particular employer whose employees and former employees are subject to the lesser benefit reduction is the union that also participates in the plan.

(ii) *Conclusion.* The suspension of benefits is not equitably distributed across the participant and beneficiary populations. This is because, under these facts, no relevant factor has been reasonably selected by the plan sponsor to justify the difference in treatment among the groups of employees.

Example 11. (i) *Facts.* A suspension of benefits provides that, subject to the individual limitations on benefit suspensions, the monthly benefit of all participants and beneficiaries is reduced to 110% of the monthly benefit that is guaranteed by the PBGC under section 4022A of ERISA. The plan sponsor applies for a suspension of benefits. As explained in the suspension application, this is because the plan sponsor is applying to the PBGC for a partition of the plan, which requires the plan sponsor to have implemented the maximum benefit suspensions under section 432(e)(9).

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations.

Example 12. (i) *Facts.* The facts are the same as in *Example 1,* except that the suspension of benefits provides that the protection for benefits based on disability also includes payments to a beneficiary of a participant who had been receiving benefits based on disability at the time of death.

(ii) *Conclusion.* The suspension of benefits is equitably distributed across the participant and beneficiary populations because this suspension design is a reasonable application of the statutory factor in paragraph (d)(6)(ii)(B)(*4*) of this section (type of benefit).

(7) *Effective date of suspension made in combination with partition.* [The text of the proposed amendments to § 1.432(e)(9)-1(d)(7) is the same as § 1.432(e)(9)–1T(d)(7) published elsewhere in this issue of the **Federal Register**.]

(e) *Benefit improvements*—(1) *Limitations on benefit improvements.* This paragraph (e) sets forth rules for the application of section 432(e)(9)(E). A plan satisfies the criteria in section 432(e)(9)(E) only if, during the period that any suspension of benefits remains in effect, the plan sponsor does not implement any benefit improvement except as provided in this paragraph (e). Paragraph (e)(2) of this section describes limitations on a benefit improvement for participants and beneficiaries who are not yet in pay status. Paragraph (e)(3) of this section describes limitations on a benefit improvement for participants and beneficiaries who are in pay status. Paragraph (e)(4) of this section provides that the limitations in this paragraph (e) generally apply in addition to other limitations on benefit increases that apply to a plan. Paragraph (e)(5) of this section defines benefit improvement.

(2) *Limitations on benefit improvements for those not in pay status*—(i) *Equitable distribution for those in pay status and solvency projection.* During the period that any suspension of benefits under a plan remains in effect, the plan sponsor may not increase the liabilities of the plan by reason of any benefit improvement for any participant or beneficiary who was not in pay status for any plan year before the plan year for which the benefit improvement takes effect, unless—

(A) The present value of the total liabilities for a benefit improvement for

participants and beneficiaries whose benefit commencement dates were before the first day of the plan year for which the benefit improvement takes effect is not less than the present value of the total liabilities for a benefit improvement for participants and beneficiaries who were not in pay status by that date;

(B) The plan sponsor equitably distributes the benefit improvement among the participants and beneficiaries whose benefit commencement dates were before the first day of the plan year in which the benefit improvement is proposed to take effect; and

(C) The plan actuary certifies that after taking into account the benefit improvement, the plan is projected to avoid insolvency indefinitely.

(ii) *Rules of application*—(A) *Present value determination.* For purposes of paragraph (e)(2)(i)(A) of this section, the present value of the total liabilities for a benefit improvement is the present value as of the first day of the plan year in which the benefit improvement is proposed to take effect, using actuarial assumptions in accordance with section 431.

(B) *Factors relevant to equitable distribution.* The evaluation of whether a benefit improvement is equitably distributed for purposes of paragraph (e)(2)(i)(B) of this section must take into account the relevant factors described in paragraph (d)(6)(ii)(B) of this section and the extent to which the benefits of the participants and beneficiaries were suspended.

(C) *Actuarial certification.* The certification in paragraph (e)(2)(i)(C) of this section must be made using the standards described in paragraphs (d)(5)(ii), (iv), and (v) of this section, substituting the plan year that includes the effective date of the benefit improvement for the plan year that includes the effective date of the suspension.

(iii) *Special rule for certain benefit increases.* The limitations of this paragraph (e) do not apply to a resumption of suspended benefits or plan amendment that increases liabilities with respect to participants and beneficiaries not in pay status by the first day of the plan year in which the benefit improvement took effect that—

(A) The Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor, determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan; or

(B) Is required as a condition of qualification under section 401 or to comply with other applicable law, as determined by the Secretary of the Treasury.

(3) *Limitation on resumption of suspended benefits only for those in pay status.* The plan sponsor may increase liabilities of the plan by eliminating some or all of the suspension that applies solely to participants and beneficiaries in pay status at the time of the resumption, provided that the plan sponsor equitably distributes the value of those resumed benefits among participants and beneficiaries in pay status, taking into account the relevant factors described in paragraph (d)(6)(ii)(B) of this section. A resumption of benefits that is described in this paragraph (e)(3) is not subject to the limitations on a benefit improvement under section 432(f) (relating to restrictions on benefit increases for plans in critical status).

(4) *Additional limitations.* Except as provided in paragraph (e)(3) of this section, the limitations on a benefit improvement under this paragraph (e) are in addition to the limitations in section 432(f) and any other applicable limitations on increases in benefits imposed on a plan.

(5) *Definition of benefit improvement*—(i) *In general.* For purposes of this paragraph (e), the term benefit improvement means, with respect to a plan, a resumption of suspended benefits, an increase in benefits, an increase in the rate at which benefits accrue, or an increase in the rate at which benefits become nonforfeitable under the plan.

(ii) *Effect of expiration of suspension.* In the case of a suspension of benefits that expires as of a date that is specified in the plan amendment implementing the suspension, the resumption of benefits solely from the expiration of that period is not treated as a benefit improvement.

(f) *Notice requirements*—(1) *In general.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(1) is the same as § 1.432(e)(9)–1T(f)(1) published elsewhere in this issue of the **Federal Register**.]

(2) *Content of notice.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(2) is the same as § 1.432(e)(9)–1T(f)(2) published elsewhere in this issue of the **Federal Register**.]

(3) *Form and manner*—(i) *Timing.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(3)(i) is the same as § 1.432(e)(9)–1T(f)(3)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Method of delivery of notice*—(A) *Written or electronic delivery.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(3)(ii)(A) is the same as § 1.432(e)(9)–1T(f)(3)(ii)(A) published elsewhere in this issue of the **Federal Register**.]

(B) *No alternative method of delivery.* A notice under this paragraph (f) must be provided in written or electronic form.

(iii) *Additional information in notice.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(3)(iii) is the same as § 1.432(e)(9)–1T(f)(3)(iii) published elsewhere in this issue of the **Federal Register**.]

(iv) *No false or misleading information.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(3)(iv) is the same as § 1.432(e)(9)–1T(f)(3)(iv) published elsewhere in this issue of the **Federal Register**.]

(4) *Other notice requirement.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(4) is the same as § 1.432(e)(9)–1T(f)(4) published elsewhere in this issue of the **Federal Register**.]

(5) *Examples.* [The text of the proposed amendments to § 1.432(e)(9)–1(f)(5) is the same as § 1.432(e)(9)–1T(f)(5) published elsewhere in this issue of the **Federal Register**.]

(g) *Approval or denial of an application for suspension of benefits*—(1) *Application.* [The text of the proposed amendments to § 1.432(e)(9)–1(g)(1) is the same as § 1.432(e)(9)–1T(g)(1) published elsewhere in this issue of the **Federal Register**.]

(2) *Solicitation of comments.* [The text of the proposed amendments to § 1.432(e)(9)–1(g)(2) is the same as § 1.432(e)(9)–1T(g)(2) published elsewhere in this issue of the **Federal Register**.]

(3) *Approval or denial*—(i) *Deemed approval.* [The text of the proposed amendments to § 1.432(e)(9)–1(g)(3)(i) is the same as § 1.432(e)(9)–1T(g)(3)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Notice of denial.* [The text of the proposed amendments to § 1.432(e)(9)–1(g)(3)(ii) is the same as § 1.432(e)(9)–1T(g)(3)(ii) published elsewhere in this issue of the **Federal Register**.]

(iii) *Special rules for systemically important plans.* [The text of the proposed amendments to § 1.432(e)(9)–1(g)(3)(iii) is the same as § 1.432(e)(9)–1T(g)(3)(iii) published elsewhere in this issue of the **Federal Register**.]

(iv) *Agreement to stay 225-day period.* The Secretary of the Treasury and the plan sponsor may mutually agree in writing to stay the 225-day period described in paragraph (g)(3)(i) of this section.

(4) *Consideration of certain factors.* In evaluating whether the plan sponsor has satisfied the requirement of paragraph

(c)(3)(i)(A) of this section, the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor, will review the plan sponsor's consideration of each of the factors under paragraph (c)(3)(ii) of this section (and any other factor that the plan sponsor considered).

(5) *Standard for accepting plan sponsor determinations.* In evaluating the plan sponsor's application, the Secretary of the Treasury will accept the plan sponsor's determinations in paragraph (c)(3) of this section unless the Secretary concludes, in consultation with the PBGC and the Secretary of Labor, that the determinations were clearly erroneous.

(6) *Plan-sponsor certifications with respect to plan amendments.* The plan sponsor's application described in paragraph (g)(1) of this section will not be approved unless the plan sponsor certifies that if the plan sponsor receives final authorization to suspend as described in paragraph (h)(6) of this section with respect to the proposed benefit suspension (or, in the case of a systemically important plan, a proposed or modified benefit suspension), the plan sponsor chooses to implement the suspension, and the plan sponsor adopts the amendment described in paragraph (a)(1) of this section, then it will timely amend the plan to provide that—

(i) If the plan sponsor fails to make the annual determinations under section 432(e)(9)(C)(ii), then the suspension of benefits will cease as of the first day of the first plan year following the plan year in which the plan sponsor fails to make the annual-plan-sponsor determinations in paragraph (c)(4) of this section; and

(ii) Any future benefit improvement must satisfy the requirements of section 432(e)(9)(E).

(7) *Special Master.* [The text of the proposed amendments to § 1.432(e)(9)–1(g)(7) is the same as § 1.432(e)(9)–1T(g)(7) published elsewhere in this issue of the **Federal Register**.]

(h) *Participant vote on proposed benefit reduction*—(1) *Requirement for vote*—(i) *In general.* [The text of the proposed amendments to § 1.432(e)(9)–1(h)(1)(i) is the same as § 1.432(e)(9)–1T(h)(1)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Communication by plan sponsor.* The plan sponsor must take reasonable steps to inform eligible voters about the proposed suspension and the vote. This includes all eligible voters who may be contacted by reasonable efforts in accordance with paragraph (f)(1) of this section. Anyone whom the plan sponsor has been able to locate through these means (or who has otherwise been located by the plan sponsor) must be sent a ballot described in paragraph (h)(3) of this section.

(2) *Administration of vote.* [Reserved]

(3) *Ballots*—(i) *In general.* The plan sponsor must provide a ballot for the vote that includes the following—

(A) A description of the proposed suspension and its effect, including the effect of the suspension on each category or group of individuals affected by the suspension and the extent to which they are affected;

(B) A description of the factors considered by the plan sponsor in designing the benefit suspension, including but not limited to the factors in paragraph (d)(6)(ii) of this section;

(C) A description of whether the suspension will remain in effect indefinitely or will expire by its own terms (and, if it will expire by its own terms, when that will occur);

(D) A statement from the plan sponsor in support of the proposed suspension;

(E) A statement in opposition to the proposed suspension compiled from comments received pursuant to the solicitation of comments pursuant to paragraph (g)(2) of this section;

(F) A statement that the proposed suspension has been approved by the Secretary of the Treasury, in consultation with the PBGC and the Secretary of Labor;

(G) A statement that the plan sponsor has determined that the plan will become insolvent unless the proposed suspension takes effect (including the year in which insolvency is projected to occur without a suspension of benefits), and an accompanying statement that this determination is subject to uncertainty;

(H) A statement that insolvency of the plan could result in benefits lower than benefits paid under the proposed suspension and a description of the projected benefit payments in the event of plan insolvency;

(I) A statement that insolvency of the PBGC would result in benefits lower than benefits otherwise paid in the case of plan insolvency;

(J) A statement that the plan's actuary has certified that the plan is projected to avoid insolvency, taking into account the proposed suspension of benefits (and, if applicable, a proposed partition plan), and an accompanying statement that the actuary's projection is subject to uncertainty;

(K) A statement that the suspension will go into effect unless a majority of all eligible voters vote to reject the suspension and that, therefore, a failure to vote has the same effect on the outcome of the vote as a vote in favor of the suspension;

(L) A copy of the individualized estimate that was provided as part of the earlier notice described in section 432(e)(9)(F) (or, if that individualized estimate is no longer accurate, a corrected version of that estimate); and

(M) A description of the voting procedures, including the deadline for voting.

(ii) *Additional rules.* [The text of the proposed amendments to § 1.432(e)(9)–1(h)(3)(ii) is the same as § 1.432(e)(9)–1T(h)(3)(ii) published elsewhere in this issue of the **Federal Register**.]

(iii) *Ballot must be approved.* [The text of the proposed amendments to § 1.432(e)(9)–1(h)(3)(iii) is the same as § 1.432(e)(9)–1T(h)(3)(iii) published elsewhere in this issue of the **Federal Register**.]

(4) *Implementing suspension following vote*—(i) *In general.* [The text of the proposed amendments to § 1.432(e)(9)–1(h)(4)(i) is the same as § 1.432(e)(9)–1T(h)(4)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) *Effect of not sending ballot.* Any eligible voters to whom ballots have not been provided (because the individuals could not be located) will be treated as voting to reject the suspension at the same rate (in other words, in the same percentage) as those to whom ballots have been provided.

(5) *Systemically important plans.* [The text of the proposed amendments to § 1.432(e)(9)–1(h)(5) is the same as § 1.432(e)(9)–1T(h)(5) published elsewhere in this issue of the **Federal Register**.]

(6) *Final authorization to suspend.* [The text of the proposed amendments to § 1.432(e)(9)–1(h)(6) is the same as § 1.432(e)(9)–1T(h)(6) published elsewhere in this issue of the **Federal Register**.]

(i) [Reserved].

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–14948 Filed 6–17–15; 11:15 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–0328]

RIN 1625–AA08

Special Local Regulations for Marine Events, Manasquan River; Seaside Park, New Jersey

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is temporarily changing the enforcement date of the special local regulation for the recurring New Jersey Offshore Grand Prix, held in the waters of the Manasquan River and Atlantic Ocean, near Seaside Park, New Jersey. The change of enforcement date for the special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in the waters of the Manasquan River and Atlantic Ocean near Seaside Park, New Jersey, from 10 a.m. to 5 p.m. on July 9, 2015, and July 10, 2015.

DATES: Comments and related material must be received by the Coast Guard on or before June 26, 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 Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@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
COTP Captain of the Port

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2015–0328] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2015–0328) 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. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The regulation for this marine event may be found at 33 CFR 100.501, Table to § 100.501, section (a), line ''7''.

C. Basis and Purpose

The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations.

The purpose of this special local regulation is to provide for the safety of participants, spectator craft, and other vessels transiting the event area while the Grand Prix is occurring.

D. Discussion of Proposed Rule

The Coast Guard has previously published a list of annual marine events within the Fifth Coast Guard District and special local regulation locations at 33 CFR 100.501. The Table to § 100.501 identifies special local regulations by COTP zone, with the COTP Delaware Bay zone listed in section ''(a.)'' of the Table. The Table to § 100.501, at section (a.) event Number ''7'', describes the enforcement date and regulated location for this marine event.

The date listed in the Table has the marine event on the third Wednesday and Thursday of July. However, this temporary rule changes the marine event date to July 9, 2015 and July 10, 2015, to reflect the actual date of the event for this year.

The Coast Guard proposes to temporarily suspend the regulation listed in Table to § 100.501, section (a) event Number ''7'', and insert this temporary regulation at Table to § 100.501, at section (a.) as event Number ''15'', in order to reflect that the special local regulation will be effective and enforced from 10:00 a.m. until 5:00 p.m. on July 9, 2015 and July 10, 2015. This change is needed to accommodate the sponsor's event plan. No other portion of the Table to § 100.501 or other provisions in § 100.501 shall be affected by this regulation.

The regulated area of this special local regulation includes all the waters of the Manasquan River from the New York and Long Branch Railroad Bridge to Manasquan Inlet, together with all of the navigable waters of the United States from Asbury Park, New Jersey, latitude 40°14′00″ N; southward to Seaside Park, New Jersey latitude 39°55′00″ N, from the New Jersey shoreline seaward to the limits of the Territorial Sea as defined in 33 CFR 2.22.

A fleet of spectator vessels is anticipated to gather nearby to view the marine event. Due to the need for vessel control during the marine event vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. Under provisions of 33 CFR 100.501, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

The Coast Guard may assign an event patrol, as described in 33 CFR 100.40, to each regulated event listed in the table. Additionally, a Patrol Commander may be assigned to oversee the patrol. The event patrol and Patrol Commander may be contacted on VHF–FM Channel 16. During the event, the Coast Guard Patrol Commander may forbid and control the movement of all vessels in the regulated area(s). When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard Patrol Commander may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

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. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Special local regulation to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the special local regulation with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the boat race.

2. Impact on Small Entities

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

This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor or transit along a portion of Manasquan River and Inlet, as well as the New Jersey shore from Ashbury Park and Seaside Park, New Jersey to the Territorial seas, on July 9, 2015 and July 10, 2015 from 10:00 a.m. to 5:00 p.m., unless cancelled earlier by the Captain of the Port.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port, Delaware Bay, or his designated representative and the special local regulation is limited in size and duration. The Coast Guard will issue maritime advisories widely available to all waterway users.

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

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR part 100, applicable to special local regulations on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the waters of the Atlantic Ocean adjacent to Ocean City, NJ, in order to protect the safety of life and property on the waters for the duration of the air show. This rule is categorically excluded from further review under paragraph 34(h) 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 rule.

List of Subjects in 33 CFR Part 100

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 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In the Table to § 100.501, suspend lines No. (a.)7; and

■ 3. Add line No. (a.)15 to the Table to § 100.501 to read as follows:

* * * * *

(a.) COAST GUARD SECTOR DELAWARE BAY—COTP ZONE

No.	Date	Event	Sponsor	Location
15	July 9th, 10th	New Jersey Offshore Grand Prix.	Offshore Performance Assn. & New Jersey Offshore Racing Assn.	The waters of the Manasquan River from the New York and Long Branch Railroad Bridge to Manasquan Inlet, togetwith all of the navigable waters of the United States from Asbury Park, New Jersey, latitude 40°14′00″ N; southward to Seaside Park, New Jersey latitude 39°55′00″ N, from the New Jersey shoreline seaward to the limits of the Territorial Sea. The race course area extends from Asbury Park to Seaside Park from the shoreline, seaward to a distance of 8.4 nautical miles.

* * * * *

Dated: June 2, 2015.

B.A. Cooper,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2015–15185 Filed 6–18–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0270; FRL–9929–05–Region 7]

Partial Approval and Disapproval of Air Quality State Implementation Plans (SIP); State of Nebraska; Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone (O_3), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is proposing to disapprove Nebraska's SIP as it relates to section 110 with respect to visibility, for the 2008 O_3 NAAQS.

DATES: Comments must be received on or before July 20, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0270, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: crable.gregory@epa.gov.*
3. *Mail:* Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.
4. *Hand Delivery or Courier:* Deliver your comments to Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2015–0270. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and should be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551–7391; *fax number:* (913) 551–7065; *email address: crable.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we refer to EPA. This section provides additional information by addressing the following questions:

I. What is a section 110(a)(1) and (2) infrastructure SIP?
II. What are the applicable elements under sections 110(a)(1) and (2)?
III. What is EPA's approach to the review of Infrastructure SIP submissions?
IV. What is EPA's evaluation of how the State addressed the relevant elements of Sections 110(a)(1) and (2)?
V. What action is EPA proposing?
VI. Statutory and Executive Order Review

I. What is a section 110(a)(1) and (2) infrastructure SIP?

Section 110(a)(1) of the CAA requires, in part, that states make a SIP submission to EPA to implement, maintain and enforce each of the NAAQS promulgated by EPA after reasonable notice and public hearings. Section 110(a)(2) includes a list of specific elements that such infrastructure SIP submissions must address. SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. These SIP submissions are commonly referred to as ''infrastructure'' SIPs.

II. What are the applicable elements under sections 110(a)(1) and (2)?

On March 12, 2008, EPA promulgated a revised NAAQS for ozone based on 8-hour average concentrations. The level of the 2008 8-hour ozone NAAQS (hereafter the 2008 O_3 NAAQS) was revised from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436).

For the 2008 O_3 NAAQS, states typically have met many of the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous NAAQS. Nevertheless, pursuant to section 110(a)(1), states must review and revise, as appropriate, their existing SIPs to ensure that the SIPs are adequate to address the 2008 O_3 NAAQS. To assist states in meeting this statutory requirement, EPA issued guidance on September 13, 2013 (2013 Guidance), addressing the infrastructure

SIP elements required under section 110(a)(1) and (2) for the 2008 O_3 NAAQS.[1] EPA will address these elements below under the following headings: (A) Emission limits and other control measures; (B) Ambient air quality monitoring/data system; (C) Program for enforcement of control measures (prevention of significant deterioration) (PSD)), New Source Review for nonattainment areas, and construction and modification of all stationary sources; (D) Interstate and international transport; (E) Adequate authority, resources, implementation, and oversight; (F) Stationary source monitoring system; (G) Emergency authority; (H) Future SIP revisions; (I) Nonattainment areas; (J) Consultation with government officials, public notification, prevention of significant deterioration (PSD), and visibility protection; (K) Air quality and modeling/data; (L) Permitting fees; and (M) Consultation/participation by affected local entities.

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the February 11, 2013, SIP submission from Nebraska that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 O_3 NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[2] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[3] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[4] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[5] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a

[1] Stephen D. Page, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum to EPA Regional Air Division Directors, Regions I–X, September 13, 2013.

[2] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[3] See, *e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[4] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[5] See, *e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[6]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[7]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[8] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[9] EPA developed the 2013 Guidance document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within the 2013 guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[10] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and New Source Review (NSR) pollutants,

[6] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[7] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[8] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[9] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[10] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d 7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by this litigation (which culminated in the Supreme Court's recent decision, 134 SCt. 1584), EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

including greenhouse gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions [11]. It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

With respect to element[s] C and J, EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of element D(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Nebraska has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including greenhouse gases (GHGs).

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.* 40 CFR 51.166(b)(48)(v)). EPA anticipates a need to revise Federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to the EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States Court of Appeals for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only evaluating such submissions to assure that the state's program correctly

[11] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

addresses GHGs consistent with the Supreme Court's decision.

At present, EPA has determined the Nebraska's SIP is sufficient to satisfy elements C, D(i)(II), and J with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved Nebraska's PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy elements C, (D)(i)(II), and J. The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision. Accordingly, the Supreme Court decision does not affect EPA's proposed approval of Nebraska's infrastructure SIP as to the requirements of elements C, D(i)(II), and J.

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[12] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[13] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[14]

IV. What is EPA's evaluation of how the State addressed the relevant elements of sections 110(a)(1) and (2)?

EPA Region 7 received Nebraska's infrastructure SIP submission for the 2008 O_3 standard on February 11, 2013. The SIP submission became complete as a matter of law on August 11, 2013. EPA has reviewed Nebraska's infrastructure SIP submission and the applicable statutory and regulatory authorities and provisions referenced in those submissions or referenced in Nebraska's SIP. Below is EPA's evaluation of how the state addressed the relevant elements of section 110(a)(2) for the 2008 O_3 NAAQS.

(A) Emission limits and other control measures: Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters as needed to implement, maintain and enforce each NAAQS.[15]

The State of Nebraska's statutes and Air Quality Regulations authorize the Nebraska Department of Environmental Quality (NDEQ) to regulate air quality and implement air quality control regulations. Section 81–1504 of the Nebraska Revised Statutes authorizes NDEQ to act, among other things, as the state air pollution control agency for all purposes of the CAA and to develop comprehensive programs for the prevention, control and abatement of new or existing pollution to the air of the state. Air pollution is defined in Section 81–1502 of the Nebraska Revised Statutes as the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, property, or the conduct of business.

Section 81–1505(1) of the Nebraska Revised Statutes authorizes the Nebraska Environmental Quality Council (EQC) to adopt and promulgate rules which set air standards that will protect public health and welfare. The EQC is also authorized to classify air contaminant sources according to levels and types of discharges, emissions or other characteristics.

The 2008 O_3 NAAQS specified in 40 CFR part 50.10 was proposed and adopted into Nebraska title 129 chapter 4, section *005* of the Nebraska Administrative Code, by the EQC on June 20, 2013, with an effective date of December 9, 2013.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that the Nebraska SIP adequately addresses the requirements of section 110(a)(2)(A) for the 2008 O_3 NAAQS and is proposing to approve this element of the February 11, 2013, SIP submission.

(B) Ambient air quality monitoring/data system: Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collection and analysis of ambient air quality data, and making these data available to EPA upon request.

To address this element, section 81–1505(12)(o) of the Nebraska Revised Statutes provides the enabling authority necessary for Nebraska to fulfill the requirements of section 110(a)(2)(B). This provision gives the EQC the authority to promulgate rules and

[12] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[13] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[14] See, *e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

[15] The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2010 SO_2 NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

regulations concerning the monitoring of emissions. Nebraska complies with 40 CFR part 50, appendix P with regards to the regulatory monitoring, compiling, and analysis of data on ambient air quality relative to the 2008 ozone 8-hour NAAQS. The Air Quality Division within NDEQ implements these requirements. Along with their other duties, the monitoring program within NDEQ's Air Compliance and Enforcement Program collects air monitoring data, quality assures the results, and reports the data. In accordance with the requirements of 40 CFR part 58 appendix D, section 4.1(a), Nebraska operates four O_3 monitors, three in the Omaha MSA and one in the Lincoln MSA.

NDEQ develops and administers the ambient air monitoring network plan and submits it annually to EPA for approval, including the plan for its O_3 monitoring network, as required by 40 CFR 58.10. Prior to submission to EPA, Nebraska makes the plans available for public review on NDEQ's Web site. See, *http://deq.ne.gov/Publica.nsf/Pubs_Air_Amb.xsp,* for NDEQ's 2014 Ambient Air Monitoring Network Plan. This Plan includes, among other things, the locations for the O_3 monitoring network. On February 9, 2015, EPA approved Nebraska's 2014 ambient air network monitoring plan. NDEQ also conducts five-year monitoring network assessments, including the O_3 monitoring network, as required by 40 CFR 58.10(d). Title 129, chapter 4, section *005* of the NAC requires that attainment with the O_3 standard be determined in accordance with the applicable Federal regulations in 40 CFR part 50, appendix S. Nebraska submits air quality data to EPA's Air Quality System (AQS) quarterly, pursuant to the provisions of work plans developed in conjunction with EPA grants to the state.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that the Nebraska SIP adequately addresses the requirements of section 110(a)(2)(B) for the 2008 O_3 NAAQS and is proposing to approve this element of the February 11, 2013, SIP submission.

(C) Program for enforcement of control measures (PSD, New Source Review for nonattainment areas, and construction and modification of all stationary sources): Section 110(a)(2)(C) requires states to include the following three elements in the SIP: (1) A program providing for enforcement of all SIP measures described in section 110(a)(2)(A); (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).[16]

(1) *Enforcement of SIP Measures.* With respect to enforcement of requirements of the SIP, the Nebraska statutes provide authority to enforce the requirements of section 81–1504(1) of the Nebraska Revised Statutes provide authority for NDEQ to enforce the requirements of the Nebraska Environmental Protection Act, and any regulations, permits, or final compliance orders issued under the provisions of that law. In addition, section 81–1504(7) authorizes NDEQ to issue orders prohibiting or abating discharges of waste into the air and requiring the modification, extension or adoption of remedial measures to prevent, control, or abate air pollution. Section 81–1507 authorizes NDEQ to commence an enforcement action for any violations of the Environmental Protection Act, any rules or regulations promulgated thereunder, or any orders issued by NDEQ. This enforcement action can not only seek civil penalties, but also require that the recipient take corrective action to address the violation. *See* section 81–1507(1) and 81–1508.02. Section 81–1508.01 provides for criminal penalties for knowing or willful violations of the statute, regulations or permit conditions, in addition to other acts described in that section.

(2) *Minor New Source Review.* Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. With respect to smaller state-wide minor sources (Nebraska's major source permitting program is discussed in (3) below), Nebraska has a program under title 129, chapter 17 of the NAC that requires such sources to first obtain a construction permit from NDEQ. The permitting process is designed to ensure that new and modified sources will not interfere with NAAQS attainment. NDEQ has the authority to require the source applying for the permit to undergo an air quality impact analysis. If NDEQ determines that emissions from a constructed or modified source interfere with attainment of the NAAQS, it may deny the permit until the source makes the necessary changes to obviate the objections to the permit issuance. *See* chapter 17, sections *008* and *009* of the NAC.

EPA has determined that Nebraska's minor new source review (NSR) program adopted pursuant to section 110(a)(2)(C) of the Act regulates emissions of NAAQS pollutants. EPA has also determined that certain provisions of the state's minor NSR program adopted pursuant to section 110(a)(2)(C) of the Act likely do not meet all the requirements found in EPA's regulations implementing that provision. *See* 40 CFR 51.160–51.164. EPA previously approved Nebraska's minor NSR program into the SIP, and at the time there was no objection to the provisions of this program. *See* 37 FR 10842 (May 31, 1972) and 60 FR 372 (January 4, 1995). Since then, the state and EPA have relied on the existing state minor NSR program to assure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS.

In this action, EPA is proposing to approve Nebraska's infrastructure SIP for the 2008 O_3 NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. In this action, EPA is not proposing to approve or disapprove the state's existing minor NSR program to the extent that it is inconsistent with EPA's regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for EPA to approve the infrastructure SIP for element (C) (*e.g.,* 76 FR 41076–76 FR 41079).

(3) *Prevention of Significant Deterioration (PSD) permit program.* Nebraska also has a program approved by EPA as meeting the requirements of part C, relating to prevention of significant deterioration of air quality. In order to demonstrate that Nebraska has met this sub-element, this PSD program must cover requirements not just for the 2008 O_3 NAAQS, but for all other regulated NSR pollutants as well.

Nebraska's implementing rule, title 129, chapter 19, Prevention of Significant Deterioration of Air Quality, incorporates the relevant portions of the

[16] As discussed in further detail below, this infrastructure SIP rulemaking will not address the Kansas program for nonattainment area related provisions, since EPA considers evaluation of these provisions to be outside the scope of infrastructure SIP actions.

Federal rule, 40 CFR 52.21 by reference. In this action, EPA is not proposing to approve or disapprove any state rules with regard to NSR reform requirements. EPA will act on NSR reform submittals through a separate rulemaking process. For Nebraska, we have previously approved Nebraska's NSR reform rules for attainment areas, *see* 76 FR 15852, March 22, 2011.

The Nebraska SIP also contains a permitting program for major sources and modifications in nonattainment areas (see title 129, chapter 17, section *013*). This section is currently not applicable to Nebraska because all areas of Nebraska are currently in attainment with the NAAQS. Even if it were applicable, the SIP's discussion of nonattainment areas is not addressed in this rulemaking (see discussion of the section 110(a)(2)(I) requirements for nonattainment areas, below).

With respect to the PSD program, title 129, chapter 19, of the NAC provides for the permitting of construction of a new major stationary source or a major modification of an existing major stationary source. Further, chapter 19, section *010* of the NAC establishes threshold emissions for establishing whether the construction project is a major source of regulated NSR pollutants, including but not limited to O_3.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that the Nebraska SIP adequately addresses the requirements of section 110(a)(2)(C) for the 2008 O_3 NAAQS and is proposing to approve this element of the February 11, 2013, SIP submission.

(D) Interstate and international transport: Section 110(a)(2)(D)(i) includes four requirements referred to as prongs 1 through 4. Prongs 1 and 2 are provided at section 110(a)(2)(D)(i)(I); Prongs 3 and 4 are provided at section 110(a)(2)(D)(i)(II). Section 110(a)(2)(D)(i)(I) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of any NAAQS in another state. Section 110(a)(2)(D)(i)(II) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or to protect visibility.

With regard to 110(a)(2)(D)(i)(I)—prongs 1 and 2, EPA is not proposing action at this time. The Agency plans to take action on this portion of the SIP consistent with Consent Decree 4:14-cv-03198–YGR.

With respect to the PSD requirements of section 110(a)(2)(D)(i)(II)—prong 3, EPA notes that Nebraska's satisfaction of the applicable infrastructure SIP PSD requirements for attainment/unclassifiable areas of the 1997 and 2006 $PM_{2.5}$ NAAQS have been detailed in the section addressing section 110(a)(2)(C). As discussed above for element (C)(3), EPA has previously approved Nebraska's NSR reform rules for attainment areas, and, as previously stated, Nebraska currently has no nonattainment areas (*See* 76 FR 15852, March 22, 2011). EPA also notes that the proposed action in that section related to PSD is consistent with the proposed approval related to PSD for section 110(a)(2)(D)(i)(II). Therefore, EPA is proposing to approve the PSD requirements of section 110(a)(2)(D)(i)(II)—prong 3.

EPA is proposing to disapprove Nebraska's SIP as it relates to section 110(a)(2)(D)(i)(II) with respect to visibility, or ''prong 4'' of the requirements of section 110(a)(2)(D). In its SIP submittal, Nebraska refers to its submittal of a SIP revision in July 2011 addressing the regional haze requirements. An approved regional haze SIP that fully meets the regional haze requirements in 40 CFR 51.308 would satisfy the requirements of section 110(a)(2)(D)(i)(II) for visibility protection as such a SIP would ensure that emissions from the state will not interfere with measures required to be included in other state SIPs to protect visibility. EPA has not, however, fully approved Nebraska's Regional Haze SIP.

On July 6, 2012, after reviewing Nebraska's submittal of a Regional Haze SIP, EPA published the ''Approval, Disapproval and Promulgation of Implementation Plans; State of Nebraska; Regional Haze State Implementation Plan; Federal Implementation Plan for Best Available Retrofit Technology Determination; Final Rule'' (77 FR 40150). In that action, EPA partially approved the SIP revision as meeting the applicable regional haze requirements set forth in sections 169A and 169B of the Act and in the Federal regulations codified at 40 CFR 51. 308, and the requirements of 40 CFR part 51, subpart F and appendices V and Y. EPA disapproved the SO_2 BART determinations for units 1 and 2 of the Gerald Gentleman Station (GGS) because they do not comply with EPA's regulations. EPA also disapproved Nebraska's long-term strategy insofar as it relied on the deficient SO_2 BART determination at GGS. Instead, EPA finalized a FIP relying on the Transport Rule as an alternative to BART for SO_2 emissions from GGS to address these deficiencies. EPA approved Nebraska's NO_X BART determination at GGS as SIP-strengthening and approved the CSAPR FIP as satisfying the requirements for the Regional Haze Rule with respect to NO_X. Given this, EPA cannot approve Nebraska's SIP as meeting the prong 4 requirements based on the absence of a fully approved Regional Haze SIP.

In the absence of a fully approved Regional Haze SIP, a state may meet the requirements of prong 4 by showing that its SIP contains adequate provisions to prevent emission from within the state from interfering with other states' measures to protect visibility. See, *e.g.* 76 FR 8326 (February 14, 2011). Nebraska did not, however, provide a demonstration in its infrastructure SIP that emissions within its jurisdiction do not interfere with other states' plans to protect visibility.

Section 110(a)(2)(D)(ii) also requires that the SIP insure compliance with the applicable requirements of sections 126 and 115 of the CAA, relating to interstate and international pollution abatement, respectively. Section 126(a) of the CAA requires new or modified sources to notify neighboring states of potential impacts from sources within the state. Although Nebraska sources have not been identified by EPA as having any interstate or international impacts under section 126 or section 115 in any pending actions relating to the 2008 O_3 NAAQS, the Nebraska regulations address abatement of the effects of interstate pollution. Title 129, chapter 14, section *010.03* of the NAC requires NDEQ, after receiving a complete PSD permit application, to notify EPA, as well as officials and agencies having cognizance where the proposed construction is to occur. This includes state or local air pollution control agencies and the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency; and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification. Finally, we believe that Nebraska could use the same statutory authorities previously discussed, primarily section 81–1505 of the Nebraska Revised Statutes, to respond to any future findings with respect to the 2008 O_3 NAAQS.

Section 115 of the CAA authorizes EPA to require a state to revise its SIP under certain conditions to alleviate international transport into another country. There are no final findings under section 115 of the CAA against Nebraska with respect to any air pollutant. Thus, the state's SIP does not need to include any provisions to meet the requirements of section 115.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA is not proposing action on section 110(a)(2)(D)(i)(I)—prongs 1 and 2 and is disapproving 110(a)(2)(D)(i)(II)—prong 4. However, EPA believes that Nebraska has the adequate infrastructure needed to address, 110(a)(2)(D)(i)(II)—prong 3 and 110 (a)(2)(D)(ii) for the 2008 O_3 NAAQS and is proposing to approve the February 11, 2013, submission regarding the 2008 O_3 infrastructure SIP requirements for those elements as indicated above.

(E) Adequate authority, resources, implementation, and oversight: Section 110(a)(2)(E) requires that SIPs provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements that the state comply with the requirements relating to state boards, pursuant to section 128 of the CAA; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan.

(1) Section 110(a)(2)(E)(i) requires states to establish that they have adequate personnel, funding and authority. With respect to adequate authority, we have previously discussed Nebraska's statutory and regulatory authority to implement the 2008 O_3 NAAQS, primarily in the discussion of section 110(a)(2)(A) above. Neither Nebraska nor EPA has identified any legal impediments in the state's SIP to implementation of the NAAQS.

With respect to adequate resources, NDEQ asserts that it has adequate personnel to implement the SIP. State statutes provide NDEQ the authority to establish bureaus, divisions and/or sections to carry out the duties and powers granted by the Nebraska state law to address the control of air pollution, to be administered by full-time salaried, bureau, division or section chiefs. See Nebraska Revised Statutes section 81–1504(14). NDEQ's Air Quality Division is currently divided into the Permitting Section, the Compliance Section, and the Program Planning and Development Unit.

With respect to funding, the Nebraska statutes require the EQC to establish various fees for sources, in order to fund the reasonable costs of implementing various air pollution control programs. For example, section 81–1505(12)(e) of the Nebraska Revised Statutes requires the EQC to establish a requirement for sources to pay fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality operating permit program. These costs include overhead charges for personnel, equipment, buildings and vehicles; enforcement costs; costs of emissions and ambient monitoring; and modeling analyses and demonstrations. See Nebraska Revised Statutes section 81–1505.04(2)(b). Similarly, section 81–1505(12)(a) requires the EQC to establish application fees for air contaminant sources seeking to obtain a permit prior to construction.

Section 81–1505.05 of the Nebraska Revised Statutes provides that all fees collected pursuant to section 81–1505.04 be credited to the ''Clean Air Title V Cash Fund'' to be used solely to pay for the direct and indirect costs required to develop and administer the air quality permit program. Similarly, section 81–1505.06 provides that all fees collected pursuant to section 81–1505(12) be deposited in the ''Air Quality Permit Cash Fund.''

Nebraska uses funds in the non-Title V subaccounts, along with General Revenue funds and EPA grants under, for example, sections 103 and 105 of the Act, to fund the programs. EPA conducts periodic program reviews to ensure that the state has adequate resources and funding to, among others, implement the SIP.

(2) Conflict of interest provisions—section 128. Section 110(a)(2)(E)(ii) requires that each state SIP meet the requirements of section 128, relating to representation on state boards and conflicts of interest by members of such boards. Section 128(a)(1) requires that any board or body which approves permits or enforcement orders under the CAA must have at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders under the CAA. Section 128(a)(2) requires that members of such a board or body, or the head of an agency with similar powers, adequately disclose any potential conflicts of interest.

On October 21, 2014, EPA approved Nebraska's SIP revision addressing section 128 requirements. For a detailed analysis concerning Nebraska's section 128 provisions, see EPA's approval of Nebraska's 2008 Lead infrastructure SIP (79 FR 62832).

(3) With respect to assurances that the state has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, section 81–1504(18) of the Nebraska Revised Statutes grants NDEQ the authority to encourage local units of government to handle air pollution problems within their own jurisdictions. NDEQ may delegate, by contract with governmental subdivisions which have adopted air pollution control programs, the enforcement of state-adopted air pollution control regulations within a specified region surrounding the jurisdictional area of the governmental subdivision. *See* section 81–1504(23). However, the Nebraska statutes also retain authority in NDEQ to carry out the provisions of state air pollution control law. Section 81–1504(1) gives NDEQ ''exclusive general supervision'' of the administration and enforcement of the Nebraska Environmental Protection Act. In addition, section 81–1504(4) designates NDEQ as the air pollution control agency for the purposes of the CAA.

The State of Nebraska relies on two local agencies for assistance in implementing portions of the air pollution control program: Lincoln/Lancaster County Health Department and Omaha Air Quality Control. NDEQ oversees the activities of these local agencies to ensure adequate implementation of the plan. NDEQ utilizes sub-grants to the local agencies to provide adequate funding, and as an oversight mechanism. EPA conducts reviews of the local program activities in conjunction with its oversight of the state program.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(E) for the 2008 O_3 NAAQS submitted and is proposing to approve the February 11, 2013 submission regarding the 2008 O_3 infrastructure SIP requirements for this element.

(F) Stationary source monitoring system: Section 110(a)(2)(F) requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. Each SIP shall require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and requires that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

To address this element, section 81–1505(12)(o) of the Nebraska Revised Statutes gives the EQC the authority to promulgate rules and regulations for air pollution control, including requirements for owner or operator testing and monitoring of emissions. It also gives the EQC the authority to promulgate similar rules and regulations for the periodic reporting of these emissions. *See* section 81–1505(12)(l). Title 129 chapter 34, section *002* of the NAC incorporates various EPA reference methods for testing source emissions, including methods for O_3. The Federal test methods in 40 CFR part 60, appendix A are referenced in title 129, chapter 34 section *002.02.*

The Nebraska regulations also require that all Class I and Class II operating permits include requirements for monitoring of emissions. *See* title 129, chapter 8, sections *004.01* and *015* of the NAC. Furthermore, title 129, chapter 34, section *001* of the NAC allows NDEQ to order an emissions source to make or have tests made to determine the rate of contaminant emissions from the source whenever NDEQ has reason to believe that the existing emissions from the source exceed the applicable emissions limits.

The Nebraska regulations also impose reporting requirements on sources subject to permitting requirements. *See* title 129, chapter 6, section *001;* chapter 8, sections *004.03* and *015* of the NAC. Nebraska makes all monitoring reports submitted as part of Class I or Class II permit a publicly available document. Although sources can submit a claim of confidentiality for some of the information submitted, Nebraska regulations specifically exclude emissions data from being entitled to confidential protection. See title 129, chapter 7, section *004* of the NAC. Nebraska uses this information to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with emission regulations and additional EPA requirements.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(F) for the 2008 O_3 NAAQS submitted and is proposing to approve the February 11, 2013, submission regarding the infrastructure SIP requirements for this element.

(G) Emergency authority: Section 110(a)(2)(G) requires SIPs to provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment (comparable to the authorities provided in section 303 of the CAA), and to include contingency plans to implement such authorities as necessary.

Section 81–1507(4) of the Nebraska Revised Statutes states that whenever the Director of NDEQ finds that an emergency exists requiring immediate action to protect the public health and welfare, he or she may issue an order requiring that such action be taken as the Director deems necessary to meet the emergency. Title 129, chapter 38, section *003* of the NAC states that the conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency exist whenever the Director determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. This regulation also establishes action levels for various air pollutants. The action levels (which include ''Air Pollution Alert,'' ''Air Pollution Warning,'' and ''Air Pollution Emergency'') and associated contingency measures vary depending on the severity of the concentrations. Appendix I to title 129 of the NAC provides an Emergency Response Plan with actions to be taken under each of the severity levels. These steps are designed to prevent the excessive build-up of air pollutants to concentrations which can result in imminent and substantial danger to public health. Both the regulation at chapter 38 and the Emergency Response Plan are contained in the Federally approved SIP.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in that submission or referenced in Nebraska's SIP, EPA believes that the Nebraska SIP adequately addresses section 110(a)(2)(G) for the 2008 O_3 NAAQS submitted and is proposing to approve the February 11, 2013, submission regarding the 2008 O_3 infrastructure SIP requirements for this element.

(H) Future SIP revisions: Section 110(a)(2)(H) requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

As discussed previously, section 81–1504 of the Nebraska Revised Statutes authorizes NDEQ to regulate air quality and implement air quality control regulations. It also authorizes NDEQ to act as the state air pollution control agency for all purposes of the CAA. Section 81–1505(1) gives the EQC the authority to adopt and promulgate rules which set air standards that will protect public health and welfare. This authority includes the authority to revise rules as necessary to respond to a revised NAAQS.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has adequate authority to address section 110(a)(2)(H) for the 2008 O_3 NAAQS submitted and is proposing to approve this element in regard to the February 11, 2013, submission regarding the 2008 O_3 infrastructure SIP requirements for this element.

(I) Nonattainment areas: Section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

As noted earlier, EPA does not expect infrastructure SIP submissions to address subsection (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will take action on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

(J) Consultation with government officials, public notification, PSD and visibility protection: Section 110(a)(2)(J) requires SIPs to meet the applicable requirements of the following CAA provisions: (1) Section 121, relating to interagency consultation regarding certain CAA requirements; (2) section 127, relating to public notification of NAAQS exceedances and related issues; and (3) part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection.

(1) With respect to interagency consultation, the SIP should provide a process for consultation with general-purpose local governments, designated organizations of elected officials of local governments, and any Federal Land Manager having authority over Federal land to which the SIP applies. Section 81–1504(3) authorizes NDEQ to advise and consult and cooperate with other Nebraska state agencies, the Federal government, other states, interstate agencies, and with affected political subdivisions, for the purpose of implementing its air pollution control responsibilities. Nebraska also has appropriate interagency consultation provisions in its preconstruction permit program. *See, e.g.,* title 129, chapter 14 section *010* of the NAC (requiring NDEQ to send a copy of a notice of public comment on construction permit applications to any state or local air pollution control agency; the chief executives of the city and county in which the source would be located; any comprehensive regional land use planning agency; and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification).

(2) With respect to the requirements for public notification in section 127, the infrastructure SIP should provide citations to regulations in the SIP requiring the air agency to regularly notify the public of instances or areas in which any NAAQS are exceeded; advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality.

Title 129, chapter 38 of the NAC, discussed previously in connection with the state's authority to address emergency episodes at element (G), contains provisions for public notification of elevated ozone and other air pollutant levels. Appendix I to title 129 of the NAC includes measures which can be taken by the public to reduce concentrations. In addition, information regarding air pollution and related issues, is provided on an NDEQ Web site, *http://www.deq.state.ne.us/NDEQSite.nsf/AirDivSecProg?OpenView&Start=1&ExpandView&Count=500.* NDEQ also prepares an annual report on air quality in the state which is available to the public on its Web site, at *http://www.deq.state.ne.us/Publica.nsf/c4afc76e4e077e11862568770059b73f/a12a5ada6cce1c1686257a47004e0633!OpenDocument.*

(3) With respect to the applicable requirements of part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection, we previously noted in the discussion of section 110(a)(2)(C) (relating to enforcement of control measures) how the Nebraska SIP meets the PSD requirements, incorporating the Federal rule by reference. Regarding the prevention of significant deterioration requirements, EPA previously approved Nebraska's $PM_{2.5}$ PSD program as found at 79 FR 45108. On January 22, 2013, the U.S. Court of Appeals for the District of Columbia vacated and remanded the provisions at 40 CFR 51.166(k)(2) and 52.21(k)(2) concerning implementation of the $PM_{2.5}$ SILs and vacated the provisions at 40 CFR 51.166(i)(5)(i)(c) and 52.21 (i)(5)(i)(c) (adding the $PM_{2.5}$ SMCs) that were promulgated as part of the October 20, 2010, rule, Prevention of Significant Deterioration (PSD) for Particulate Matter less than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels and Significant Monitoring Concentrations, 75 CFR 64864. Consistent with the court's ruling, on June 27, 2013, Nebraska submitted a request to not include the SIP provisions relating the Significant Impact Levels (SILs) and Significant Monitoring Concentrations (SMCs).

With respect to the visibility component of section 110(a)(2)(J), Nebraska stated in its 2008 O_3 infrastructure SIP submittals that the ''Visibility Protection'' requirements of chapter 43 of title 129 of the Nebraska Administrative Code met part C visibility requirements of element J. The ''Visibility Protection'' requirements of chapter 43 were submitted by Nebraska for incorporation into the Nebraska SIP on November 8, 2011, and will be addressed in a separate rulemaking.

EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. However, when EPA establishes or revises a NAAQS, these visibility and regional haze requirements under part C do not change. EPA believes that there are no new visibility protection requirements under part C as a result of a revised NAAQS. Therefore, there are no newly applicable visibility protection obligations pursuant to element J after the promulgation of a new or revised NAAQS. As such, EPA is proposing to find that Nebraska's SIP meets the visibility requirements of element J with respect to the 2008 O_3 NAAQS as there are no new applicable requirements triggered by the 2008 O_3 NAAQS.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has met the applicable requirements of section 110(a)(2)(J) for the 2008 O_3 NAAQS in the state and is therefore proposing to approve this element of the February 11, 2013, submission.

(K) Air quality and modeling/data: Section 110(a)(2)(K) requires that SIPs provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

Nebraska has authority to conduct air quality modeling and report the results of such modeling to EPA. Section 81–1504(5) provides NDEQ with the authority to encourage, participate in, or conduct studies, investigations, research and demonstrations relating to air pollution and its causes and effects. As an example of regulatory authority to perform modeling for purposes of determining NAAQS compliance, the regulations at title 129, chapter 19, section *019* provide for the use of EPA-approved air quality models (*e.g.,* those found in 40 CFR part 51, appendix W) for PSD construction permitting. If the use of these models is inappropriate, the model may be modified or an alternate model may be used with the approval of NDEQ and EPA.

The Nebraska regulations also give NDEQ the authority to require that modeling data be submitted for analysis. Title 129, chapter 19, section *021.02* states that upon request by NDEQ, the owner or operator of a proposed source or modification must provide information on the air quality impact of the source or modification, including all meteorological and topographical data necessary to estimate such impact.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA

believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(K) for the 2008 O_3 NAAQS and is proposing to approve the February 11, 2013, submission regarding the 2008 O_3 infrastructure SIP requirements for this element.

(L) Permitting Fees: Section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to title V of the CAA, relating to operating permits, is approved by EPA.

Section 81–1505 of the Nebraska Revised States provides authority for NDEQ to collect permit fees, including title V fees. For example, section 81–1505(12)(e) requires that the EQC establish fees sufficient to pay the reasonable direct and indirect of developing and administering the air quality permit program. Nebraska's title V program, including the fee program addressing the requirements of the Act and 40 CFR 70.9 relating to title V fees, was approved by EPA on October 18, 1995 (60 FR 53872).

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(L) for the 2008 O_3 NAAQS and is proposing to approve the February 11, 2013, submission regarding the 2008 O_3 infrastructure SIP requirements for this element.

(M) Consultation/participation by affected local entities: Section 110(a)(2)(M) requires SIPs to provide for consultation and participation by local political subdivisions affected by the SIP.

Section 81–1504(5) of the Nebraska Revised Statutes gives NDEQ the authority to encourage local governments to handle air pollution problems within their respective jurisdictions and at the same time provide them with technical and consultative assistance. NDEQ is also authorized to delegate the enforcement of air pollution control regulations down to governmental subdivisions which have adopted air pollution control programs. As discussed previously, NDEQ currently relies on two local agencies for assistance in implementing portions of the air pollution control program: Lincoln/Lancaster County Health Department and Omaha Air Quality Control.

In addition, as previously noted in the discussion about section 110(a)(2)(J), Nebraska's statutes and regulations require that NDEQ consult with local political subdivisions for the purposes of carrying out its air pollution control responsibilities.

Based upon review of the state's infrastructure SIP submission for the 2008 O_3 NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(M) for the 2008 O_3 NAAQS and is proposing to approve the April 3, 2008, submission regarding the 2008 O_3 infrastructure SIP requirements for this element.

V. What action is EPA proposing?

EPA is proposing to approve the infrastructure SIP submissions from Nebraska which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2008 O_3 NAAQS. Specifically, EPA is proposing to approve the following infrastructure elements, or portions thereof:

110(a)(2)(A), (B), (C), (D)(i)(II)—prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). As discussed in each applicable section of this rulemaking, EPA is not proposing action on section 110(a)(2)(D)(i)(I)—prongs 1 and 2 and section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions under part D. And finally, EPA is proposing to disapprove 110(a)(2)(D)(i)(II)—prong 4, as it relates to the protection of visibility.

Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the infrastructure to address all applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 2008 O_3 NAAQS are implemented in the state.

We are hereby soliciting comment on this proposed action. Final rulemaking will occur after consideration of any comments.

VI. Statutory and Executive Order Review

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

- Is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Statutory Authority

The statutory authority for this action is provided by section 110 of the CAA, as amended (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

Dated: June 1, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

[FR Doc. 2015–14336 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0085; FRL–9929–35–Region 8]

Approval and Promulgation of State Implementation Plan Revisions; Rules, General Requirements and Test Methods; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on January 28, 2010, September 16, 2010, June 18, 2013, and August 29, 2014. These submittals revise the rules, general requirements and test methods for the State of Utah. The amendments also update the version of the Code of Federal Regulations (CFR) incorporated by reference into the rules of the State of Utah. EPA is not taking action on an April 26, 2012 submittal or a November 4, 2013 submittal because they have been superseded by the August 29, 2014 submittal. EPA is taking this action in accordance with section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 20, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2015–0085, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: ostendorf.jody@epa.gov*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2015–0085. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to section I, General Information, of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. 303–312–7814, *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. General Information
II. Analysis of the State Submittals
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V. Statutory and Executive Orders Reviews

I. General Information

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

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to 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 submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** volume, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;

- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and,
- Make sure to submit your comments by the comment period deadline identified.

II. Analysis of the State Submittals

In this proposed rulemaking, we are proposing to approve four submittals into Utah's SIP. The January 28, 2010 submittal revises R307–405–2, *Permits: Major Sources in Attainment or Unclassified Areas (PSD)* and R307–102, *General Requirements: Broadly Applicable Requirements.* The submittal revises R307–405–2, which incorporates by reference the federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21. Changes include the exclusion of ethanol production facilities from the definition of chemical process plants, and the clarification in the record keeping requirements for a modification where there is a ''reasonable possibility'' that the change would result in a significant increase of any regulated New Source Review (NSR) pollutant. The ethanol exclusion Final Rule was issued by EPA (72 FR 24060, May 1, 2007). EPA approved Utah's revised rules to implement the non-vacated provisions of EPA's NSR Reform regulations (76 FR 41712, July 15, 2011). EPA proposes to approve this part of the submittal.

The January 28, 2010 SIP revision also updates the incorporation by reference date of the 40 CFR to July 1, 2008. EPA is not taking action on this proposed update because it was superseded by the August 29, 2014 submittal that we are acting on in this document.

EPA also proposes to approve R307–102, General Requirements: Broadly Applicable Requirements, which changes the authorization from Title 63–46b–4 to Title 63G–4–202, due to the recodification of Title 63 made by House Bill 63 Chapter 328, Laws of Utah 2008.

The January 28, 2010 submittal revised R307–101–2, *Definitions,* to update the threshold limit values to the 2009 American Conference of Governmental Industrial Hygienists publication of Threshold Limit Values for Chemical Substances and Physical Agents & Biological Exposure Indices. However, a March 19, 2014 letter from the Governor withdrew the January 28, 2010 submittal of R307–101–2. No further action is required on this submittal.

The September 16, 2010 submittal revises R307–101–2, to add the definition of $PM_{2.5}$, and General Requirements: Definitions. The existing R307–101–2 was approved by EPA on September 2, 2008 (73 FR 51222).The definition of ''$PM_{2.5}$,'' consistent with the definition at 40 CFR 50.7, means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA reference or equivalent method. We propose to approve this definition of $PM_{2.5}$.

The September 16, 2010 submittal also updates R307–214, *National Emission Standards for Hazardous Air Pollutants* to add 12 new federal Maximum Achievable Control Technology (MACT) standards that may apply to sources of hazardous air pollutants in Utah. The amendments to R307–101–3 and R307–214 update the version of the Code of Federal Regulations incorporated by reference into the rules of the State of Utah.

However, a March 19, 2014 letter from the Governor withdrew the request to approve the September 16, 2010 submittal regarding R307–214, *National Emission Standards For Hazardous Air Pollutants,* which is the Utah Air Quality rule that incorporates by reference provisions of 40 CFR parts 61 and 63. There is no requirement for parts 61 and 63 to be incorporated into Utah's SIP, so no further action is required on that part of the submittal. EPA is not taking action on the proposed update to the version of the Code of Federal Regulations for R307–101–3, because it was superseded by the August 29, 2014 submittal that EPA is proposing to approve in this document.

The June 18, 2013 submittal revises R307–401–15, *Air Strippers and Soil Venting Projects,* to refer to the most recent test methods and to allow sources to use future updated federally-approved methods. The existing rule was (conditionally) approved by EPA (79 FR 27190, May 13, 2014), after EPA received a commitment letter from the State of Utah to remove the Director's Discretion language within one year or EPA's action would revert to a disapproval. The State submitted proposed revised language within the one-year deadline and requested that EPA approve the following language in R307–401–15(3)(a), ''Emissions estimates of volatile organic compounds shall be based on test data obtained in accordance with the test method in the EPA document SW–846, Test #8260c or 8261a, or the most recent EPA revision of either test method if approved by the director.'' Utah also proposes to revise R307–401–15(3)(b), to now state, ''Emissions estimates of hazardous air pollutants shall be based on test data obtained in accordance with the test method in EPA document SW–846, Test #8021B or the most recent EPA revision of the test method if approved by the director.'' This language provides the certainty required to ensure the appropriate EPA approved test is used and, because EPA routinely updates test methods, this language allows the State to use the most current version of the test method without having to do a SIP revision. We propose to approve these revisions.

The June 18, 2013 submittal also proposes a non-substantive change to re-number R307–410–5(1)[(d)] to R307–410–5(1)(c)(i)(C). EPA is not acting on this proposed change because EPA disapproved R307–410–5, *Documentation of Ambient Air Impacts for Hazardous Air Pollutants* on February 6, 2014 due to lack of EPA authority to approve provisions that only address hazardous air pollutants in a SIP revision under CAA section 110 (79 FR 7072).

The April 26, 2012 submittal revises R307–101–3, *General Requirements; Version of Code of Federal Regulations Incorporated by Reference.* EPA is not taking action on this submittal because it was superseded by the August 29, 2014 submittal that EPA is acting on in this document.

The November 4, 2013 submittal also revises R307–101–3, *General Requirements; Version of Code of Federal Regulations Incorporated by Reference.* EPA is not taking action on this submittal because it was superseded by the August 29, 2014 submittal that EPA is acting on in this document.

The August 29, 2014 submittal amends R307–101–3, *General Requirements, Version of Code of Federal Regulations Incorporated by Reference* and supersedes and replaces all previous versions of submittals received on January 28, 2010, September16, 2010, April 26, 2012 and November 4, 2013. No further EPA action is required on those earlier submittals. The existing rule was approved by EPA on September 2, 2008 (73 FR 51222). Except as specifically identified in an individual rule, the version of the CFR incorporated throughout R307 is dated July 1, 2013.

The August 29, 2014 submittal amends R307–101–3 to include four

chemical compounds on the list of compounds excluded from the definition of VOC, as found in EPA rule at 40 CFR 51.100(s), on the basis that each of these compounds makes a negligible contribution to tropospheric ozone formation. These compounds consist of four hydrofluoropolyethers (HFPEs) which are identified as HCF2OCF2H (also known as HFE–134), HCF2OCF2OCF2H (also known as HFE–236cal2), HCF2OCF2CF2OCF2H (also known as HFE–338pcc13), and HCF2OCF2OCF2CF2OCF2H (also known as H-Galden 1040X or H-Galden ZT 130 (or 150 or 180)). If an entity uses or produces any of these four HFPE compounds (these being in the family of products known by the trade name H-Galden) and is subject to the EPA regulations limiting the use of VOC in a product, limiting the VOC emissions from a facility, or otherwise controlling the use of VOC for purposes related to attaining the ozone national ambient air quality standards (NAAQS), then the compound will not be counted as a VOC in determining whether these regulatory obligations have been met.

This EPA rule, *Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of a Group of Four Hydrofluoropolyethers (HFPEs),* was finalized on February 12, 2013 (78 FR 9823). EPA proposes to approve this SIP revision.

Finally, the August 29, 2014 submittal updates the version of the CFR incorporated by reference into the rules of the State of Utah to reflect that 40 CFR 60.56c(d)(2) of subpart Ec was removed from federal regulation (78 FR 28052). That provision previously excluded Hospital Medical Infectious Waste Incinerators (HMIWI) units from having to comply with standards during periods of Startup Shutdown Malfunction (SSM) provided that no hospital waste or medical/infectious waste was being charged to the unit during those SSM periods. That provision was removed from federal regulation on May 13, 2013 (78 FR 28052). EPA proposes to approve this SIP revision.

III. What action is EPA taking today?

EPA is proposing to approve the SIP revisions submitted by Utah on January 28, 2010, September 16, 2010, June 18, 2013 and August 29, 2014. We are proposing to approve the January 28, 2010 revisions to R307–405–2, with exception to the proposed change to the incorporation by reference date, and proposing to approve all of the revisions to R307–102. We are proposing to approve the June 18, 2013 SIP revisions, with the exception of the non-substantive change to re-number R307–410–5(1)[(d)] to R307–410–5(1)(c)(i)(C). The August 29, 2014 submittal's newly amended rule supersedes and replaces all previous versions of submittals of R307–101–3, *General Requirements, Version of Code of Federal Regulations Incorporated by Reference.* EPA proposes to approve the August 29, 2014 revisions. Previous submittals were received on January 28, 2010, September 16, 2010, April 26, 2012 and November 4, 2013. No further EPA action is required on these earlier submittals.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Utah Division of Air Quality rules regarding rules, general requirements, and test methods discussed in section II, *Analysis of the State Submittals,* of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Orders Review

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: June 3, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2015–15158 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPP–2014–0818; FRL–9929–16]

Proposal To Mitigate Exposure to Bees From Acutely Toxic Pesticide Products; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of May 29, 2015, concerning EPA's Proposal to Mitigate Exposure to Bees from Acutely Toxic Pesticide Products. This document extends the comment period for 30 days, from June 29, 2015 to July 29, 2015. Multiple stakeholders requested that EPA extend the comment period due to the complexity and importance of this issue. EPA is granting the extension.

DATES: The comment period for the document published on May 29, 2015 (80 FR 30644), is extended. Comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0818 must be received on or before July 29, 2015.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of May 29, 2015 (80 FR 30644) (FRL–9927–36).

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8157; email address: *goodis.michael@epa.gov,* or

Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–8578; email address: *echeverria.marietta@epa.gov*.

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of May 29, 2015 (80 FR 30644) (FRL–9927–36). In that document, EPA is seeking comment on a proposal to adopt mandatory pesticide label restrictions to protect managed bees under contract pollination services from foliar applications of pesticides that are acutely toxic to bees on a contact exposure basis. These label restrictions would prohibit applications of pesticide products, which are acutely toxic to bees, during bloom when bees are known to be present under contract. EPA is also seeking comment on a proposal to rely on efforts made by states and tribes to reduce pesticide exposures through development of locally-based measures, specifically through managed pollinator protection plans. These plans would include local and customizable mitigation measures to address certain scenarios that can result in exposure to pollinators. EPA intends to monitor the success of these plans in deciding whether further label restrictions are warranted. EPA is hereby extending the comment period, which was set to end on June 29, 2015, to July 29, 2015.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of May 29, 2015. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136a.

Dated: June 11, 2015.

Jack E. Housenger,

Director, Office of Pesticide Programs.

[FR Doc. 2015–14950 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 80, No. 118

Friday, June 19, 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

RIN 0596–AC51

Proposed Directive on Groundwater Resource Management, Forest Service Manual 2560

AGENCY: Forest Service, USDA.

ACTION: Notice of withdrawal of proposed directive.

SUMMARY: On May 7, 2014, the Forest Service published an action proposing to amend its internal agency directives for the National Forest System (NFS), Watershed and Air Management to establish direction for management of groundwater resources on NFS lands (79 FR 25815). The proposed amendment was intended to provide internal agency direction on the consideration of groundwater resources in Agency activities, approvals, and authorizations; encourage source water protection and water conservation; establish systematic procedures for reviewing new proposals for groundwater withdrawals on NFS lands; and require the evaluation of potential impacts from groundwater withdrawals on public resources on NFS lands. That notice invited public comment on the proposal.

DATES: Not applicable.

ADDRESSES: No further comments will be accepted on this proposal.

FOR FURTHER INFORMATION CONTACT: Robert Harper, Director, Watershed, Fish, Wildlife, Air and Rare Plants Staff, (202) 205–1671.

SUPPLEMENTARY INFORMATION: The Agency has determined that its proposal does not adequately meet its needs. Therefore, the Agency hereby withdraws the proposal to amend its internal Agency directives for Watershed and Air Management to establish direction for management of groundwater resources on National Forest System lands and will engage in a public conversation to develop revised proposed directives.

The response to the proposal from conservation organizations and Tribes was generally favorable; however, States and a number of other organizations raised concerns that the proposed directive would exceed the Agency's authorities and infringe on State authorities to allocate water. The proposed directives did not, and any future actions will not, infringe on State authority, impose requirements on private landowners, or change the long-standing relationship between the Forest Service, States, and Tribes on water.

The intent of any new groundwater proposed directive or next steps would be to establish a clearer and more consistent approach to evaluating and monitoring the effects of actions on groundwater resources of the National Forest System. It is clear the Agency must have further discussions with key publics on this issue. The decision to withdraw the May 2014 groundwater proposed directives will allow these conversations to take place. The Forest Service will use the additional input received from engagements with States and other citizen groups to develop new proposed directives to create a consistent approach to evaluating and monitoring effects to groundwater resulting from actions on NFS lands.

Dated: June 15, 2015.

Thomas L. Tidwell,

Chief, Forest Service.

[FR Doc. 2015–15151 Filed 6–18–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funds Availability (NOFA) for the Rural Microentrepreneur Assistance Program for Fiscal Year 2015

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice is to invite applications for loans and grants under the Rural Microentrepreneur Assistance Program (RMAP) pursuant to 7 CFR part 4280, subpart D, for fiscal year (FY) 2015. Funding to support $14.190 million in loans and $2.086 million in grants is currently available. The RMAP funds were provided through the Agricultural Act of 2014, Public Law 113–79, on February 7, 2014 (2014 Farm Bill). RMAP provides the following types of support: loan only, combination loan and technical assistance grant, and subsequent technical assistance grants to Microenterprise Development Organizations (MDO).

All applicants are responsible for any expenses incurred in developing their applications or costs incurred prior to the obligation date.

DATES: Applicants may apply during a Federal fiscal quarter to be considered for the next quarter's funding. Complete applications for loan only, and combination loan and grant, must be received in the U.S. Department of Agriculture (USDA) Rural Development State Offices no later than 4:30 p.m. (local time) on the last day prior to the beginning of each Federal fiscal quarter to be considered for funding. Applications received after a Federal fiscal quarter deadline will be reviewed and evaluated for funding in the next Federal fiscal quarter. Applications that have not competed for four consecutive quarters, depending on funding availability, may be considered in FY 2016.

The subsequent microlender technical assistance grant (existing MDOs with a microentrepenuer revolving loan fund) will be made, non-competitively, based on the microlender's microlending activity and availability of funds. To determine the microlender technical assistance grant awards for FY 2015, the Agency will use the microlender's outstanding balance of microloans as of June 30, 2015, to calculate this amount. MDOs that are eligible for an annual grant may apply.

ADDRESSES: Applications and forms may be obtained from any Rural Development State Office or online at *http://www.rd.usda.gov/programs-services/rural-microentrepreneur-assistance-program.* Applicants must submit an original complete application to the USDA Rural Development State Office in the State where the applicant's headquarters is located. A list of the USDA Rural Development State Offices addresses and telephone numbers can be found online at *http://www.rurdev.usda.gov/StateOfficeAddresses.html.*

FOR FURTHER INFORMATION CONTACT: Specialty Programs Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW., MS 3226, Room 4204-South, Washington, DC 20250–3226, or call Kathleen Goldsmith at 202–720–1400.

Overview

Solicitation Opportunity Title: Rural Microentrepreneur Assistance Program.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance Number (CFDA): 10.870.

Dates: Applicants may apply during a Federal fiscal quarter to be considered for the next quarter's funding. Complete applications for loan only, combination loan and grant, and technical assistance grant-only must be received in the USDA Rural Development State Offices no later than 4:30 p.m. (local time) on the last day prior to the beginning of each Federal fiscal quarter to be considered for funding. Applications received after a Federal fiscal quarter deadline will be reviewed and evaluated for funding in the next Federal fiscal quarter. Applications that have not competed for four consecutive quarters, depending on funding availability, may be considered in FY 2016.

Subsequent microlender annual technical assistance grants are non-competitive. The Agency has established June 30 of each year as the date to determine the grant amount using the MDO's outstanding balance of microloans as of that date.

I. Funding Opportunity Description

A. *Purpose of the Program.* The purpose of RMAP is to support the development and ongoing success of rural microentrepreneurs and microenterprises defined in 7 CFR 4280.302.

B. *Statutory Authority.* RMAP is authorized by Section 379E of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008s). Regulations are contained in 7 CFR part 4280, subpart D. Assistance provided to rural areas under this program may include the provision of loans and grants to rural MDOs for the provision of microloans to rural microenterprises and microentrepreneurs; provision of business-based training and technical assistance to rural microborrowers and potential microborrowers; and other such activities as deemed appropriate by the Secretary to ensure the development and ongoing success of rural microenterprises. Awards are made on a competitive basis using specific selection criteria contained in 7 CFR part 4280, subpart D. Information required to be in the application is specified in 7 CFR 4280.315.

For entities applying for program loan funds to become an RMAP microlender only, the following items are required: (1) Form RD 1910–11, ''Certification of No Federal Debt;'' (2) Demonstration that the applicant is eligible to apply to participate in this program; (3) Certification by the applicant that it cannot obtain sufficient credit elsewhere to fund the activities called for under this program with similar rates and terms; and (4) Form RD 400–4, ''Assurance Agreement.''

Subsequent annual microlender technical assistance grants are subject to funding availability, in accordance with 7 CFR 4280.313(b)(2). Awards will be determined non-competitively based on Agency appropriations for the fiscal year. The MDO must submit a prescribed worksheet, listing the outstanding balance of their microloans and unexpended grant funds as of the date of their request and a letter certifying that their organization still meets all the requirements set forth in 7 CFR part 4280, subpart D, and that no significant changes have occurred within the last year that would affect its ability to carry out the MDO functions. In addition, all MDOs who request Subsequent Annual Microlender Technical Assistance Grants must complete their reporting into the Lenders Interactive Network Connection (LINC) for the Federal fiscal quarter ending June 30, 2015. The deadline for reporting into LINC and requesting a TA grant is no later than 4:30 p.m. (local time) on July 31, 2015.

C. *Definition of Terms.* The definitions applicable to this Notice are published at 7 CFR 4280.302.

D. *Application Awards.* The Agency will review, evaluate, and score applications received in response to this Notice based on the provisions found in 7 CFR part 4280, subpart D, and as indicated in this Notice. However, the Agency advises all interested parties that the applicant bears the burden in preparing and submitting an application in response to this Notice whether or not funding is appropriated for this program in FY 2015.

II. Award Information

Type of Awards: Loans and/or Grants.

Fiscal Year Funds: FY 2015.

Available Funds. Anyone interested in submitting an application for funding under this program is encouraged to consult the Rural Development Web Newsroom Web site at *http://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas* for funding information. Funds will be prioritized as follows: (1) Combination loan and grants; (2) loan only; and (3) subsequent microlender technical assistance grants.

Total Funds: $16,276,000.

Loans: $14,190,000.

MDO Grants: $2,086,000.

Maximum Award: The minimum loan amount Microenterprise Development Organizations (MDO) may borrow under this program is $50,000. The maximum loan any MDO may borrow in any given year is $500,000. The commitment of program dollars will be made to applicants of selected responses that have fulfilled the necessary requirements for obligation. If the applicant is applying for an initial loan, they may also apply for a technical assistance grant. Grant funds are limited to no more than 25 percent up to the first $400,000 of the loan request (or $100,000). Loan requests of greater than $400,000 are eligible to receive $100,000, plus 5 percent of the amount over $400,000.

The maximum subsequent technical assistance grant (to MDOs that have an existing microentrepeneur revolving loan fund) amount for a microlender is 25 percent of the first $400,000 of outstanding microloans owed to the microlender under this program, plus an additional 5 percent of the outstanding loan amount owed by the microborrowers to the lender under this program over $400,000 up to and including $2.5 million. Any grant dollars obligated, but not spent, from the initial grant, will be subtracted from the subsequent year grant to ensure that obligations cover only microloans made and active.

Application Dates: The last day of each Federal fiscal quarter.

III. Eligibility Information

A. *Eligible Applicants.* To be eligible for this program, the applicant must meet the eligibility requirements in 7 CFR 4280.310. In addition to the requirements in 7 CFR 4280.310, applicants must not be delinquent on any Federal debt or otherwise disqualified from participation in this program to be eligible to apply. All other restrictions in this Notice will apply.

B. *Cost Sharing or Matching.* The Federal share of the eligible project cost of a microborrower's project funded under this Notice shall not exceed 75 percent. The cost share requirement shall be met by the microlender in accordance with the requirements specified in 7 CFR 4280.311(d).

The MDO is required to provide a match of not less than 15 percent of the

total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

C. *Other Eligibility Requirements.* Applications will only be accepted from eligible MDOs. Eligible MDOs must score a minimum of 70 points out of 100 points to be considered to receive an award. Awards for each Federal fiscal quarter will be based on ranking with the highest ranking applications being funded first, subject to available funding.

D. *Completeness Eligibility.* All applications must be submitted as a complete application, in one package. Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are unbound, falling apart, or otherwise not suitable for evaluation. Such applications will be withdrawn.

IV. Fiscal Year 2015 Application and Submission Information

A. *Address to Request Application Package:* For further information, entities wishing to apply for assistance should contact the Rural Development State Office as identified in the **ADDRESSES** section of this Notice to obtain copies of the application package.

An MDO may submit an initial application for a loan with a microlender technical assistance grant, or an initial or subsequent loan-only (without a microlender technical assistance grant). Loan applications must be submitted in paper format and must be bound in a 3-ring binder and be organized in the same order set forth in 7 CFR 4280.315. To ensure timely delivery, applicants are strongly encouraged to submit their applications using an overnight, express, or parcel delivery service.

B. *Content and Form of Submission:* An application must contain all of the required elements outlined in 7 CFR 4280.315. Each application must address the applicable scoring criteria presented in 7 CFR 4280.316 for the type of funding being requested.

C. *Submission Dates and Times:* The original complete application must be received by the USDA Rural Development State Office no later than 4:30 p.m. local time by the application deadline dates listed above, regardless of the postmark date, in order to be considered for funds available in that Federal fiscal quarter.

Unless withdrawn by the applicant, completed applications that receive a score of at least 70 (the minimum required to be considered for funding), but have not yet been funded, will be retained by the Agency for consideration in subsequent reviews through a total of four consecutive quarterly reviews. Applications that remain unfunded after four quarterly reviews, including the initial quarter in which the application was competed, will not be considered further for an award.

D. *Explanation of Dates:* Applications must be in the USDA Rural Development State Office by the dates as indicated in the **DATES** section of this Notice.

V. Application Review Information

A. *Criteria.* All eligible and complete applications will be evaluated and scored based on the selection criteria and weights contained in 7 CFR part 4280, subpart D. Failure to address any one of the criteria by the application deadline will result in the application being determined ineligible and the application will not be considered for funding. An application must receive at least 70 points to be considered for funding in the quarter in which it is scored.

B. *Review and Selection Process.* The State Offices will review applications to determine if they are eligible for assistance based on requirements contained in 7 CFR part 4280, subpart D. If determined eligible, the application will be submitted to the National Office, where it will be reviewed and prioritized by ranking each application, received in that quarter, in highest to lowest score order. All applications will be funded until funds have been exhausted for each funding cycle. Funding of projects is subject to the MDO's satisfactory submission of the additional items required by that subpart and the USDA Rural Development Letter of Conditions.

VI. Award Administration Information

A. *Award Notices.* Successful applicants will receive notification for funding from the USDA Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the award will be approved. Provided the application and eligibility requirements have not changed, an application not selected will be reconsidered for three subsequent funding competitions for a total of four competitions. If an application is withdrawn, it can be resubmitted and will be evaluated as a new application. Unsuccessful applications will receive notification by mail, detailing why the application was unsuccessful.

B. *Administrative and National Policy Requirements.* Additional requirements that apply to MDO's selected for this program can be found in 7 CFR part 4280, subpart D. The USDA and the Agency have adopted the USDA grant regulations at 2 CFR chapter IV. This regulation incorporates the new Office of Management and Budget (OMB) regulations 2 CFR 200 and 2 CFR 400.1 to 400.18 for monitoring and servicing RMAP funding.

C. *Reporting.* In addition to any reports required by 2 CFR 200 and 2 CFR 400.1 to 400.18, the MDO must provide reports as required by 7 CFR part 4280, subpart D.

VII. Agency Contacts

For general questions about this Notice, please contact your USDA Rural Development State Office as provided in the **ADDRESSES** section of this Notice.

VIII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with the Rural Microentrepenuer Assistance Program, as covered in this Notice, has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0062.

IX. Federal Funding Accountability and Transparency Act

All applicants, in accordance with 2 CFR part 25, must have a Dun and Bradstreet Data Universal Number System (DUNS) number, which can be obtained at no cost via a toll-free request line at (866) 705–5711 or online at *http://fedgov.dnb.com/webform.* Similarly, all applicants for grants must be registered in the System for Award Management (SAM) prior to submitting an application. Applicants may register for the SAM at *http://www.sam.gov.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

X. Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442, or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing, or have speech disabilities and who wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.), please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: June 10, 2015.

Lillian E. Salerno,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2015–15193 Filed 6–18–15; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE 6/12/2015 THROUGH 6/15/2015

Firm name	Firm address	Date accepted for investigation	Product(s)
Joval Machine Company, Inc	515 Main Street, Yalesville, CT 06492.	6/15/2015	The firm manufactures sheet metal and fiberglass heat shielding insulating products.
Custom Metal Finishers, Inc.	502 East Industrial Drive, Mountain View, MO 65548.	6/15/2015	The firm manufactures various metal valves components used in gas appliance.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: June 15, 2015.

Michael S. DeVillo,

Eligibility Examiner.

[FR Doc. 2015–15113 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–41–2015]

Notification of Proposed Production Activity, BMW Manufacturing Co., LLC, Subzone 38A, (Motor Vehicles), Spartanburg, South Carolina

BMW Manufacturing Co., LLC (BMWMC), operator of Subzone 38A, submitted a notification of proposed production activity to the FTZ Board for its facility in Spartanburg, South Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 3, 2015.

BMWMC already has authority to produce passenger sedans, coupes, and sport utility vehicles. The current request would add a new finished product (passenger vehicle bodies) and foreign-status materials and components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt BMWMC from customs duty payments on the foreign status materials and components used in export production. On its domestic sales, BMWMC would be able to choose the duty rate during customs entry procedures that applies to passenger motor vehicles and related bodies (duty rate 2.5%) for the foreign status materials and components noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials and components sourced from abroad include: first-aid kits; acrylic/vinyl paints; trunk lid adhesives; acoustic absorber foams; tire sealants; rubber assembly gaskets; tires; felt strips (HTSUS Subheadings 5602.10, 5602.90); damping strips (Subheading 5602.90); tufted floor coverings; carpet sets; velcro straps; glass; windshields; steel flanges; iron/

steel coupling locks; suppression band assemblies; earthing strap hinge hatch assemblies; iron/steel rivets; diesel engines; air-conditioner assemblies; air-conditioner tubes/lines; windshield washer assemblies; jacks; metal gaskets; flange seals; electric motors/converters/chargers; wiper motors; power supplies; batteries (lead acid, lithium-ion); electric lamps/lights/signals; reflectors; sound signaling equipment/horns; windshield wiper systems and arms; light-emitting diodes; heater assemblies; telematics communication boxes/media assemblies; GPS assemblies; microphone assemblies; speaker assemblies and related components; earphone module assemblies; amplifier assemblies; monitor assemblies; acoustic pads; TV tuner modules/assemblies/antennas; cameras; radio navigation equipment/remote controls/receivers/antennas; antenna covers; signal and sound display modules; alarm systems; indicator panels; electromagnetic filter interference assemblies; suppression filter assemblies; accelerator modules; control modules; carrier plates; sensors (wheel speed ID, oil temperature, gas temperature, pressure, oxygen, exhaust, rain, park assist, yaw); wiring harnesses; USB cables; audio amplifier assemblies; auxiliary cables; speedometers; tachometers; sensor rods; and, cigarette lighters (duty rate ranges from free to 10.6%). Inputs included in certain textile categories (classified within HTSUS Subheadings 5602.10 and 5602.90) will be admitted to Subzone 38A under privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 29, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: June 12, 2015.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2015–15147 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2015]

Foreign-Trade Zone (FTZ) 27—Boston, Massachusetts, Notification of Proposed Production Activity, Claremont Flock, (Textile Flock), Leominster, Massachusetts

The Massachusetts Port Authority, grantee of FTZ 27, submitted a notification of proposed production activity to the FTZ Board on behalf of Claremont Flock, a division of Spectro Coating Corporation (Claremont Flock), located in Leominster, Massachusetts. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 1, 2015.

The Claremont Flock facility is located at 107 Scott Drive, Leominster, Massachusetts. A separate application for subzone designation at the Claremont Flock facility has been submitted and will be processed under Section 400.25 of the FTZ Board's regulations. The facility is used for the production of acrylic and rayon textile flock. Pursuant to 15 CFR 400.14(b) of the regulations, FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Claremont Flock from customs duty payments on foreign status materials used in export production. On its domestic sales, Claremont Flock would be able to choose the duty rate during customs entry procedures that applies to textile flock (free) for the acrylic and rayon tow (duty rate—7.5%) sourced from abroad. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 29, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: June 12, 2015.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2015–15148 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1977]

Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework Limon, Colorado

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Town of Limon, Colorado (the Grantee), a public organization, has made application to the Board (B–54–2014, docketed 08/07/2014; amended 03/11/2015), requesting the establishment of a foreign-trade zone under the ASF with a service area of Adams and Arapahoe Counties, Colorado and portions of Elbert, Lincoln and Morgan Counties, Colorado, as described in the amended application, within and adjacent to the Denver, Colorado U.S. Customs and Border Protection port of entry, and proposed Sites 1 and 2 would be categorized as magnet sites;

Whereas, notice inviting public comment has been given in the **Federal Register** (79 FR 47088, 08/12/2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 293, as described in the amended application, and subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit, and to an ASF sunset provision for magnet sites that would terminate authority for Site 2 if not activated within eight years from the month of approval.

Signed at Washington, DC, this 11th day of June 2015.

Penny Pritzker,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2015–15149 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–808]

Silicomanganese From Australia: Postponement of Preliminary Determination of Antidumping Duty Investigation

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

DATES: Effective date June 19, 2015.

FOR FURTHER INFORMATION CONTACT: Magd Zalok at (202) 482–4162 or Robert Bolling at (202) 482–3434, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 17, 2015, the Department of Commerce (the Department) published a notice of initiation of antidumping duty investigation of silicomanganese from Australia.[1] The notice of initiation stated that the Department, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.205(b)(1), would issue its preliminary determinations for these investigations, unless postponed, no later than 140 days after the date of the initiation. The preliminary determination of this antidumping duty investigation is currently due no later than July 29, 2015.

Postponement of Preliminary Determinations

Section 733(c)(1)(A) of the Act permits the Department to postpone the time limits for the preliminary determination if it receives a timely request from the petitioner for postponement. The Department may postpone the preliminary determination under section 733(c)(1) of the Act no later than the 190th day after the date on which the administering authority initiates an investigation.

On June 8, 2015, Felman Production, LLC (''Petitioner'') and Eramet Marietta, Inc., collectively Domestic Producers, made a timely request pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(e) for postponement of the preliminary determination in this investigation. Petitioner requested a 50-day postponement of the preliminary determination in order to allow the Department additional time to review the questionnaire responses and issue appropriate requests for clarification and additional information, given the complexity of this investigation. Petitioner submitted a request for postponement of the preliminary determination more than 25 days before the scheduled date of the preliminary determination. *See* 19 CFR 351.205(e).

Because Petitioner's request was timely and provided reasons for the request, and since the Department finds no compelling reasons to deny the request, the Department is postponing the deadline for the preliminary determination in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) and (e) by 50 days to September 17, 2015. The deadline for the final determination will continue to be 75 days after the date of the preliminary determination unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: June 12, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–15150 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Silicomanganese From Australia: Initiation of Less-Than-Fair-Value Investigation,* 80 FR 13829 (March 17, 2015).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD994

Fisheries of the South Atlantic; South Atlantic Fishery Management Council (SAFMC); Public Meetings

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

ACTION: Notice of public input meetings of the South Atlantic Fishery Management Council's Visioning Project (Draft Vision Blueprint for the snapper grouper fishery).

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a series of public input meetings to collect input on the draft Vision Blueprint for the snapper grouper fishery as part of the Council Visioning Project. The meetings will be held via webinar and also utilize comment stations.

DATES: The public input meetings will be conducted in two parts—a series of webinars on each draft strategic goal and a series of webinars/comment stations on the entire draft Vision Blueprint. Meeting dates and comment station locations will be posted on the Council's Web site, and publicized.

Part 1—The first series of meetings will be conducted via webinar only from July 7 through July 9, 2015. The first series of webinars will be conducted beginning at 10 a.m. and again at 7 p.m. on the following dates:

1. July 7, 2015—Draft Strategic Goal Area—Science
2. July 8, 2015—Draft Strategic Goal Area– Management
3. July 9, 2015—Draft Strategic Goal Areas—Communication & Governance

Registration is required to participate and registration information will be posted on the SAFMC Web site at *www.safmc.net* as it becomes available. Webinar registrants may test/confirm their computer set up for the webinar one hour prior to each hearing and contact Mike Collins at (843) 763–1050 to address any questions regarding webinar setup.

Part 2—The second series of meetings will be conducted between July 13 and July 30, 2015 beginning at 6 p.m. via webinar/comment stations (see **ADDRESSES**). Details regarding the comment station locations will be posted to the Visioning Project page of the Council's Web site at *www.safmc.net* as they become available.

The public can participate in the meetings remotely by registering and participating via webinar or by attending the meeting in person at a comment station on the scheduled dates. Area Council representatives will be present at the comment stations to moderate the meetings. If participating by webinar, registration for each webinar is required. Registration information will be posted on the Visioning Project page on the Council's Web site at *www.safmc.net.*

ADDRESSES: *Public input webinar meeting dates and local comment station addresses:*

1. July 13, 2015—Local Comment Station: St. Augustine, FL (location to be determined);
2. July 14, 2015—Local Comment Station: Titusville, FL (location to be determined);
3. July 15, 2015—Local Comment Station: Stuart, FL (location to be determined);
4. July 16, 2015—Local Comment Station: Marathon, FL (location to be determined);
5. July 20, 2015—Local Comment Station: Murrells Inlet Community Center, 4450 Murrells Inlet Road, Murrells Inlet, SC; phone: (843) 651–7373;
6. July 21, 2015—Local Comment Station: Charleston, SC (location to be determined);
7. July 22, 2015—Local Comment Station: Sapelo Saltwater Fishing Club, Shellman Bluff, GA;
8. July 23, 2015—Local Comment Station: Coastal Resources Division, Georgia Department of Natural Resources, One Conservation Way, Brunswick, GA 31520–8687;
9. July 28, 2015—Local Comment Station: UNC Wilmington Center for Marine Science, Atrium Room 5600 Marvin K. Moss Lane, Wilmington, NC 28409; phone: (910) 962–2403;
10. July 29, 2015—Local Comment Station: NC Division of Marine Fisheries, Central District Office, 5285 Highway 70 West, Morehead City, NC 28557; phone: (252) 726–7021;
11. July 30, 2015—Local Comment Station: UNC Coastal Studies Institute, 850 N.C. Highway 345, Wanchese, NC 27981; phone: (252) 475–5488;

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Amber Von Harten, Fishery Outreach Specialist, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *amber.vonharten@safmc.net.*

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council is developing a long-term ''vision'' and strategic plan for managing the snapper grouper fishery. In December 2012, the Council began discussions about the steps and structure needed for undertaking a visioning and strategic planning project and the process for engaging stakeholders in the project. The Council views this as a project to work cooperatively with all stakeholders having fishery interests. The visioning and strategic planning project will evaluate and refine current goals, objectives and strategies for managing the snapper grouper fishery through informed public input via the 26 port meetings held in 2014 and Council member input. The purpose of the draft Vision Blueprint public input meetings is to have informal discussions with the public about the draft Vision Blueprint document and the proposed draft strategic goals, objectives and strategies. The schedule of meetings and documents pertaining to the Draft Vision Blueprint will be available under the Visioning Project page on the Council's Web site at *www.safmc.net.*

During the webinars, Council staff will present an overview of the draft strategic goal areas and the draft Vision Blueprint and will be available for informal discussions and to answer questions via webinar. During the local comment stations, area Council representatives will be present and available for informal discussions and to answer questions. All webinars will be recorded and used to collect input on the Draft Vision Blueprint.

Written comments may be mailed, emailed, or submitted online using the Draft Vision Blueprint web comment form available on the Council's Web site. The Draft Vision Blueprint web comment form will be available under the Visioning Project page on the Council's Web site at *www.safmc.net.* Comments may be mailed to Amber Von Harten, SAFMC (see ADDRESSES) or submitted via email to: *Mike.Collins@safmc.net.* Note that email comments should specify ''Draft Vision Blueprint'' in the Subject Line of the email. Comments for the Draft Vision Blueprint will be accepted until 5 p.m. on September 1, 2015.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: June 16, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–15135 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD983

Final NOAA Restoration Center Programmatic Environmental Impact Statement

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

ACTION: Notice of availability of a Final Programmatic Environmental Impact Statement.

SUMMARY: The National Marine Fisheries Service is providing notice that the Final NOAA Restoration Center (RC) Programmatic Environmental Impact Statement (PEIS) is complete and available. The NOAA RC proposes to fund or otherwise implement habitat restoration activities through its existing programmatic framework and related procedures. The NOAA RC programs, which are authorized to conserve and manage coastal and marine resources, will support, fund, or otherwise implement habitat restoration activities throughout the coastal United States.

NOAA RC identified a suite of appropriate restoration approaches that it believes will most effectively conserve and restore the coastal and marine resources, and the ecosystem services they provide under NOAA trusteeship. The PEIS evaluates the potential impacts to the human and natural environment of implementing these approaches and sets the stage so that future decisions by NOAA at the project-specific level can be documented as included under, or effectively tiered from, this programmatic analysis.

ADDRESSES: Frederick C. Sutter, Director, Office of Habitat Conservation, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Melanie Gange, by mail at NOAA Restoration Center/FHC3, 1315 East-West Highway, Silver Spring, MD 20910; or by telephone at 301–427–8664.

SUPPLEMENTARY INFORMATION: Although NOAA RC is not soliciting comments on this PEIS, we will consider any comments submitted that would assist us in preparing future NEPA documents. An electronic copy of the PEIS is available at: *http://www.restoration.noaa.gov/environmentalcompliance.* Electronic correspondence regarding it can be submitted to *rc.compliance@noaa.gov.* Otherwise, please submit any written comments via U.S. mail to the responsible official named in the **ADDRESSES** section.

Dated: June 9, 2015.

Frederick C. Sutter,

Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2015–14984 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

Correction

Notice document 2015–13766 should have published in the issue of Friday, June 5, 2015. It is printed below in its entirety.

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Bluefish Advisory Panel will hold a public meeting.

DATES: The meeting will be held on June 25, 2015, from 9 a.m. until noon.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option. Details on webinar registration and telephone-only connection details are available at: *http://www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fisheries Management Council's (MAFMC) Atlantic Bluefish Advisory Panel (AP) will meet jointly with the Atlantic States Marine Fisheries Commission's (ASMFC) Atlantic Bluefish AP. The purpose of this meeting is to discuss recent performance of the commercial and recreational fisheries for Atlantic bluefish. Council staff will work with the AP to write the 2015 Fishery Performance Report. The intent of this report is to facilitate a venue for structured input from the AP members for the Atlantic Bluefish specifications process, including recommendations by the MAFMC's Scientific and Statistical Committee (SSC). The MAFMC and the ASMFC will consider the Fishery Performance Report in August when setting fishery specifications (*i.e.*, catch and landings limits and management measures) for 2016–2018.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: June 2, 2015.

Tracey L. Thompson,

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

[FR Doc. C1–2015–13766 Filed 6–18–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 150106016–5016–01]

RIN 0648–XD703

Endangered and Threatened Wildlife and Plants; Notice of 12-Month Finding on a Petition To List Bottlenose Dolphins in Fiordland, New Zealand as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Notice of 12-month petition finding.

SUMMARY: We, NMFS, announce a 12-month finding on a petition to list bottlenose dolphins (*Tursiops truncatus*) within Fiordland, New Zealand as threatened or endangered under the Endangered Species Act (ESA). Based on our review of the best scientific and commercial data available, we have determined that the bottlenose dolphins within Fiordland do not meet the criteria for identification as a distinct population segment. Therefore, these dolphins do not warrant listing, and we do not propose to list these dolphins under the ESA.

DATES: This finding was made on June 19, 2015.

ADDRESSES: Information used to make this finding is available for public inspection by appointment during normal business hours at NMFS, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910. The petition and the list of the references used in making this finding are also available on the NMFS Web site at *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

FOR FURTHER INFORMATION CONTACT: Lisa Manning, NMFS, Office of Protected Resources (OPR), (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species as threatened or endangered under the Endangered Species Act (ESA). We found that the petitioned actions may be warranted for 27 of the 81 species and announced the initiation of status reviews for each of the 27 species (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). Among the 27 species that we determined may warrant listing under the ESA is the bottlenose dolphin, *Tursiops truncatus,* of Fiordland, New Zealand. This finding addresses those bottlenose dolphins.

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we consider first whether a group of organisms constitutes a ''species'' under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of

the ESA defines a ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (USFWS; together, the Services) adopted a policy describing what constitutes a distinct population segment (DPS) of a taxonomic species (the DPS Policy, 61 FR 4722). The DPS Policy identifies two elements that must be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. As stated in the DPS Policy, Congress expressed its expectation that the Services would exercise authority with regard to DPSs sparingly and only when the biological evidence indicates such action is warranted.

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened due to any one or a combination of the following five threat factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species' status and after taking into account efforts being made by any state or foreign nation to protect the species.

Species Description

Taxonomy and Physical Characteristics

The common bottlenose dolphin, *Tursiops truncatus,* is one of the most well-known and well-studied species of marine mammals. The bottlenose dolphin is a cetacean within suborder Odontoceti (toothed whales) and family Delphinidae. Up to 20 separate species have been proposed at various times as a consequence of bottlenose dolphins' geographically diverse and highly plastic physical characteristics. Although uncertainty and debate remain regarding their taxonomic status, two species of *Tursiops* are now generally recognized—the common bottlenose, *Tursiops truncatus,* and the Indo-Pacific bottlenose, *T. aduncus* (Connor *et al.* 2000). A third species, *T. australis,* which occurs along the southern coast of Australia, has been recently proposed (Viaud-Martinez *et al.* 2008) but is not yet formally accepted. The bottlenose dolphins in Fiordland, New Zealand have been placed in *T. truncatus* based on their longer length; smaller beaks, flippers, and dorsal fins; and lack of ventral spotting, which is common in *T. aduncus* and very rarely seen on *T. truncatus* (Wang *et al.,* 2000; Boisseau, 2003). This classification has since been supported by genetic data (Tezanos-Pinto *et al.* 2008).

In general, the bottlenose dolphin body form is described as being robust with a short, thick beak. Their coloration ranges from light gray to black with lighter coloration on the belly. Coastal animals are typically smaller and lighter in color, while pelagic animals tend to be larger, and darker in coloration. Dolphins living in warm, shallow waters also tend to have smaller body sizes and proportionately larger flippers than animals living in cool, deep waters (Hersh and Duffield 1990; Chong and Schneider 2001).

Bottlenose adults range in length from about 1.8 to 3.9 m, with some even larger sizes reported for some populations from the southern hemisphere (Leatherwood *et al.,* 1983). Based on measurements of two carcasses and stereophotogrammetry (a technique for obtaining measurements from photographs) of live dolphins from one fiord (Doubtful Sound), the bottlenose dolphins in Fiordland appear to be morphologically similar to pelagic animals and those in temperate coastal regions, but larger and more robust in body form than bottlenose dolphins in lower latitudes (Chong and Schneider 2001; Boisseau 2003). The two carcasses measured were of an adult, 7-year old male that was 3.2 m long and a sub-adult 3-year old female that was 2.8 m long (Boisseau, 2003). Asymptotic total length in adult bottlenose dolphins in Doubtful Sound is predicted to reach at least 3.2 m (Chong and Schneider 2001). Sexual dimorphism of Fiordland bottlenose dolphins may also occur, with males potentially reaching larger sizes than females (Boisseau, 2003). Based on laser photogrammetry (also known as laser-metrics) on 20 adult females and 14 adult males, Rowe and Dawson (2008) found that adult males in Doubtful Sound have significantly taller and wider dorsal fins than adult females; however, the differences were not such that adults could be sexed in the wild on the basis of their dorsal fins.

Range and Distribution

Bottlenose dolphins are found in tropical and temperate waters around the world from roughly 45° N. to 45° S. (Leatherwood and Reeves, 1983) but are also known to occur in latitudes greater than 45° in multiple locations within both hemispheres (*e.g.,* United Kingdom, northern Europe, South Africa, New Zealand, and Tierra del Fuego; Ross 1979; Jefferson *et al.* 2008; Olavarria *et al.* 2010; Goodall *et al.* 2011). The species includes coastal populations that migrate into bays, estuaries, and river mouths, as well as offshore populations that inhabit pelagic waters along the continental shelf. Movement patterns of bottlenose populations vary, with some exhibiting long-term residency, seasonal migrations, or even fully pelagic lifestyles. Individual ranges can be influenced by water temperature and associated prey distributions (Hansen 1990; Wells *et al.,* 1990), and use of separate areas to hunt for various preferred prey is not uncommon (Defran *et al.,* 1999; Sotckin *et al.,* 2006). Other factors that may affect habitat use include predation pressure (Mann *et al.* 2000; Heithaus and Dill 2002) and anthropogenic disturbance (Lusseau 2005b; Bejder *et al.* 2006).

Bottlenose dolphins have a discontinuous distribution within the coastal waters of both the North and South Islands of New Zealand. The three main coastal regions where they commonly occur are along the northeastern coast of the North Island, Marlborough Sounds, and Fiordland (Figure 1).

Bottlenose dolphins have been reported in many of the fiords within Fiordland, and sightings along the west coast down to Stewart Island off the southern coast of the South Island are fairly common (Boisseau 2003). Scientific surveys within Fiordland were first initiated in 1990 (Boisseau 2003), but have focused on only a few

of the 14 fiords where bottlenose dolphins are known to occur. The Doubtful-Thompson Sound complex (hereafter Doubtful Sound)—the second largest and best studied of the fiords—hosts a small, resident population of bottlenose dolphins. Bottlenose dolphins also occur in the Dusky-Breaksea Sound complex (hereafter Dusky Sound) and Milford Sound; however, surveys of these fiords are more limited. Anecdotal reports have been made of large groups of bottlenose dolphins in Dagg Sound and Preservation Inlet, which lie to the north and south of Dusky Sound, respectively (Figure 1; Boisseau 2003); and, between 1996 and 2009, there were five reports of groups of 5 to over 100 individuals (Currey 2008b) in Chalky and Preservation Inlets (Figure 1). Based on very limited photo-identification data, these dolphins were presumed to be visitors from one or more other populations and not Fiordland residents (Currey 2008b). We are not aware of any dedicated survey efforts in these fiords where dolphins have been occasionally reported. For those fiords that have been surveyed, more detailed information on the range and distribution of the dolphins is summarized below.

The bottlenose dolphins in Doubtful Sound have been described as being highly resident: Almost all adults are observed during each survey (Henderson *et al.* 2013), and re-sighting probabilities are extremely high (mean = 0.9961, 95% CI: 0.9844–0.9991; Currey *et al.* 2009b). However, the range of these dolphins is not fully understood and may be changing. A review of historical sightings data indicates that during 1994–2003, there were only three instances of five or more dolphins leaving the fiord for more than 3 consecutive days (Henderson *et al.* 2013). Boisseau (2003) also reported that on rare occasions, single dolphins and mother-calf pairs from this fiord made offshore forays and were absent from the fiord for weeks to months. In 2009, a group of 15 dolphins that were photo-identified residents of Doubtful Sound were photographed in Dagg Sound (Henderson *et al.* 2013). Since then, the number of documented occurrences of dolphins leaving the fiord has increased in frequency (Henderson *et al.* 2013). Between November 2009 and October 2011 (with 22–35 total survey days per year), there have been six documented occasions of groups of 6 to 47 dolphins leaving the fiord for a minimum of 3 to 7 days. It is unlikely that dolphins were simply missed during the surveys, because this population is small (61, CV = 1.46%), the individuals were photo-identified using strict protocols, and survey effort was relatively high (Henderson 2013a; Henderson *et al.* 2013). These missing groups included roughly equal numbers of males and females and included adults, sub-adults, and calves (Henderson *et al.* 2013). Every individual in this population was absent on at least one of these six occasions and on an average of 3.55 of these occasions (SE = 0.28); but all were observed during later surveys (so had not died or permanently emigrated; Henderson *et al.* 2013). Causes of this apparent change in residency have not yet been determined. Destination of the dolphins once they leave is also unknown; however, on two occasions in 2011, Henderson *et al.* (2013) observed large groups moving out of Thompson Sound and heading north, and there are reports of Doubtful Sound dolphins to the south in Dagg Sound and Dusky Sound (Currey *et al.,* 2008b, citing L. Shaw, pers. comm.; Tezanos-Pinto *et al.* 2010, citing G. Funnell, pers. comm.).

Surveys of Dusky Sound are more limited. Currey *et al.* (2008c) obtained an asymptotic discovery curve and a high re-sighting rate of bottlenose dolphins in this fiord complex during summer 2007/2008, and thus concluded the dolphins were resident at least over the limited study period. Following the same survey methods as Currey *et al.,* (2008c), Henderson (2013a) conducted surveys from February 2009 to February 2012 in Dusky Sound (about 34 survey days per year), and after the first survey in 2009, did not identify any ''new'' dolphins (other than calves), which is further indication of population residency. During all of the surveys spanning 2007–2012, groups of 2–5 dolphins were missing on four occasions (Henderson 2013a). These ''missing'' dolphins were typically older males, and because they were always present in later surveys, permanent emigration was ruled out. Dusky Sound is relatively large, so it is possible the surveys failed to capture these particular dolphins. There are only two documented cases where dolphins identified as part of the Doubtful Sound population have been observed in Dusky Sound (Currey *et al.,* 2008b, citing pers. comm. (Lance Shaw)): In 2003, two older males from Doubtful Sound were observed in the presence of other bottlenose dolphins, and one of the two (''Quasimodo'') was observed in Dusky Sound again in 2005.

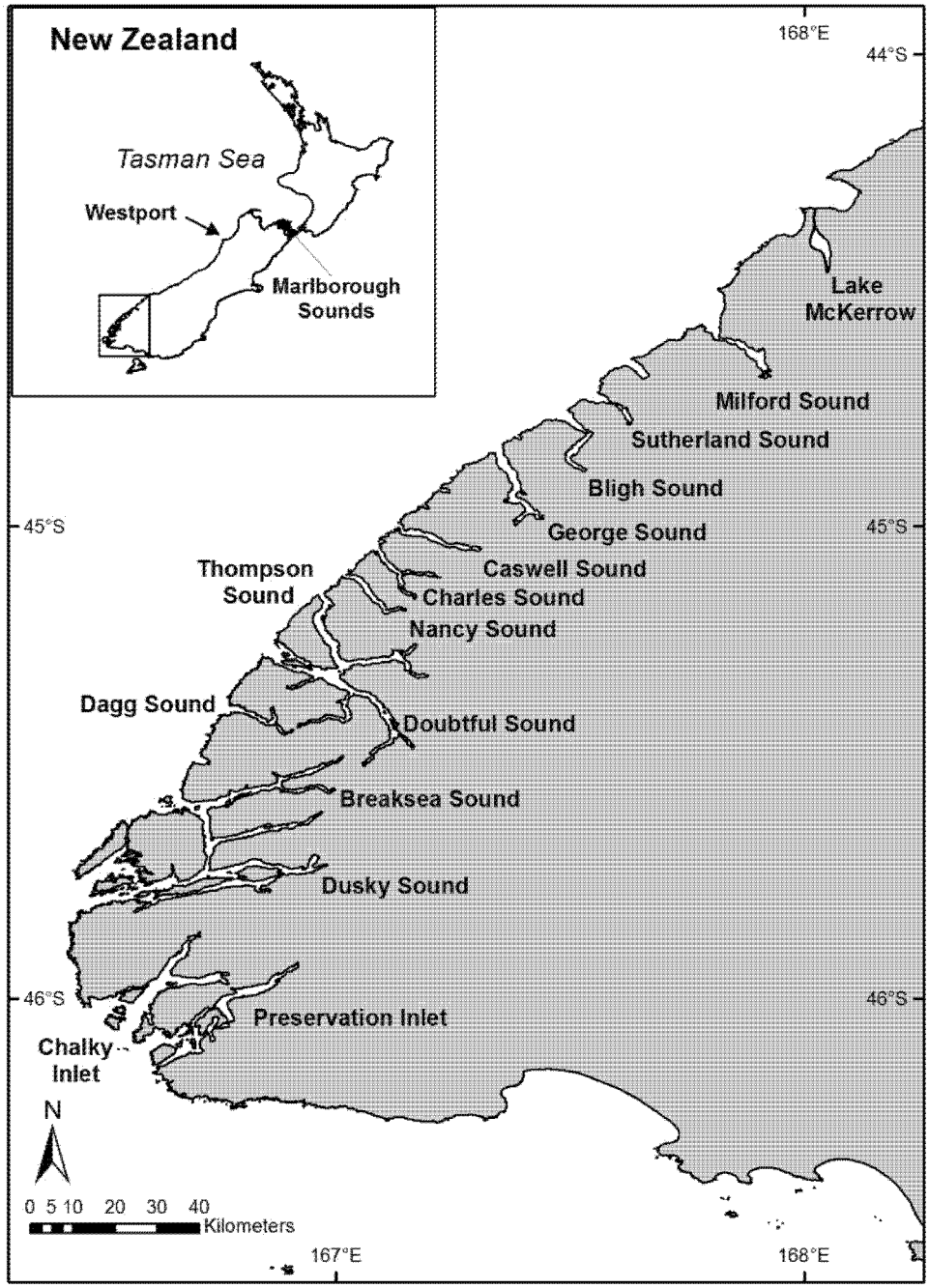
Within northern Fiordland, bottlenose dolphins have been most studied within Milford Sound, where dolphins are present throughout the year and where there is a significant amount of boat traffic and tourism. The bottlenose dolphins of Milford Sound are part of a more transient population that ranges across at least 6 fiords, several bays, and a lake system from Lake McKerrow south to Charles Sound (Figure 1; (Lusseau 2005a). Some photo-identified individuals have even been reported just north of Fiordland in Jackson Bay, which lies about 60 km north of Lake McKerrow (Russell *et al.,* 2004; as cited in Tezanos-Pinto *et al.,* 2010). Given that Milford Sound is relatively small (15.7 km long, 1.6 km wide on average; Stanton & Pickard, 1981), it is probably not adequate to support a resident population (Lusseau and Slooten 2002). Published surveys of the remainder of the known range of these dolphins appear to be lacking.

Seasonal and spatial distribution patterns of bottlenose dolphins appear to vary among fiords. In Doubtful Sound, the dolphins show a preference for the inner fiords during summer and the outer fiord during winter and spring (Elliott *et al.* 2011; Henderson 2013b). This pattern was positively correlated with surface water temperature, and dolphins were rarely sighted in water below 8° C (Henderson 2013b). It is possible that the dolphins prefer warmer water or that they are following seasonal changes in prey distributions. However, it is likely that thermal stress on calves, which are born in the summer and autumn, explains the dolphins' avoidance of the inner fiords during winter months ((Elliott *et al.* 2011). In all seasons, the dolphins remained close to the fiord walls (Henderson 2013b). In contrast, during their early and late summer surveys of Dusky Sound, Currey *et al.* (2008c) found that the dolphins occurred throughout the entire fiord system. In a separate study, the dolphin distribution within Dusky Sound was positively correlated with surface water temperature during winter only, and in no season were the dolphins found in close association with the fiord walls as in Doubtful Sound (Henderson 2013b). Currey *et al.* (2008c) hypothesize that the differences in seasonal distributions for the Doubtful and Dusky sounds, which are only 46 km apart at their entrances, are due to oceanographic conditions specific to each fiord.

Distribution patterns of bottlenose dolphins within the northern fiords are not yet well understood and have only been evaluated in Milford Sound. Gaskin (1972, as cited in Lusseau, 2005) indicated that during ship surveys from 1968–1970, bottlenose dolphins were commonly observed in Milford Sound in summer but rarely during winter. Sighting network data for 1996–1999 also suggest that bottlenose dolphins are

less common in this fiord during colder months (Lusseau and Slooten 2002). However, a more recent study, in which Lusseau (2005b) surveyed Milford Sound with equal effort across four seasons, indicated that the dolphins occur in the sound more frequently in winter (December–February). Lusseau (2005b) proposed this change in habitat usage may be the result of increased boat traffic in Milford Sound during the summer season.

Figure 1. Fiordland, New Zealand and the location of the specific fiords.



Habitat

Fiordland is a mountainous region extending along more than 200 km of the southwest coast of the South Island (Figure 1). It includes 14 major fiords and their associated arms. The 14 fiords range in length from 15 km to 38 km (Gibbs *et al.* 2000) and can reach depths greater than 400 m (Heath 1985). Carved by Pleistocene glaciers (26,000–18,000 years ago), the 14 major valleys in Fiordland were once freshwater lakes; then, about 12,000–6,000 years ago, sea level rose above the terminal moraine or sill at the mouths of the valleys, inundating them with seawater (Wing and Jack 2014). The underwater sills (30–145 m deep) still partially separate the fiords from the Tasman Sea (Heath 1985). The region receives a tremendous

amount of orographic precipitation (*i.e.,* relief-associated rainfall)—up to 6–8 m per year (Gibbs *et al.* 2000). The large volume of freshwater input along with the deep bathymetry, narrow tidal range, and somewhat limited ocean swell within the inner fiords, contribute to a persistent and precipitous salinity stratification within the fiords (Wing and Jack 2014). Greater wave action and mixing, however, occurs near the fiord entrances (Wing and Jack 2014). Temperature of the low salinity upper layer varies seasonally and typically ranges from 12–17 °C, but can reach temperatures as low as 4 °C in some areas during winter (Heath 1985; Henderson 2013b).

The fiords support highly endemic and diverse invertebrate and microalgae communities (Wing and Jack 2014). The inner fiords are characterized by an abundance of sessile invertebrate communities that include species of bivalves, tube worms, bryozoans, sponges, brachiopods, cnidarians and ascidians (Wing and Jack 2014). Closer to the fiord entrances, there is a dramatic transition to macroalgae communities and kelp forests (Wing and Jack 2014). The diversity of habitats across the depth and length of each fiord support many higher tropic level consumers, including deep water species like rattails (*Caelorinchus* spp.) and hagfish (*Eptatretus cirrhatus*), rocky reef species like spotty (*Notolabrus celidotus*) and conger eel (*Conger verrauxi*), and pelagic fishes like mackerel (*Scomber australasicus* and *Trachurus declivis*). The most heavily fished species in Fiordland are blue cod (*Parapercis colias*), the red rock lobsters (*Jasus edwardsii*), and sea perch (*Helicolenus percoides*).

Fiordland is only sparsely populated by people but does support considerable tourism (hiking, scenic cruises, diving, etc.). In 1952, New Zealand established the Fiordland National Park, which covers an area of 1.26 million hectares. The national park is also recognized as a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site, Te Wāhipounamu. Bordering the national park are 10 marine reserves, ranging in size from 93 to 3,672 hectares. In total, the marine reserves cover more than 10,000 hectares of marine habitat within the inner fiords.

Life History and Reproduction

The bottlenose dolphin lifespan is 40–45 years for males and more than 50 years for females (Hohn *et al.,* 1989). Long-term observations of identifiable dolphins in Fiordland suggest some may be as old as 40 years (Boisseau 2003; Reynolds *et al.* 2004). Age at sexual maturity in bottlenose dolphins varies by population and ranges from 5–13 years for females and 9–14 years for males (Mead and Potter 1990). In a long-term study within Doubtful Sound, Henderson *et al.* (2014) calculated a mean age of 11.33 years (95% CI: 10.83–11.83) at first reproduction for three females of known age.

Single calves are born after a gestation period of about a year, but weaning and calving intervals vary among populations. Calves are nursed for a year or longer and remain closely associated with their mothers. On average, calving occurs every 3 to 6 years, and calves remain associated with their mothers for roughly 3–6 years (Read *et al.* 1993). The calving interval of bottlenose dolphins in Doubtful Sound ranges from 1 to 10 years and is highly dependent upon calf survival (Henderson 2013b). For example, Henderson (2013b) found that when calves died within a month of birth, their mothers could produce another calf the following year; and, for mothers with calves surviving for longer than a year, the average inter-calving interval was 5.3 years.

In general, bottlenose dolphin length at birth is about 0.9 m to 1.2 m (Leatherwood *et al.,* 1983). To our knowledge, sizes of calves born in Fiordland have not been reported. Based on laser photogrammetry measurements of dorsal fin base length, Rowe *et al.* (2010) found that calves in Doubtful Sound (n = 4) were smaller at first measurement than calves in Dusky Sound (n = 11), suggesting they were either born later in the season or were smaller at birth.

While calving can occur throughout the year, seasonal peaks in calving occur in many populations, especially those in cooler, temperate regions (Urian *et al.* 1996; Henderson *et al.,* 2014). The bottlenose dolphins of Doubtful Sound show a strong birthing peak in warmer months of the austral summer (Boisseau 2003). In a 16-year study (1995–2011), Henderson *et al.* (2014) documented that calving in Doubtful Sound occurs from October–April but mainly takes place during December–February, when average water temperatures grow increasingly warmer. Calving in Dusky Sound appears to have a less pronounced seasonal peak and occurs from early December to May or June (Rowe *et al.* 2010).

Reproductive life is fairly long in bottlenose dolphins, and females as old as 48 years have been known to raise healthy calves (Boisseau 2003). Additional, specific life history information for bottlenose dolphins within Fiordland is lacking.

Diet and Foraging

Bottlenose dolphins are generalists and eat a wide variety of fishes and invertebrates that reflects both their preferences and the availability of prey (Corkeron *et al.* 1990). They are known to forage both individually and cooperatively and use multiple strategies to capture prey, such as passive listening, prey herding, and ''fish whacking'' using their flukes (Reynolds *et al.* 2000).

Stomach content analyses for Fiordland bottlenose dolphins are not available. However, a stable isotope analysis comparing isotope ratios in exfoliated skin tissue samples from dolphins (n = 11) inside Doubtful Sound provides some indirect information on their diet (Lusseau and Wing 2006). This analysis suggests that, at least within Doubtful Sound, the dolphins' diet consists mainly of reef-associated fish (*e.g.,* wrasses, perch, eel) and other demersal fish species (*e.g.,* cod, sea perch; Lusseau and Wing 2006). Pelagic fishes, which enter the fiord from the adjacent Tasman Sea (*e.g.,* mackerel and squid), and other deep basin species (*e.g.,* hagfish and rattails) do not appear to comprise much of the dolphins' diet (Lusseau and Wing 2006). These results are consistent with observations of dolphins spending the majority of their time and diving mostly in areas associated with rocky reefs along the fiords' walls or sills in which demersal and reef-associated fish are most commonly found. In Milford Sound, tour operators have reported observing bottlenose dolphins feeding on yellow-eyed mullet, flounder, eels and trout (Lusseau and Slooten 2002).

For dolphins in Doubtful Sound, some observations suggest cooperative feeding through synchronous diving, and tour operators in Milford Sound have reported observing bottlenose dolphins cooperatively feeding on yellow-eyed mullet by herding and trapping them against the wall of the fiord (Lusseau and Slooten 2002). However, individual diving and feeding appear to be more common (Boisseau 2003). Passive acoustic monitoring of dolphins within Doubtful Sound suggests that the dolphins forage more frequently at dawn and especially dusk (Elliott *et al.* 2011).

Mortality

Natural predators of bottlenose dolphins are mainly shark species, including bull, dusky, and tiger sharks (Shane *et al.* 1986). Bottlenose dolphins in Fiordland are observed with scars

that may be from shark-attacks (Boisseau 2003), but predation rates have not been estimated. Anthropogenic sources of mortality appear to be limited and may predominately consist of boat strikes, which have been the focus of some conservation concerns (Lusseau 2005; Lusseau *et al.* 2006). The mortality rate for the dolphins in Doubtful Sound has been estimated at 8% per year, which is similar to rates measured for coastal populations in Florida (*e.g.,* 7–9%; Boisseau 2003).

Behaviors

In general, the daily behaviors of bottlenose dolphins are categorized into several activities, such as travelling, socializing, foraging, milling, or resting. Activity budgets may depend on seasonal, ecological, and other factors (Reynolds *et al.* 2000). In Doubtful Sound, the group behavioral budget has been quantitatively divided into travelling, resting, milling, diving, and social behaviors (Boisseau 2003). About half of the dolphins' behavioral budget is spent on travelling, which in this case, is defined as movement in a uniform direction with short, regular dive intervals (Boisseau 2003). The dolphins' behaviors also appear to vary between the warmer, summer months and the colder, winter months. In the warmer summer months, the dolphins spend about 12 percent of their time milling and about 22 percent of their time socializing. (''Milling'' is defined as no net movement of the group, with individuals typically surfacing facing different directions. ''Socializing'' involves many aerial behaviors, physical contact, and the formation of small, tightly spaced clusters.) In winter, these activities accounted for only 4 percent (milling) and 11 percent (socializing) of the budget (Boisseau 2003). Presumably, the increase in social behaviors in the summer is associated with mating activities. In winter, diving also increases to about 22 percent of the budget (versus 16 percent in summer), possibly reflecting higher energy requirements in colder months (Boisseau 2003). In Milford Sound, the dolphins spend a greater proportion of their overall behavioral budget diving compared to the dolphins in Doubtful Sound (32 percent versus 22 percent; Boisseau, 2003). Socializing (15 percent) and resting (9 percent) are smaller portions of the overall budget for Milford Sound dolphins when compared to those in Doubtful Sound (20 percent and 13 percent, respectively). Boisseau (2013) hypothesized that the dolphins use Milford Sound primarily as a foraging ground.

In the wild, bottlenose dolphins may occur alone but are often observed in groups. Group sizes are highly variable and depend on a range of physical and biological factors such as physiography, prey availability, and behavioral state (Shane *et al.* 1982; Reynolds *et al.* 2000). In general, group size tends to increase with water depth or distance from shore (Shane *et al.* 1982; Reynolds *et al.* 2000). Coastal groups often contain about 2–15 dolphins, compared to offshore groups, which can contain about 25 to over a thousand dolphins (Reynolds *et al.* 2000; Scott and Chivers 1990; Leatherwood *et al.* 1983). Social structure within bottlenose dolphin populations is described as being a ''fission-fusion'' structure in which smaller groups form, but group membership is dynamic and can change on a fairly frequent basis (*e.g.,* hours to days; Connor *et al.* 2000). This fission-fusion society involves long-term, repeated associations between and among individual dolphins rather than constant associations; however, some long-term stable associations between individual dolphins are also observed and can last for years or decades (Reynolds *et al.* 2000).

Based on seven years of systematic surveys in Doubtful Sound (1995–2001), Lusseau *et al.,* 2003 reported an average group size of 17.2 dolphins (median = 14, n = 1,292), with a skewed distribution towards smaller groups sizes (mode = 8). Most groups were of mixed sex, and the social structure appeared to consist of three main groups, each with a large proportion of strong and relatively stable relationships (Lusseau *et al.* 2003). In Dusky Sound, a median group size of 11.3 dolphins (quartiles: 25% = 6.0, 75% = 19.2; n = 46) was reported by Lusseau and Slooten (2002) based on sightings network data from 1996 to 1999. For Milford Sound, Lusseau and Slooten (2002) reported that group size ranged from less than 5 to more than 40, with a median of 16.4 (quartiles: 25% = 9.0, 75% = 22.7; n = 508). Group size in Milford Sound also varied across the length of the fiord, with larger groups more common at the entrance to the fiord, and smaller groups typically found within the fiord ($X^2 = 33.71$, df = 12, $p < 0.001$; Lusseau and Slooten 2002). Understanding of the social structure within the fiords to the north and south of Doubtful Sound is lacking (Boisseau 2003).

Abundance and Trends

Monitoring of the bottlenose dolphins within Doubtful Sound has been ongoing since 1990, and using data from standardized surveys conducted during 1990–1992, Williams *et al.* (1993) applied three different models to estimate a total population size of about 58 dolphins. Based on a survey completed in 2007, Currey *et al.* (2007) estimated a total population size of 56 dolphins (1.0% CV); and most recently, Henderson (2013a) estimated a population size of 61 dolphins (CV = 1.5%) for 2012. Other than calves, no new dolphins have been sighted in this fiord since 2004; thus, immigration is probably rare (Currey *et al.* 2007; Henderson 2013a). Based on sightings data from 2007–2011, adult survival rates are very high (0.988, 95% CI: 0.956–0.997), and despite an increase since 2010, calf survival rates are quite low (0.622, 95% CI: 0.435–0.830; Henderson 2013a). Between 1995 and 2011, the average birth rate for dolphins in Doubtful Sound was 4.11 calves per year (SD = 2.49; Henderson 2013b). The majority of runs (62%) of an age-structured stochastic population model indicate this population is declining (Henderson 2013b).

Bottlenose dolphin surveys in Dusky Sound were initiated in 2007, and based on survey data from 2007–2008, Currey and Rowe (2008) estimated a resident population totaling 102 bottlenose dolphins (CV = 0.9%). More recently, Henderson (2013a) completed a 4-year survey of Dusky Sound in 2012 and reported a population census of 124 dolphins, which closely matched the match-recapture estimate of 122 dolphins (CV = 0.83%). Henderson (2013a) also reported that no new adults or sub-adults have been identified in this fiord since 2009, suggesting that immigration may be rare. Adult survival rates in Dusky Sound are high (0.966, 95% CI: 0.944–0.98), but calf survival rates are quite low (0.722, 95% CI: 0.556–0.844, Henderson 2013a). The majority of runs (60%) of an age-structured stochastic population model indicate a negative population trend (Henderson 2013b).

The bottlenose dolphin abundance within Milford Sound has been estimated to be only about 45 to 55 total individuals (Lusseau *et al.* unpubl. data, as cited in Lusseau 2005). Boisseau (2003) also reported a provisional abundance estimate of 47 individuals (CV = 6.5%) for Milford Sound. It is unclear how fully these estimates account for the other 6 fiords that this northern community of dolphins is known to use as part of its range. To our knowledge there are no other abundance estimates or trend information available for this population.

Based on the separate abundance estimates for Doubtful, Dusky, and Milford Sounds, the total abundance of

bottlenose dolphins in Fiordland is probably close to 200 dolphins. Similarly, based on recent abundance estimates for Doubtful and Dusky Sounds and stochastic modeling for Milford Sound, Currey *et al.* (2009a) estimated a total population of 205 bottlenose dolphins in Fiordland (CV = 3.5%, 95% CI: 192–219). Using stochastic age-structured Leslie matrix population models, Currey *et al.* (2009a) also projected that the Fiordland population was highly likely to decline over the next one, three, and five generations.

Distinct Population Segment Analysis

The following sections provide our analysis of whether the petitioned entity—the bottlenose dolphins occurring within the waters of Fiordland, New Zealand—qualify as a DPS of *Tursiops truncatus.* To complete this analysis we relied on the best scientific and commercial data available, and we considered all literature and public comments submitted in response to our 90-day finding (79 FR 9880; February 21, 2014).

Discreteness

The Services' joint DPS Policy states that a population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions:

(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA (61 FR 4722; February 7, 1996).

For purposes of this analysis, we defined the population segment of bottlenose dolphins of Fiordland to consist of the three communities that occur regularly in, or originate from, Milford Sound, Doubtful Sound and Dusky Sound. We use the term ''community'' here to mean a group of dolphins that share a common home range; whereas, we use the term ''population'' to apply more strictly to a closed reproductive unit. We considered the range of the possible Fiordland DPS to extend as far north as Jackson Bay. The more transient community of dolphins that occur in Milford Sound may range at least as far north as Jackson Bay, which is about 60 km north of Lake McKerrow at the northern edge of Fiordland (Figure 1; Russell *et al.* 2004, as cited in Tezanos-Pinto *et al.* 2010). Groups of bottlenose dolphins ranging in size from 2 to over 100 dolphins have been occasionally sighted as far south as Preservation Inlet but are of unknown origin (Currey 2008b). Lacking any basis to exclude the southernmost fiords, we considered the geographic range of the possible Fiordland population segment to extend as far south as Preservation Inlet. Dolphins that are only occasional visitors and not resident to Fiordland were not considered in our analysis as part of the potential distinct population segment.

There are no physical barriers preventing migration or movement of bottlenose dolphins out of Fiordland. Groups of dolphins from both Doubtful and Dusky Sound are known to have traveled outside their fiords (Henderson 2013a; Henderson *et al.* 2013), and are thus not restricted to a particular fiord. The bottlenose dolphins occurring in northern Fiordland are also known to range over at least 7 fiords and possibly as far north as Jackson Bay, and they are considered to have a home range of at least 250 km (Boisseau 2003). Documented movements of other coastal populations of bottlenose dolphins in New Zealand indicate that the bottlenose dolphins elsewhere in New Zealand waters undertake long migrations. For example, a photo-identified bottlenose dolphin was sighted off of Westport only 66 days after having been sighted in Marlborough Sounds, indicating it had covered over 370 km in a maximum of 66 days (Figure 1; Brager and Schneider 1998). The bottlenose dolphins that occur in the Bay of Islands, which lies at the northernmost end of the North Island of New Zealand, are also known to travel to the Hauraki Gulf, over two hundred kilometers to the south (Berghan *et al.,* 2008), and their range, at minimum, extends 82 km north and 388 km south of the Bay of Islands (Constantine 2002).

Despite the long-range movements and lack of physical barriers, the closest bottlenose dolphin sightings north of Fiordland come from Westport, which is about 400 km north along the coast from Jackson Bay, and dolphins are only reported to occur there occasionally (Brager and Schneider 1998). Similarly, bottlenose dolphins have only been occasionally sighted in the southernmost fiords, to the south of Dusky Sound (Figure 1; Boisseau 2003; Henderson 2013a). Thus, there may be some degree of geographic separation of the Fiordland population as a consequence of existing distribution patterns.

A range of physiological, ecological, and behavioral factors can act as mechanisms to create or maintain separation among populations. In this particular case, we examined possible mechanisms, such as breeding cycles, diet, foraging strategies, and acoustic repertoires that could contribute to the marked separation of the Fiordland dolphins. As discussed previously, the breeding and birthing cycles of the Fiordland dolphins are seasonal, with births peaking in the warmer months. This reproductive cycle, however, is likely to coincide or at least overlap with that of other New Zealand populations. For example, for the Bay of Islands population in the North Island of New Zealand, the majority of calves are born in the summer months (Constantine 2002). In fact, most global populations exhibit diffuse seasonality, with birthing peaks occurring in the warmer months (Urian *et al.* 1996). The varied diet and variety of foraging strategies that have been reported for dolphins in Fiordland suggest that these factors are also unlikely to create ecological barriers to mixing with other populations or communities. The acoustic repertoire of Fiordland dolphins is highly diverse and does include some vocalizations that may be unique to Fiordland (Boisseau 2005). However, many of the vocalizations are similar to those reported elsewhere (Boisseau 2005), and acoustic studies on other coastal New Zealand bottlenose dolphin populations appear to be lacking, thereby precluding comparisons. Other relevant data, such as social organization within and among communities of bottlenose dolphins of coastal New Zealand, also appear to be very limited and could not provide evidence of marked separation. After examining the best available information, we ultimately concluded there is insufficient evidence of particular physiological, ecological, or behavioral mechanisms contributing to the marked separation of the Fiordland dolphins from other bottlenose dolphin populations.

As highlighted in the DPS Policy, quantitative measures of morphological discontinuity or differentiation can serve as evidence of marked separation of populations. We examined whether the morphological data for bottlenose dolphins in Fiordland, which come from a limited number of dolphins from Doubtful Sound, provide evidence of marked separation of the Fiordland dolphins. As discussed previously, the asymptotic total length for adult bottlenose dolphins in Doubtful Sound

is predicted to reach at least 3.2 m, which is about 30 percent longer than adult bottlenose dolphins from the warmer-water populations in Texas and Florida (Perrin, 1984, Chong and Schneider 2001). Based on stereophotogrammetric measurements, fluke width and anterior flipper length also appear to be proportionately smaller for bottlenose dolphins in Doubtful Sound when compared to stranded bottlenose dolphins from Texas (Chong and Schneider 2001). The morphology of the Doubtful Sound dolphins is consistent with the general pattern of increasing body size with decreasing water temperatures and is similar to that of other deeper water populations and populations in higher latitudes (Ross and Cockcroft 1990; Hersh and Duffield 1990). Bottlenose dolphins elsewhere in New Zealand also exhibit longer body sizes, and as noted by Constantine (2002), the bottlenose dolphins in the Bay of Islands ''appear to be morphologically the same as those in Marlborough Sounds and Doubtful Sound.'' In the Bay of Islands, which lies along the northeast coast of the North Island, four corpses of presumed members of that region's coastal population, had measured lengths of 2.84 m, 3.12 m, 3.13 m, and 3.16 m, comparable to the estimated length of Fiordland dolphins (Constantine 2002, citing unpublished data). Other data, such as skull measurements, which would allow for additional morphological comparisons, do not appear to be available for the Fiordland dolphins. Overall, we concluded there is no evidence of marked separation of the Fiordland population segment on the basis of a quantitative morphological discontinuity.

Photo-identification libraries, in which known individuals are catalogued based on dorsal fin markings, have been generated and maintained for many of the coastal populations of bottlenose dolphins in New Zealand, including Doubtful, Milford and more recently, Dusky Sound. These libraries allow tracking of the demographics and individual status of dolphins within the dolphin communities. Over 17 years of photo-identification records have been amassed from surveys of Doubtful Sound and provide firm evidence that the dolphins of Doubtful Sound are fairly resident and have a high degree of natal philopatry (Henderson *et al.* 2013; Henderson *et al.* 2014). In surveys conducted from 2009–2012 in Dusky Sound, Henderson (2013a) also reported that no new adults or sub-adults were identified in the fiord after 2009, suggesting that immigration is limited or rare. While movements of dolphins outside of their main fiord have been documented, especially for Doubtful Sound, no permanent emigration has been reported, and the only new individuals identified in each community have been calves (Henderson 2013a). The lack of documented emigration or immigration in the datasets for both Doubtful and Dusky Sounds is a strong indicator that these communities are probably closed, and thus markedly separate from other coastal New Zealand or pelagic populations. Although there remains some uncertainty given the limited data for the community that frequents Milford Sound and for dolphins occurring in the southernmost fiords, we consider the survey data for Doubtful and Dusky Sounds, the two largest fiord systems in Fiordland, to be evidence of the demographic independence of the Fiordland population and thus marked separation of the Fiordland population segment from other bottlenose dolphin populations.

The hypothesis that the Fiordland dolphins are demographically independent is supported by genetic data that indicate restricted gene flow among New Zealand bottlenose dolphin populations. Analyses of mitochondrial DNA (mtDNA) control region sequences (n = 193) and 11 nuclear microsatellite loci (nuDNA, n = 219) indicate that three discontinuous, coastal populations of bottlenose dolphins in New Zealand—the northeastern North Island, Marlborough Sounds, and Fiordland populations—are relatively genetically isolated from each other (overall mtDNA Fst = 0.15, $p < 0.001$; overall nuDNA Fst = 0.09, $p < 0.001$; Tezanos-Pinto *et al.* 2008; Tezanos-Pinto *et al.* 2010). All pairwise comparisons of the three sample populations based on both mtDNA and nuDNA also indicate significant genetic differentiation ($p < 0.001$ for all Fst comparisons, Tezanos-Pinto *et al.* 2010). Within the Fiordland sample, which included samples collected from Jackson Bay (n = 5) and Doubtful Sound (n = 14), three dolphins shared an mtDNA haplotype with the North Island population and one dolphin shared a haplotype with the Marlborough Sounds population (Tezanos-Pinto *et al.* 2010). The remaining four haplotypes in the Fiordland sample were unique to the Fiordland dolphins (Tezanos-Pinto *et al.* 2010). Tezanos-Pinto *et al.* (2010) found no evidence of genetic sub-structuring within the combined Fiordland sample (*i.e.* Jackson Bay and Doubtful Sound); however, sample sizes were too small to allow rigorous statistical analysis. Tezanos-Pinto *et al.* (2008) also conducted a global assessment of genetic structure within *T. truncatus* by pooling the mtDNA samples for the three New Zealand populations and comparing that pooled sample to 13 other regional populations or subpopulations from the South Pacific, North Pacific and Atlantic Oceans (n = 579). Overall, all sample populations were significantly differentiated (Fst = 0.16, $\Phi st = 0.34$, $p < 0.0001$), and all pair-wise comparisons with the New Zealand sample population were also significant ($p < 0.0055$; Tezanos-Pinto *et al.* 2008); however, there were no phylogeographically distinct lineages at a regional scale. Tezanos-Pinto *et al.* (2010) also noted that the relatively large number of mtDNA haplotypes (n = 6) and high levels of haplotype and nucleotide diversity for the Doubtful Sound sample ($h = 0.82 \pm 0.056$, nucleotide diversity = 1.54 percent ± 0.83) are inconsistent with expectations of genetic drift in a small isolated population (*e.g.,* < 50 mature females). This diversity could reflect relatively recent isolation or periodic interbreeding with neighboring communities or pelagic populations. We further note there are significant limitations of the currently available data due to the lack of genetic samples from the pelagic populations off New Zealand and from other communities within Fiordland. Thus, there is still considerable uncertainty regarding the degree of genetic isolation of the bottlenose dolphins within Fiordland, and further research is needed to more fully resolve the population structure.

Although the currently available genetic data do not support a conclusion that the Fiordland bottlenose dolphin population segment constitutes a completely separate population segment, the available genetic data do indicate varying magnitudes of differentiation of New Zealand dolphins from other global populations. Considering the available genetic data and the evidence of closed populations within Fiordland, we conclude that the weight of the evidence is sufficient to indicate that the Fiordland bottlenose dolphins are markedly separated from other populations of *T. truncatus.* Thus, after considering the best available data and information, we conclude that the Fiordland population segment of bottlenose dolphins is ''discrete.'' We therefore proceeded to evaluate the best available information with respect to the second criterion of the DPS Policy.

Significance

Under the DPS Policy, if a population segment is found to be discrete, then its biological and ecological significance to the taxon to which it belongs is evaluated. This consideration may include, but is not limited to: (1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that the loss of the discrete population segment would result in a significant gap in the range of a taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; and (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics (61 FR 4722, February 7, 1996). Significance of the discrete population segment is not necessarily determined by the existence of one of these classes of information standing alone. Accordingly, all relevant and available biological and ecological information for the discrete population segment is considered in evaluating the discrete population segment's importance to the taxon as a whole.

Persistence in an Ecological Setting Unusual or Unique for the Taxon

Bottlenose dolphins occur in a wide range of habitat types around the world. Within the range of the species, there is no typical or usual habitat type in terms of water depth, proximity to shore, water temperature, salinity, or prey resources. Provided there are sufficient prey resources, bottlenose dolphins can be successful in very diverse habitat conditions. For example, bottlenose dolphins occur in shallow, coastal bays, lagoons and estuaries; waters around oceanic islands; and in deep, offshore waters. They are found in warm, tropical waters as well as colder temperate waters, generally no farther than 45 degrees North or South (Leatherwood and Reeves 1983). The waters of Fiordland are an example of a colder, deeper water, coastal habitat at the southern limit of the species' range. Other and even more extreme occurrences of bottlenose dolphins have been recorded in relatively cold and/or deep-water habitats in the northern hemisphere, such as in Moray Firth, Scotland (57 degrees N; Cheney *et al.* 2013) and off the coast of Norway (Tomilin 1957, as cited in Kenney 1990) and southern Greenland (Leatherwood and Reeves 1982), and in the southern hemisphere, for example in the Patagonian and Fuegian channels and fiords (as far as 53 degrees S; Olavarria *et al.* 2010; Cheney *et al.* 2013). Thus, while Fiordland, New Zealand is a biologically and geologically unique region towards the southern limit of the species' range, the persistence of bottlenose dolphins in this region is not in itself significant to the taxon as a whole.

The Petitioner asserted that Fiordland bottlenose dolphins have developed adaptations in response to their persistence in their cold-water habitat and that these differences qualify them as ''significant'' under the DPS Policy. Specifically, the Petitioner cites the larger body size as an adaptation stemming from their cold-water habitat and an indicator of the ''significance'' of the Fiordland dolphins. The Petitioner also discusses the dolphins' ''unusual'' seasonal distribution patterns, larger group sizes, and distinct social structure. Thus, we considered possible adaptations to the particular ecological setting and whether they indicate that the bottlenose dolphins in Fiordland are ''significant'' to the taxon as a whole.

As discussed previously, the morphology of the Fiordland bottlenose dolphins appears to be consistent with the general pattern of increasing body size with decreasing water temperatures, similar to that of other deep water populations and populations in higher latitudes (Hersh and Duffield 1990; Ross and Cockcroft 1990; Constantine 2002). For example, bottlenose dolphins found in Tierra del Fuego, South America, reach lengths over three meters, and eastern North Atlantic dolphins, like those in Moray Firth, Scotland, measure as long as 3.8 m (Perrin and Reilly 1984; Goodall *et al.* 2011). Even larger body lengths of up to 4.1 m have been recorded for bottlenose dolphins in the northeastern Atlantic (Connor *et al.* 2000, citing Frazer 1974 and Lockyer 1985). It has been hypothesized that a larger body size provides a thermal advantage in colder water by reducing the surface-area-to-volume ratio (Ross and Cockcroft 1990). In colder waters, the proportionally smaller appendages may also help minimize heat loss by decreasing the surface area-to-volume ratio (Boisseau 2003; Ross and Cockcroft 1990). Likewise, smaller body sizes and proportionally larger flippers in warmer waters may in part be a consequence of the greater requirement for heat dissipation (Hersh and Duffield 1990). This pattern of increased body size and smaller appendages is common in both terrestrial and marine species found across a wide range of latitudes, and is thus not unique to bottlenose dolphins (Boisseau 2003; Reynolds *et al.* 2000). In summary, the Fiordland population's morphological characteristics are neither unexpected given its habitat nor unobserved in other bottlenose dolphin populations. This information strongly suggests that larger body size is not a unique adaptation to Fiordland but is part of the observed variability for the taxon; therefore, we conclude this characteristic does not qualify this population segment as significant to the taxon as a whole.

In general, group sizes observed for the Fiordland bottlenose dolphin communities are considered relatively large. As discussed earlier, group sizes vary among the three Fiordland communities, and the reported medians from a study of all three communities were 11.3 (n = n = 46), 16.4 (n = 508), and 21.2 (n = 568) for Dusky, Milford, and Doubtful Sound, respectively (Lusseau and Slooten 2002). In Milford Sound, group size also varied significantly depending on location within the fiord, with larger groups being more common near the entrance to the fiord (Lusseau and Slooten 2002). Based on observations of 1,292 groups followed in Doubtful Sound from 1995 to 2001, Lusseau *et al.* (2003), found that group sizes ranged from less than 5 to over 55 dolphins and averaged 17.2 dolphins (median = 14).

Although large compared to many coastal, resident populations, the reported group sizes for the Fiordland dolphins is not dissimilar from group sizes reported for other coastal populations in New Zealand. For example, group size for bottlenose dolphins in the Bay of Islands was found to range from an average of 18.1 dolphins in Spring (median = 20, range = 2–50, n = 31) down to a low of 13.8 in Winter (median = 12, range = 2–40, n = 50, Constantine 2002). Dwyer *et al.* (2013) reported a high level of year-round use of the waters off the west coast of Great Barrier Island, which lies at the outer edge of Haukari Gulf, North Island, by ''large groups'' with a median size of 35 (other statistics were not available). Lastly, in the Marlborough Sounds, South Island, group size was found to range from 3–172 dolphins, with a median size of 12 (n = 45, SD = 38), and with most groups (n = 34) containing more than 11 dolphins (Merriman *et al.* 2009).

Group size for Fiordland dolphins is also similar to, or even smaller than, group sizes reported for bottlenose dolphins occurring in the comparably cold and deep water habitats of Patagonia. Based on 32 separate sightings recorded during 2001–2010 in the Patagonian fiords of southern Chile, Olavarria *et al.* (2010) reported that

group size ranged from 2–100 and averaged 25 dolphins. Similarly, in eight sightings of bottlenose dolphin groups over the course of 14 surveys during 2000–2001 in the northern Patagonia fiords of southern Chile, Viddi *et al.* (2010) reported group sizes of 4–100 dolphins and an average group size of 34. In addition, when compared to other bottlenose populations generally, the group sizes reported for Fiordland are well within the observed variability. For example, Scott and Chivers (1990) reported fairly large mean and median group sizes of 94 and 12, respectively, for coastal bottlenose dolphins in the eastern tropical Pacific Ocean (n = 867); and Zaeschmar *et al.* (2013) reported groups sizes ranging from 2–250 dolphins and averaging 62.8 dolphins in waters off the northeastern coast of the North Island, New Zealand (n = 36, SD = 42.8).

Group size may be affected by factors such as presence of predators, prey availability, habitat complexity, season, and activity type (*e.g.,* foraging, breeding; Shane *et al.* 1986; Heithous and Dill 2002; Gowans *et al.* 2008). Whether and how these and other ecological factors influence group size has received inconsistent support in the literature, complicating researchers' ability to establish general, consistent relationships between group size and ecological factors (Scott and Chivers 1990; Corkeron 1997; Gygax 2002; Gowans 2008). It remains unclear the extent to which variation in group size across the species is a result of random historical processes versus selective pressures (Gygax 2002). Perhaps lesser but additional complications hampering interpretations of group size are the differing perceptions of what constitutes a group, and inconsistencies among studies in terms of the criteria used to define ''a group'' (Shane *et al.* 1986; Connor *et al.* 2000).

Overall, given the natural variability of group size observed in bottlenose dolphins, the similarity of group sizes within Fiordland to those reported elsewhere, and the lack of a clear understanding of the drivers of this variation, we find there is insufficient evidence that the group sizes reported for Fiordland communities reflect a special or unique adaptation to their habitat such that it qualifies the population segment as ''significant'' to the taxon as a whole.

A characteristic related to group size is social structure, and as discussed earlier, bottlenose dolphins are highly social animals exhibiting a ''fission-fusion'' social structure (Connor *et al.* 2000). The ''fission-fusion'' social structures of bottlenose dolphins is highly plastic and ranges dramatically among communities or populations from being characterized by a high proportion of long-lasting associations (Lusseau *et al.* 2003) to consisting mostly of short-term (several days) associations (*e.g.,* Lusseau *et al.* 2006). Complexity of the overall social structure also varies widely and can include few or many levels of organization and alliances. Influences that contribute to inter- and intra-population variation in social structure may include availability of prey, disturbance, dispersal, and other demographic factors (Ansmann *et al.* 2012; Augusto *et al.* 2012; Morteo *et al.* 2014; Hamilton *et al.* 2014). Also, while social structure for a particular community or population can remain stable over multiple generations, it is not necessarily a fixed or rigid characteristic for a particular population or geography and can change in response to changing conditions, such as changes in fishing practices (Ansmann *et al.* 2012).

Doubtful Sound bottlenose dolphins appear to have a relatively unique social structure that includes a large proportion of strong, long-lasting associations both within and between sexes (Lusseau *et al.* 2003). The community structure also seems more stable over time compared to other populations (Lusseau *et al.* 2003). However, group membership was still fluid and thus consistent with a ''fission-fusion'' model; and, females did display an association pattern similar to that of populations elsewhere (Lusseau *et al.* 2003). Lusseau *et al.* 2003 concluded that the most parsimonious explanation of the observed social structure is the isolation of the Doubtful Sound community from other bottlenose communities. According to this hypothesis, the geographic isolation and consequent lack of immigration and emigration, promotes the formation of alliances and stability of the overall social structure. Lusseau *et al.* (2003) also hypothesized the stable social structure observed in Doubtful Sound could be driven by the temporally and spatially variable prey resources within the fiord and a requirement for greater cooperation among the dolphins in order to forage efficiently. Data to test either of these hypotheses are not available. Thus, it is not possible to determine whether the observed social structure in Doubtful Sound is a special or unique adaptation in response to ecological constraints, or whether it is simply a consequence of the community's relative isolation.

To our knowledge, the only study of social structure for bottlenose dolphins within Fiordland comes from the Doubtful Sound community, and comparable studies for the remaining fiords appear to be lacking. The extent to which the social structure of Doubtful Sound can be extrapolated to the other communities is unknown, especially for the transient community that occurs in the northern fiords (Boisseau 2003). Given the unknown social structure of the other Fiordland communities and the uncertainty of whether the observed social structure in Doubtful Sound is evolutionarily meaningful, we conclude this interesting characteristic of the Doubtful Sound community does not qualify the Fiordland population segment as ''significant'' to the taxon as a whole.

The Petitioner discusses the seasonal changes in distribution of the Fiordland dolphins in response to water temperature and asserts this is relatively unusual behavior. The Petitioner discusses how the Fiordland dolphins tend to occupy the warmer waters of the inner fiords during the summer calving season; and in winter, when the inner fiord waters become colder, the dolphins are found closer to the fiord entrances. This seasonal change in habitat use has been documented for the dolphin community in Doubtful Sound (Elliott *et al.* 2011; Henderson 2013b); however, as discussed in detail previously, it is not necessarily the case for the other Fiordland communities (Lusseau 2005b, Currey *et al.* 2008c, Henderson 2013b). Furthermore, seasonal habitat shifts that are correlated with water temperature are not uncommon among coastal bottlenose dolphin populations, especially those at higher latitudes (Shane *et al.* 1986; Wilson *et al.* 1997). Populations at lower-latitudes also show local seasonal changes in distribution, which may be in response to factors other than water temperature (Shane *et al.* 1986). Populations in the western Atlantic also undergo seasonal migrations that correspond to changes in water temperature (Connor *et al.* 2000). Similar to the females in Doubtful Sound, female dolphins elsewhere have also been observed to make use of more warmer and more protected areas for calving (Shane *et al.* 1986; Wilson *et al.* 1997). Overall, we conclude that this particular behavior does not help qualify the Fiordland population segment as ''significant'' to the taxon as a whole.

In summary, while the Fiordland bottlenose dolphins do exhibit differences from bottlenose dolphin populations in other regions and habitat types, given the tremendous intraspecific diversity of physical and

ecological characteristics of bottlenose dolphins and the noted inconsistencies and limited information for the Fiordland population segment, these differences do not set the Fiordland bottlenose dolphins apart from the remainder of the taxon. Common bottlenose dolphins are highly adaptable and successfully occupy and persist in a diverse range of habitat types, including other cold and deep water habitats in both hemispheres. The available information leads us to conclude that the particular variations observed for some or all of the Fiordland bottlenose communities do not make this population segment more ecologically or biologically important relative to other individual populations or communities. Therefore, we conclude that persistence of bottlenose dolphins in Fiordland is not ''significant,'' to the taxon as a whole.

Significant Gap in the Range of the Taxon

The second consideration under the DPS Policy in determining whether a population may be ''significant'' to its taxon is whether the ''loss of the discrete population segment would result in a significant gap in the range of a taxon'' (61 FR 4722, February 7, 1996). Bottlenose dolphins are distributed worldwide from tropical to cold temperate waters. The bottlenose dolphins within Fiordland constitute a very small fraction of the global abundance and occupy a very small fraction of the global range of this species. The roughly 200 dolphins occupying the fiords along about 200 km of New Zealand's South Island represent such a numerically and geographically small portion of the taxon that the hypothetical loss of the dolphins in this region would not constitute a significant gap in the range of the species. Furthermore, groups of dolphins from populations of unknown origin have been sighted in the waters of Fiordland south of Dusky Sound (Boisseau 2003). There are no reported matches of these dolphins to photo-identified dolphins of Dusky Sound or any other fiord (Henderson 2013a). Thus, it is possible that dolphins from another population use portions of Fiordland occasionally and could eventually recolonize a gap left by the loss of the Fiordland dolphins. There is also no evidence to suggest that the loss of the Fiordland bottlenose dolphins would inhibit population movement or gene flow among other populations of the species. Overall, we conclude that loss of the Fiordland bottlenose dolphins would not result in a significant gap in the range of the taxon.

Only Natural Occurrence of the Taxon

Under the DPS Policy, a discrete population segment that represents the ''only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range'' can be evidence indicating that the particular population segment is significant to the taxon as whole (61 FR 4722, February 7, 1996). This consideration is not relevant in this particular case, because *T. truncatus* is widely distributed throughout its historical range.

Genetic Characteristics

As stated in the DPS Policy, in assessing the significance of a discrete population, we consider whether the discrete population segment differs markedly from other populations of the species in its genetic characteristics (61 FR 4722, February 7, 1996). Therefore, we examined the available data to determine whether there was a reasonable indication that the Fiordland bottlenose dolphins differ markedly in their genetic characteristics when compared to other populations. In conducting this evaluation, we looked beyond whether the genetic data allow for discrimination among populations or communities, and instead we focused on whether the data indicate marked genetic differences that appear to be significant to the taxon as a whole. In this sense, we give independent meaning to the ''genetic discontinuity'' of the discreteness criterion of the DPS Policy and the ''markedly differing genetic characteristics'' of the significance criterion. Following our approach in the ESA status review for false killer whales (*Pseudorca crassidens;* Oleson *et al.* 2010), we consider that the strength of evidence for the genetic consideration of ''significance'' should be greater than that for ''discreteness,'' and we interpret ''markedly'' in this context to mean that the degree of genetic differentiation is consistent with a population that could have genetic adaptations to the local habitat.

As discussed earlier, analyses of both maternally derived mtDNA and 11 nuclear microsatellite loci indicate significant levels of differentiation among Fiordland, Marlborough Sounds and North Island bottlenose dolphin sample populations (Tezanos-Pinto *et al.* 2010). Pairwise comparisons of the Fiordland sample (n = 18) to the other New Zealand samples (n = 100, North Island; n = 31, Marlborough Sounds) based on the 11 microsatellite loci, had statistically significant but fairly low Fst values (0.056 and 0.139, respectively; $p < 0.001$), indicating shallow levels of differentiation, especially between Fiordland and the North Island (Tezanos-Pinto *et al.* 2010). Pairwise comparisons of the sample populations for mtDNA control region sequences also gave significant Fst values (0.12 and 0.20, $p < 0.001$, Tezanos-Pinto *et al.* 2010) of a relatively low magnitude when compared to an expected value for populations experiencing one migrant per generation (*i.e.,* an Fst value of roughly 0.33 for mtDNA), indicating a lower level of genetic differentiation and thus greater gene flow than would be expected if there was one migrant per generation. (As a general rule of thumb, geneticists consider gene flow rates below one effective migrant per generation as the level at which local adaptation is likely.) Based on the mtDNA data, Tezanos-Pinto *et al.* (2008) estimated migration rates per generation of 4.89 females (CI = 0.02–20.32) from the North Island to Fiordland and 0.31 females from Marlborough Sounds to Fiordland (CI = 0.00–3.12), which is consistent with the finding of a lower degree of divergence between the North Island and the Fiordland dolphins and the possibility of more than one migrant per generation.

In addition, and as noted earlier, the genetic samples for the Fiordland dolphins had high levels of haplotype and nucleotide diversity ($h = 0.82 \pm 0.056$, nucleotide diversity = 1.54 percent ± 0.83), which Tezanos-Pinto *et al.* (2010) hypothesized could reflect relatively recent isolation or periodic interbreeding with neighboring communities or pelagic populations. This high level of genetic diversity also contrasts with the low levels of genetic diversity reported by Natoli *et al.* (2004) for coastal bottlenose dolphin populations sampled from various geographic regions.

As discussed previously, Tezanos-Pinto *et al.* (2008) also conducted a global assessment of genetic structure within *T. truncatus* by pooling the mtDNA samples for the three New Zealand populations and comparing that pooled sample to 13 other regional populations from the South Pacific, North Pacific and Atlantic Oceans (n = 579). All populations were significantly differentiated (Fst = 0.16, $\Phi st = 0.34$, $p < 0.0001$); however, there were no phylogeographically distinct lineages at a regional scale (Tezanos-Pinto *et al.* 2008). Overall, this assessment suggests that the coastal and pelagic populations sampled are interconnected on an evolutionary time scale through long-distance dispersal (Tezanos-Pinto *et al.* 2008).

In summary, the Fiordland bottlenose dolphins display a relatively high level of genetic diversity, relatively low magnitudes of genetic differentiation, and may experience gene flow at rates above the level likely to lead to local adaptation. Mechanisms for the observed genetic diversity are unknown and may be the result of interbreeding with other populations or insufficient time for drift or local adaptation to occur. The extremely limited genetic data for the Milford Sound community and lack of genetic data for the Dusky Sound community add to the level of uncertainty regarding the evolutionary significance of genetic characteristics of the Fiordland population segment. Taken together, there is insufficient data to show that the genetic characteristics of the Fiordland bottlenose dolphins differ markedly from other populations of the species.

DPS Conclusion and ESA Finding

According to our analysis, the Fiordland bottlenose dolphin population is discrete based on evidence it is a relatively closed and isolated population segment. However, while discrete, the Fiordland dolphin population segment does not meet any criteria for significance to the taxon as a whole. As such, based on the best available data, we conclude that the Fiordland bottlenose dolphins do not constitute a DPS and thus do not qualify for listing under the ESA. Therefore, we do not propose to list this population segment. As this is a final action, we do not solicit comments on it.

References

A complete list of the references used in this proposed rule is available upon request (see **ADDRESSES**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 11, 2015.

Samuel D. Rauch, III,

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

[FR Doc. 2015–15087 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD993

Fisheries of the South Atlantic; Southeast Data, Assessment and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR Procedural Workshop 7: SEDAR Data Best Practices post-workshop webinar.

SUMMARY: A post workshop webinar will be held, if necessary, following the June 22–26, 2015 SEDAR Procedural Workshop 7 to develop best practice recommendations for SEDAR Data Workshops, in Atlanta, GA. See SUPPLEMENTARY INFORMATION.

DATES: The SEDAR Procedural Workshop 7 post-workshop webinar will be held, if necessary, on Tuesday, July 7, 2015, from 3 p.m. until 5 p.m.

The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to procedural workshop. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, telephone: (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three step process including: (1) Data Workshop; (2) Assessment Process utilizing workshops and webinars; and (3) Review Workshop.

SEDAR also coordinates procedural workshops which provide an opportunity for focused discussion and deliberation on topics that arise in multiple assessments. They are structured to develop best practices for addressing common issues across assessments. The seventh procedural workshop will develop best practice recommendations for SEDAR Data Workshops.

Workshop objectives include developing an inventory of common or recurring data and analysis issues from SEDAR Data Workshops; documenting how the identified data and analysis issues were addressed in the past and identifying potential additional methods to address these issues; developing and selecting best practice procedures and approaches for addressing these issues in future, including procedures and approaches to follow when deviating from best practice recommendations; and identifying process to address future revision and evaluation of workshop recommendations, considering all unaddressed data and analysis issues. The post-workshop webinar will be held, if necessary, to finalize best practice recommendations from the workshop.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SEDAR office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: June 16, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–15136 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request; ''Clearance for the Collection of Qualitative Feedback on Agency Service Delivery''

The United States Patent and Trademark Office (USTPO) 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: United States Patent and Trademark Office, Commerce.

Title: Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0651–0038.

Form Number(s): • N/A.

Type of Request: Regular.

Number of Respondents: 27,900.

Average Hours per Response: The USPTO estimates that it will take an average of 11 min (.18 hours) to complete a single item in this collection, with completion times ranging from 5 minutes (.08 hours) to 120 minutes (2 hours), depending upon the instrument used.

Burden Hours: 5,059 hours.

Cost Burden: $0.

Needs and Uses: The Agency will collect, analyze, and interpret information gathered to identify strengths and weaknesses of current services. Based on feedback received, the Agency will identify operational changes needed to improve programs and services. The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. The USPTO is committed to hearing feedback from its customers. Responses will be assessed to identify service areas in need of improvement. If this information is not collected, then the Agency will miss opportunities to obtain vital feedback from their customers and stakeholders on ways to improve their program and services.

These information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0038 copy request'' in the subject line of the message.

• *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before July 20, 2015 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: June 12, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–15116 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Practitioner Conduct and Discipline

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the extension of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 18, 2015.

ADDRESSES: Written comments may be submitted by any of the following methods:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0017 comment'' in the subject line of the message.

• *Federal Rulemaking Portal: http://www.regulations.gov.*

• *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email at *Dahlia.George@uspto.gov* with ''0651–0017 comment'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The Director of the United States Patent and Trademark Office (USPTO) has the authority to establish regulations governing the conduct and discipline of agents, attorneys, or other persons representing applicants and other parties before the USPTO (35 U.S.C. 2 and 32–33). The USPTO Rules of Professional Conduct at 37 CFR 11.101–11.804 describe how agents, attorneys, or other practitioners representing applicants and other parties before the USPTO should conduct themselves professionally and outline their responsibilities for recordkeeping and reporting violations or complaints of misconduct to the USPTO, while the Investigations and Disciplinary Proceedings Rules (37 CFR 11.19–11.60) dictate how the USPTO can discipline agents, attorneys, or other persons representing applicants and other parties before the USPTO.

The Rules require an attorney or agent to maintain complete records of all funds, securities, and other properties of clients coming into his or her possession, and to render appropriate accounts to the client regarding the funds, securities, and other properties of clients coming into the practitioner's possession, collectively known as ''client property.'' These recordkeeping requirements are necessary to maintain the integrity of client property. Each State Bar requires its attorneys to perform similar recordkeeping.

The Rules also require an attorney or agent to report knowledge of certain violations of the Rules to the USPTO. If a complaint is found to have merit, the USPTO will investigate and possibly prosecute violations of the Rules and provide the practitioner with the opportunity to respond to the complaint. The Director of the Office of Enrollment and Discipline (OED Director) may, after notice and opportunity for a hearing, suspend,

exclude, or disqualify any practitioner from further practice before the USPTO based on non-compliance with the regulations. Practitioners who have been excluded or suspended from practice before the USPTO, practitioners transferred to disability inactive status, and practitioners who have resigned must keep and maintain records of their steps to comply with the suspension or exclusion order, transfer to disability inactive status, or resignation, should they seek reinstatement. These records may serve as the practitioner's proof of compliance with the order, transfer, resignation, and Rules.

The information collected, *i.e.,* reports of alleged violations of the Rules, is used by the OED Director to conduct investigations and prosecute violations, as appropriate. If this information is not collected, the OED Director would have no knowledge of alleged violations and would be unable to enforce this provision of the Rules.

II. Method of Collection

Electronically via email; by postal mail, facsimile, or hand delivery in paper form.

III. Data

OMB Number: 0651–0017.

IC Instruments: The individual instruments in this collection, as well as their associated forms, are listed in the table below.

Type of Review: Revision of a Previously Existing Information Collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 11,065 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public between 1 hour and 20 hours to submit a single item in this collection depending on the instrument used, including the time to gather the necessary information, prepare the appropriate form or petition, and submit the completed request to the USPTO. The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this collection are shown in the table below.

Estimated Total Annual Respondent Burden Hours: 12,225 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: $3,177,523.00. The USPTO expects that agents will complete the Recordkeeping Maintenance & Disclosure item at an hourly rate of $249 as published in the 2013 AIPLA *Report of the Economic Survey* and that practitioners will complete the Recordkeeping Maintenance Under Suspension or Exclusion from the USPTO item at an hourly rate of $389 as published in the 2013 AIPLA *Report of the Economic Survey.* The USPTO further expects that members of the public will complete the Complaint/Violation Reporting at a blended hourly rate of $284.83. This blended rate is based on data from both the 2013 AIPLA *Report of the Economic Survey* and the 2014 Bureau of Labor Statistics (BLS) National Occupation Employment and Wage Estimates, and is comprised of 50 percent by the practitioner hourly rate of $389; 25 percent by the agent hourly rate of $249; and 25 percent by the hourly rate for Scientists and Engineers of $46.32. Using these hourly rates, the USPTO estimates $3,177,523.00 per year for the total hourly costs associated with respondents.

IC No.	Information collection instrument	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)
1	Recordkeeping Maintenance & Disclosure (includes advertisements, disclosure requirements relating to soliciting professional employment, notifications by non-attorney practitioner of inadvertently sent documents, and financial books and records such as trust accounts, fiduciary accounts, and operating accounts).	1	10,825	10,825	$249.00
2	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion from the USPTO.	20	40	800	389.00
3	Complaint/Violation Reporting	3	200	600	284.83
Total			11,065	12,225	

Estimated Total Annual (Non-hour) Respondent Cost Burden: $1,083.05. There are no capital start-up, maintenance, or recordkeeping costs, as well as no filing fees associated with this information collection. The recordkeeping costs included with the recordkeeping-related responses are a burden hour/burden cost to respondents and are not part of the annualized cost burden for this collection. There are, however, associated postage costs.

Customers may incur postage costs when submitting some of the items covered by this collection to the USPTO by mail. The USPTO expects that practitioners will submit affidavits with attachments via postal mail or hand delivery in association with the Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion item, and estimates that 99 percent of those affidavits will be submitted by mail with the remainder submitted by facsimile or hand delivery. The USPTO further expects that 25 percent of the Complaint/Violation Reporting item will be submitted electronically. Of the non-electronic submissions for this item, 1 percent of the item's total responses will be submitted by hand delivery or facsimile and the remaining 74 percent will be submitted by postal mail. These two items are estimated to produce a total of 187 mailed submissions.

The average first-class USPS postage costs for a one-pound mailed

submission in a flat-rate envelope and a three-pound mailed submission in a small flat-rate box are $5.75 and $5.95, respectively. The Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion item requires the more expensive of those two postage options, while the Complaint/Violation Reporting item requires the cheaper flat-rate envelope. The USPTO calculates that the total postage costs will be $1,083.05.

Therefore, the USPTO estimates that the total annual non-hour cost burden for this collection, in the form of postage costs, is $1,083.05.

IV. Request for Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, 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, *e.g.,* electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: June 12, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–15117 Filed 6–18–15; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments Must Be Received On Or Before:* 7/20/2015.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN(s)—Product Name(s)

6530–00–NIB–0209—Hot Pack, Instant, Disposable, 6″ x 8″, 24/BX
6530–00–NIB–0222—Hot Pack, Instant, Disposable, 5″ x 6″, 80/BX
6530–00–NIB–0223—Hot Pack, Instant, Disposable, 5″ x 7″, 48/BX
6530–00–NIB–0210—Cold Pack, Instant, Long-Lasting, Disposable, 5″ x 6″, 24/BX
6530–00–NIB–0211—Cold Pack, Instant, Long-Lasting, Disposable, 5″ x 6″, 80/BX
6530–00–NIB–0212—Cold Pack, Instant, Long-Lasting, Disposable, 5″ x 7″, 16/BX
6530–00–NIB–0213—Cold Pack, Instant, Long-Lasting, Disposable, 5″ x 7″, 24/BX
6530–00–NIB–0214—Cold Pack, Instant, Long-Lasting, Disposable, 5″ x 7″, 48/BX
6530–00–NIB–0215—Cold Pack, Instant, Long-Lasting, Disposable, 6″ x 8″, 16/BX
6530–00–NIB–0216—Cold Pack, Instant, Long-Lasting, Disposable, 6″ x 8″, 24/BX
6530–00–NIB–0217—Cold Pack, Instant, Disposable, 5″ x 6″, 80/BX
6530–00–NIB–0218—Cold Pack, Instant, Disposable, 5″ x 6″, 24/BX
6530–00–NIB–0219—Cold Pack, Instant, Disposable, 5″ x 7″, 48/BX
6530–00–NIB–0220—Cold Pack, Instant, Disposable, 5″ x 7″, 16/BX
6530–00–NIB–0221—Cold Pack, Instant, Disposable, 6″ x 8.75″, 24/BX
6530–00–NIB–0251—Hot Pack, Instant, Disposable, 5″ x 6″, EA
6530–00–NIB–0252—Hot Pack, Instant, Disposable, 5″ x 7″, EA
6530–00–NIB–0253—Hot Pack, Instant, Disposable, 6″ x 8, EA
6530–00–NIB–0254—Cold Pack, Instant, Long-Lasting, Disposable, 5″ x 6″, EA
6530–00–NIB–0255—Cold Pack, Instant, Long-Lasting, Disposable, 5″ x 7″, EA
6530–00–NIB–0256—Cold Pack, Instant, Long-Lasting, Disposable, 6″ x 8″, EA
6530–00–NIB–0257—Cold Pack, Instant, Disposable, 5″ x 6″, EA
6530–00–NIB–0258—Cold Pack, Instant, Disposable, 5″ x 7″, EA
6530–00–NIB–0259—Cold Pack, Instant, Disposable, 6″ x 8.75″, EA

Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: Central Association for the Blind and Visually Impaired, Utica, NY
Contracting Activity: Defense Logistics Agency Troop Support
Distribution: B-List

NSN(s)—Product Name(s)

7045–00–NIB–0416—Privacy Shield, 16:9 Aspect Ratio Computer Monitor, 23.0″ Widescreen
7045–00–NIB–0417—Privacy Filter, Framed, Black, 20.0″ Widescreen

Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: Wiscraft Inc., Milwaukee WI
Contracting Activity: General Services Administration
Distribution: A-List

NSN(s)—Product Name(s)

6545–00–NIB–0105—Kit, Shelter-In-Place

Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: Bosma Enterprises, Indianapolis, IN
Contracting Activity: General Services Administration
Distribution: B-List

NSN(s)—Product Name(s)

8105–00–NIB–1412—Aquapad Sand-less Sandbag

Mandatory Purchase For: 100% of the requirement of the Department of Defense
Mandatory Source of Supply: Envision Industries, Inc. in Wichita, KS
Contracting Activity: Defense Logistics Agency Troop Support, Construction & Equipment
Distribution: C-List

NSN(s)—Product Name(s)

7530–01–352–6616—Note Pad, Self-Stick, Fanfold, Yellow, 3″ x 3″

Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: Association for the Blind and Visually Impaired—Goodwill Industries of Greater Rochester, Rochester, NY
Contracting Activity: General Services Administration
Distribution: A-List

NSN(s)—Product Name(s)

4240–01–469–8738—Hearing Protection, Over-The-Head Earmuff, NRR 27dB

Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: Access: Supports for Living Inc., Middletown, NY

Contracting Activity: Defense Logistics Agency Troop Support
Distribution: B-List

NSN(s)—Product Name(s)

8920–00–SAM–0169—Super Cereal Plus
Mandatory Purchase For: 20% of the requirement of the U.S. Agency for International Development's World Food Program
Mandatory Source of Supply: Transylvania Vocational Services, Inc., Brevard, NC
Contracting Activity: USDA Farm Service Agency Agricultural Stabilization and Conservation Service
Distribution: C-List

NSN(s)—Product Name(s)

1730–01–516–4899—Wheel Chock, Plastic, 14″
1730–01–516–4900—Wheel Chock, Plastic, 20″
Mandatory Purchase For: 100% of the requirement of the Department of Defense
Mandatory Source of Supply: NewView Oklahoma, Inc., Oklahoma City, OK
Contracting Activity: Defense Logistics Agency Troop Support
Distribution: C-List

NSN(s)—Product Name(s)

6135–01–301–8776—3.6V Lithium AA non-rechargeable battery
Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: Eastern Carolina Vocational Center, Inc., Greenville, NC
Contracting Activity: Defense Logistics Agency Land & Maritime
Distribution: A-List

Services

Service Type: Laundry and Linen Service
Service Mandatory For: US Air Force, 2610 Pink Flamingo Avenue, MacDill AFB, FL
Mandatory Source of Supply: Goodwill Industries of South Florida, Inc., Miami, FL
Contracting Activity: Dept of the Air Force, FA4814 6 CONS LGCP, Tampa, FL
Service Type: Base Supply Center
Service Mandatory For: US Air Force, Building 266, Suite 1, Tyndall Air Force Base, FL
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Dept of the Air Force, FA4819 325th Contracting SQ, Tyndall AFB, FL
Service Type: Janitorial Service
Service Mandatory For: Department of Energy, Western Area Power Administration, Sioux Falls Field Office, 4400 North Timberline Avenue, Brandon, SD
Mandatory Source of Supply: South Dakota Achieve, Sioux Falls, ID
Contracting Activity: Dept of Energy, Western-Upper Great Plains Region, Billings, MT

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–15121 Filed 6–18–15; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other significant disabilities, and deletes products from the Procurement List previously furnished by such agencies.

DATES: *Effective Date:* 7/20/2015.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 3/27/2015 (80 FR 16363–16364) and 5/1/2015 (80 FR 24905–24906), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN(s)—Product Name(s)

MR 400—Bag, Shopping Tote, Laminated, Small, ''Live Spicy''
MR 401—Bag, Shopping Tote, Laminated, Small, ''Live Fresh''
MR 402—Bag, Shopping Tote, Laminated, Small, ''Live Sweet''
MR 403—Bag, Shopping Tote, Laminated, Small, ''Live Well''
MR 404—Bag, Shopping Tote, Laminated, Large, ''Live Spicy''
MR 405—Bag, Shopping Tote, Laminated, Fresh, ''Live Fresh''
MR 406—Bag, Shopping Tote, Laminated, Large, ''Live Sweet''
MR 407—Bag, Shopping Tote, Laminated, Large, ''Live Well''
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI
Mandatory Purchase For: Military commissaries and exchanges in accordance with the Code of Federal Regulations, Chapter 51, 51–6.4
Contracting Activity: Defense Commissary Agency
Distribution: C-List

Service

Service Type: Custodial and Related Service
Service Is Mandatory For: GSA PBS Region 4, Federal Building and U.S. Courthouse, 100 West Troy Street, Dothan, AL
G. W. Andrews Federal Building and U.S. Courthouse, Opelika, AL
Federal Building and U.S. Courthouse, 908 Alabama Street, Selma, AL
Mandatory Source of Supply: Goodwill Industries of Central Alabama, Inc., Montgomery, AL
Contracting Activity: GSA, Public Buildings Service, Acquisition Division/Services Branch, Atlanta, GA

Deletions

On 5/15/2015 (80 FR 27929–27930), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or

other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Product Name/NSN(s)

7210–00–205–3544—Cushion, Chair
7210–00–205–3545—Cushion, Chair
Mandatory Source of Supply: Unknown
Contracting Activity: General Services Administration

Product Name/NSN(s)

2540–00–904–5680—Cushion Seat, Vehicular
Mandatory Source of Supply: The Douglas Center, Skokie, IL
Contracting Activity: Defense Logistics Agency Land and Maritime

Product Name/NSN(s)

MR 3202—Stay Put Elastics Asst
MR 3216—Fashion Bobby Pin
Mandatory Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: Defense Commissary Agency

Product Name/NSN(s)

MR 992—Duster, Lambswool
Mandatory Source of Supply: Industries of the Blind, Inc., Greensboro, NC
Contracting Activity: Defense Commissary Agency

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–15122 Filed 6–18–15; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Availability of the Supplemental Draft Environmental Impact Statement for the Northern Integrated Supply Project, Larimer and Weld Counties, Colorado

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Availability.

SUMMARY: The U.S. Army Corps of Engineers (Corps) Omaha District has prepared a Supplemental Draft Environmental Impact Statement (EIS) to analyze the direct, indirect, and cumulative effects of a water supply project called the Northern Integrated Supply Project (NISP or Project) in Larimer County and Weld County, CO. The purpose of the project is to provide the project participants with approximately 40,000 acre-feet (AF) of new, reliable municipal water supply annually through a regional project coordinated by the Northern Colorado Water Conservancy District (District). The participants in NISP requested new firm yield to meet a portion of their projected demand through 2060. The requests for new firm yield are based on the participants' analyses of their projected needs, the potential future demands as modeled by the District and verified by the Corps. NISP would result in direct impacts to jurisdictional waters of the United States (U.S.), including wetlands. The placement of fill material in these waters of the U.S. for the construction of water storage and distribution facilities associated with developing additional water supplies requires authorization from the Corps under Section 404 of the Clean Water Act. The District is the Permittee and Applicant, acting on behalf of the project participants.

The Supplemental Draft EIS was prepared in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Corps' regulations for NEPA implementation (33 Code of Federal Regulations [CFR] Parts 230 and 325, Appendices B and C). The Corps, Omaha District, Denver Regulatory Office is the lead federal agency responsible for the Supplemental Draft EIS. Information contained in the EIS serves as the basis for a decision regarding issuance of a Section 404 Permit. It also provides information for local and state agencies having jurisdictional responsibility for affected resources.

DATES: Written comments on the Supplemental Draft EIS will be accepted on or before August 4, 2015.

ADDRESSES: Send written comments regarding the Proposed Action and Supplemental Draft EIS to John Urbanic, NISP EIS Project Manager, U.S. Army Corps of Engineers, Omaha District, Denver Regulatory Office, 9307 South Wadsworth Boulevard, Littleton, CO 80128, or via email to *nisp.eis@usace.army.mil.* Requests to be placed on or be removed from the NISP mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: John Urbanic, NISP EIS Project Manager, via phone at 303–979–4120, fax at 303–979–0602, or email at *nisp.eis@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Corps released a Draft EIS for NISP on April 30, 2008. After receiving comments on the Draft EIS during the public notice period and during the public hearings, the Corps determined that substantial additional analysis was needed and that the preparation of a Supplemental Draft EIS was required. The purpose of the Supplemental Draft EIS is to provide decision-makers and the public with information pertaining to the Proposed Action and alternatives, and to disclose environmental impacts and identify mitigation measures to reduce impacts. The District proposes to construct Glade Reservoir with a total storage capacity of approximately 170,000 AF. The District also proposes to construct the South Platte Water Conservation Project (SPWCP) which includes Galeton Reservoir with a total storage capacity of approximately 45,624 AF and support facilities. The Proposed Action would also involve rehabilitating an existing diversion dam and intake structure in the Cache la Poudre River and constructing a new forebay, pumping facility, and outlet channel. Glade Reservoir would inundate approximately 7 miles of U.S. Highway 287 and a section of the Munroe (North Poudre Supply) Canal, requiring a relocation of the highway and the canal east of their current alignments. Construction of a new pipeline from Glade Reservoir to the existing Horsetooth Reservoir, a part of the Colorado-Big Thompson project, is also proposed. Additionally, the SPWCP includes the construction of a new diversion dam and intake structure in the South Platte River, pumping facilities, and new pipelines for Galeton Reservoir.

The purpose for the project is to provide additional firm annual yield to the 15 water providers and communities to address anticipated water demands associated with projected growth. Operations of the reservoirs involve an exchange of water that includes a diversion from the Poudre River at the Poudre Valley Canal for the District's Grey Mountain water right, SPWCP exchanges with Larimer-Weld Canal and New Cache Canal, and reservoir exchanges with Terry Lake, Big Windsor Reservoir, and Timnath Reservoir.

In addition to the Proposed Action, the Supplemental Draft EIS analyzes three primary alternatives: (1) The No Action Alternative; (2) the Cactus Hill Reservoir (190,000 AF), SPWCP (45,624 AF Galeton Reservoir), and Poudre Valley Canal Diversion Alternative ; and (3) the Cactus Hill Reservoir (190,000 AF), SPWCP (45,624 AF Galeton

Reservoir), and Multiple Diversion Locations Alternative.

The U.S. Environmental Protection Agency Region VIII, U.S. Fish and Wildlife Service, Bureau of Reclamation, Colorado Department of Transportation, Colorado Department of Natural Resources, Colorado Department of Public Health and Environment, and Larimer County participated as cooperating agencies in the formulation of the Supplemental Draft EIS.

Public Open Houses and Hearings for oral/written comments will be held on:

July 22, 2015 at the Hilton Fort Collins, 425 W. Prospect Road, Fort Collins, and July 23, 2015 at the Weld County Administration Building, 1152 O Street, Greeley. The Open House will be from 5 p.m. to 6 p.m. The Hearings will begin at 6 p.m. Copies of the Supplemental Draft EIS will be available for review at:

1. Colorado State University Morgan Library, 501 University Avenue, Fort Collins, CO 80523.

2. Poudre River Public Library District-Old Town Library, 201 Peterson Street, Fort Collins, CO 80524.

3. Poudre River Public Library-Harmony Library, 4616 S. Shields Street, Fort Collins, CO 80526.

4. University of Northern Colorado, James A. Michener Library, Greeley, CO 80639.

5. Fort Morgan Public Library, 414 Main Street, Fort Morgan, CO 80701.

6. Windsor Recreation Center, 250 11th Street, Windsor, CO 80550.

7. Northern Colorado Water Conservancy District, 220 Water Avenue, Berthoud, CO 80513.

8. U.S. Army Corps of Engineers, Denver Regulatory Office, 9307 S. Wadsworth Boulevard, Littleton, CO 80128.

Electronic copies of the Supplemental Draft EIS and its supporting documents may be obtained from the Denver Regulatory Office or its Web site at: *http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado/EISNISP*

Kiel Downing,

State Regulatory Program Manager, U.S. Army Corps of Engineers, Omaha District, Denver Regulatory Office.

[FR Doc. 2015–15055 Filed 6–18–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Application for New Awards; National Center for Information and Technical Support for Postsecondary Students With Disabilities

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information

National Center for Information and Technical Support for Postsecondary Students with Disabilities

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116D.

DATES: *Applications Available:* June 19, 2015.

Deadline for Transmittal of Applications: August 3, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to support a National Center for Information and Technical Support for Postsecondary Students with Disabilities (the Center) to provide technical assistance and information on best and promising practices for students with disabilities as they transition to or attend postsecondary education. Institutions of higher education, as well as elementary and secondary schools, have legal obligations under two civil rights laws prohibiting disability discrimination, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101–12213). The technical assistance and information provided by the Center can help students, parents, and educational officials in determining how to meet these obligations and ensure the rights of students with disabilities. In particular, the Center can assist students with disabilities and their families in understanding that in institutions of higher education, students with disabilities do not have the same rights and protections they had in secondary school under section 504 and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 *et seq.,* for eligible children with disabilities. Students with disabilities and their parents need to understand the differences in these rights and responsibilities as they enter college and pursue postsecondary education. Specifically, unlike students in secondary school, postsecondary students are responsible for requesting the academic adjustments, auxiliary aids and services, and other accommodations they need in order to succeed, and are expected to comply with reasonable requirements that an institution of higher education may have concerning documentation of disability and the need for accommodations under section 504 and the ADA.

Note: A more detailed explanation of the differences in rights and responsibilities of students with disabilities in secondary school and postsecondary institutions can be found in two pamphlets issued by the Department's Office for Civil Rights. They are ''Transition of Students With Disabilities to Postsecondary Education: A Guide for High School Educators,'' available at: *www2.ed.gov/about/offices/list/ocr/transitionguide.html* and ''Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities,'' available at: *www2.ed.gov/about/offices/list/ocr/transition.html.*

Priorities: This notice contains one absolute priority and one invitational priority. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priority is from section 777(a) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1140q(a)).

Absolute Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Entities that can demonstrate the experience and capacity to improve postsecondary recruitment, transition, retention, and completion rates of students with disabilities by providing:

1. *Assistance to students and families.* The Center must provide information and technical assistance to students with disabilities and the families of students with disabilities to support students across the broad spectrum of disabilities, including—

(a) Information to assist individuals with disabilities who are prospective students of an institution of higher education in planning for postsecondary education while the students are in secondary school;

(b) Information and technical assistance provided to individualized education program teams (as defined in 20 U.S.C. 1414(d)(1)(B)) and teams determining services under section 504 of the Rehabilitation Act of 1973, as amended, for secondary school students with disabilities, and to early outreach and student services programs, including programs authorized under subparts 2, 4, and 5 of title IV of the HEA, to support students across a broad

spectrum of disabilities with the successful transition to postsecondary education;

(c) Research-based supports, services, and accommodations which are available in postsecondary settings, including services provided by other agencies such as vocational rehabilitation;

(d) Information on student mentoring and networking opportunities for students with disabilities; and

(e) Effective recruitment and transition programs at postsecondary educational institutions.

2. *Assistance to institutions of higher education.* The Center must provide information and technical assistance to faculty, staff, and administrators of institutions of higher education to improve the services provided to, the accommodations for, the retention rates of, and the completion rates of, students with disabilities in higher education settings, which may include—

(a) Collection and dissemination of best and promising practices and materials for accommodating and supporting students with disabilities, including practices and materials supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3 of title VII, part D, subpart 4 of the HEA (20 U.S.C. 1140q);

(b) Development and provision of training modules for higher education faculty on exemplary practices for accommodating and supporting postsecondary students with disabilities across a range of academic fields, which may include universal design for learning and practices supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3 of title VII, part D, subpart 4 of the HEA (20 U.S.C. 1140q); and

(c) Development of technology-based tutorials for higher education faculty and staff, including new faculty and graduate students, on best and promising practices related to support and retention of students with disabilities in postsecondary education.

3. *Information collection and dissemination.* The Center will be responsible for building, maintaining, and updating a database of disability support services information with respect to institutions of higher education, or for expanding and updating an existing database of disabilities support services information with respect to institutions of higher education. This database shall be available to the general public through a Web site. This database and Web site must include available information on—

(a) Disability documentation requirements;

(b) Support services available;

(c) Links to financial aid;

(d) Accommodations policies;

(e) Accessible instructional materials;

(f) Other topics relevant to students with disabilities; and

(g) The information in the report described in paragraph (5) below.

4. *Disability support services.* The Center must work with organizations and individuals with proven expertise related to disability support services for postsecondary students with disabilities to evaluate, improve, and disseminate information related to the delivery of high quality disability support services at institutions of higher education.

5. *Review and report.* Not later than three years after the establishment of the Center, and every two years thereafter, the Center must prepare and disseminate a report to the Secretary and the Congressional authorizing committees analyzing the condition of postsecondary success for students with disabilities. The report must include—

(a) A review of the activities and the effectiveness of the programs authorized under title VII, part D of the HEA;

(b) Annual enrollment and graduation rates of students with disabilities in institutions of higher education from publicly reported data;

(c) Recommendations for effective postsecondary supports and services for students with disabilities, and how such supports and services may be widely implemented at institutions of higher education;

(d) Recommendations on reducing barriers to full participation for students with disabilities in higher education; and

(e) A description of strategies with a demonstrated record of effectiveness in improving the success of such students in postsecondary education.

6. *Staffing of the Center.* In hiring employees, the Center must consider the expertise and experience of prospective employees in providing training and technical assistance to practitioners.

Note: Web sites established or maintained to carry out any project funded under this competition must meet WCAG 2.0 AA standards (Source: *www.w3.org/TR/2008/REC–WCAG20–20081211/*). Documents posted on grantee Web sites—at a minimum—must meet the Department of Education's accessibility standards set out at *www2.ed.gov/internal/internalguidelines.html.*

Invitational Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Entities that intend to collaborate with The National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities (*www.nsttac.org*), the Center for Parent Information and Resources(*www.parentcenterhub.org*) and the National Collaboration on Workforce and Disability (*www.ncwd-youth.info*), and with one or more additional disability-related organization(s) of their choice.

Program Authority: 20 U.S.C. 1140q(a).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $2,475,000.

Maximum Award: We will reject any application that proposes a budget exceeding $2,475,000 for the entire performance period. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Under section 777(a)(3)of the HEA, an ''eligible entity'' is an institution of higher education that meets the definition in section 101 of the HEA (20 U.S.C. 1001); a nonprofit organization; or a partnership of two or more such IHEs or organizations, with demonstrated expertise in:

(a) Supporting students with disabilities in postsecondary education;

(b) Technical knowledge necessary for the dissemination of information in accessible formats;

(c) Working with diverse types of institutions of higher education, including community colleges; and

(d) The subjects necessary to support students across the broad spectrum of disabilities.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs).

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.116D.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person listed under Accessible Format in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Any application addressing the invitational priority must address it in the abstract and the narrative. You must limit the section of the application narrative that addresses:

- The selection criteria and the absolute priority to no more than 40 pages.
- The invitational priority to no more than three pages, if you address it.

Please include a separate heading for the absolute priority and the invitational priority if you address it. Under no circumstances may the application narrative exceed 43 pages, using the following standards:

- A ''page'' is 8.5'' x 11'', on one side only, with 1'' margins at the top, bottom, and both sides.

Note: For purposes of determining compliance with the 43 page limit, each page on which there are words will be counted as one full page.

- Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, endnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the application narrative may be single spaced.
- Use a font that is either 12 point or larger; or, no smaller than 10 pitch (characters per inch). However, you may use a 10 point font in charts, tables, figures, graphs, footnotes, and endnotes.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance (SF 424) and the Department of Education Supplemental Information for the SF 424 Form; the one-page Abstract; Budget Information—Non-Construction Programs (ED 524); or Part IV, the Assurances and Certifications. The page limit also does not apply to a Table of Contents, if you include one. However, the page limit does apply to all of the project narrative section in Part III.

If you include any attachments or appendices not specifically requested, these items will be counted as part of the program narrative [Part III] for purposes of the page limit requirement. We will reject your application if you exceed the page limit, or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: June 19, 2015.

Deadline for Transmittal of Applications: August 3, 2015.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a

program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days. Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for awards under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Center program, CFDA number 84.116D, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic application for the Center program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.116, not 84.116D).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your

application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: John Clement, National Center for Information and Technical Support for Postsecondary Students with Disabilities, U.S. Department of Education, 1990 K Street NW., room 6006, Washington, DC 20006–8544. FAX: (202) 502–7877.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.116D), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260. You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.116D), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this program are from 34 CFR 75.210 and from section 777(a) of the HEA (20 U.S.C. 1140q(a)). We will award up to 100 points to an application under the selection criteria; the total possible points for each selection criterion are noted in parentheses.

a. *Demonstration of eligibility.* (Maximum 25 points) The Secretary considers whether the applicant has demonstrated expertise and experience sufficient to meet the requirements to be an eligible entity under section 777(a)(3). In considering eligibility, the Secretary considers the following factors:

1. Demonstrated expertise and experience in supporting students with disabilities in postsecondary education;

2. Demonstrated technical knowledge necessary for the dissemination of information in accessible formats;

3. Demonstrated experience working with diverse types of institutions of higher education, including community colleges; and

4. Demonstrated expertise in the subjects necessary to support students across the broad spectrum of disabilities.

b. *Quality of the project design.* (Maximum 15 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

1. The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs;

2. The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project;

3. The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population;

4. The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance; and

5. The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

c. *Quality of project services.* (Maximum 15 points) The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers:

1. The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services;

2. The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards;

3. The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

4. The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

d. *Quality of project personnel.* (Maximum 15 points) The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

1. The qualifications, including relevant training and experience, of the project director or principal investigator;

2. The qualifications, including relevant training and experience, of key project personnel; and

3. The qualifications, including relevant training and experience, of project consultants or subcontractors.

e. *Quality of the Management Plan.* (Maximum 10 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan, the Secretary considers the following factors:

1. The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

2. The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project;

3. The adequacy of mechanisms for ensuring high-quality products and services from the proposed project;

4. The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project; and

5. How the applicant will ensure that a diversity of perspectives will be brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

f. *Quality of the project evaluation.* (Maximum 20 points) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation to be conducted for the proposed project, the Secretary considers the following factors:

1. The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

2. The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

3. The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible; and

4. The extent to which the methods of evaluation will provide feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure

information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following Government Performance and Results Act of 1993 (GPRA) performance measures for the Center:

1. The extent to which the project serves students with disabilities, families of students with disabilities, individualized education program teams and individualized plan for employment teams, including growth in numbers served over time and improved user satisfaction ratings with the services received;

2. The extent to which the project provides information and technical assistance to faculty, staff and administrators of institutions of higher education aimed at improving accommodation, retention and completion rates of students with disabilities, including growth in the number of persons and institutions served over time and improved user satisfaction ratings with services received, baseline change over time in retention and completion rates of students with disabilities at the institutions served; and

3. The extent and growth over time in utilization of the database of disability services information by institutions of higher education, including improved user satisfaction ratings of the accessibility and utility of the information provided.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for an award under this program to give careful consideration to the operationalization of the measures in conceptualizing the approach and evaluation for its proposed project.

If funded, you will be required to collect and report data in your project's annual performance report (34 CFR 75.590).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: John Clement, National Center for Information and Technical Support for Postsecondary Students with Disabilities, U.S. Department of Education, 1990 K Street NW., Room 6006, Washington, DC 20006–8544. Telephone: (202)502–7520 FAX: (202) 502–7877. Email: *john.clement@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: June 16, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–15191 Filed 6–18–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2015–ICCD–0039]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; The College Assistance Migrant Program (CAMP) Annual Performance Report (APR)

AGENCY: Office off 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 July 20, 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–0039 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 2E117, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tara Ramsey, 202–260–2063.

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: The College Assistance Migrant Program (CAMP) Annual Performance Report (APR).

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: 39.

Total Estimated Number of Annual Burden Hours: 1,560.

Abstract: The College Assistance Migrant Program (CAMP) office staff collects information for the CAMP Annual Performance Report (APR) the data being collected is in compliance with Higher Education Act of 1965, as amended, Title IV, Sec. 418A; 20 U.S.C. 1070d–2 (special programs for students whose families are engaged in migrant and seasonal farm work) (shown in appendix A), the Government Performance Results Act (GPRA) of 1993, Section 4 (1115) and the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.253. EDGAR states that recipients of multi-year discretionary grants must submit an APR demonstrating that substantial progress has been made towards meeting the approved objectives of the project. In addition, EDGAR requires discretionary grantees to report on their progress toward meeting the performance measures established for the ED grant program. This data collection is a customized APR that goes beyond the generic 524B APR to facilitate the collection of more standardized and comprehensive data to inform GPRA, to improve the overall quality of data collected, and to increase the quality of data that can be used for evaluation and to inform policy decisions.

Dated: June 15, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–15015 Filed 6–18–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2015–ICCD–0040]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; School Leadership Program (SLP) Annual Performance Report

AGENCY: Office of Innovation and Improvement (OII), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 20, 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–0040 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 2E117, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tyra Stewart, 202–260–1847.

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: School Leadership Program (SLP) Annual Performance Report.

OMB Control Number: 1855–0019.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 22.

Total Estimated Number of Annual Burden Hours: 880.

Abstract: Information in the SLP Annual Performance Report (APR) is being collected in compliance with the Elementary and Secondary Education Act of 1965, as amended, Title II, Part A, Subpart 5; 20 U.S.C. 2151(b) (shown in appendix A), the Government Performance Results Act (GPRA) of 1993, Section 4 (1115) (shown in appendix B), and the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.253. EDGAR states that recipients of multi-year discretionary grants must submit an APR demonstrating that substantial progress has been made toward meeting the approved objectives of the project. In addition, discretionary grantees are required to report on their progress toward meeting the performance measures established for the U.S. Department of Education (ED) grant program.

Dated: June 15, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–15016 Filed 6–18–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology Meeting

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of partially-closed meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially-closed meeting of the President's Council of Advisors on Science and Technology (PCAST), The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that

public notice of these meetings be announced in the **Federal Register**.

DATES: July 14, 2015, 9:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the National Academy of Sciences, 2101 Constitution Avenue NW., Washington, DC in the Lecture Room.

FOR FURTHER INFORMATION CONTACT: Information regarding the meeting agenda, time, location, and how to register for the meeting is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* A live video webcast and an archive of the webcast after the event are expected to be available at *http://whitehouse.gov/ostp/pcast.* The archived video will be available within one week of the meeting. Questions about the meeting should be directed to Dr. Ashley Predith at *apredith@ostp.eop.gov,* (202) 456–4444. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House, cabinet departments, and other Federal agencies. See the Executive Order at *http://www.whitehouse.gov/ostp/pcast.* PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of the Massachusetts Institute of Technology and Harvard.

Type of Meeting: Partially-Closed.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on July 14, 2015 from 9:00 a.m. to 12:00 p.m.

Open Portion of Meeting: During this open meeting, PCAST is scheduled to discuss its review of networking and information technology research and development. The Council will also hear from speakers about technology for the aging population and from presenters on manned space flight. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately one hour with the President on July 14, 2015, which must take place in the White House for the President's scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because such portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 U.S.C. § 552b(c)(1).

Public Comments: It is the policy of the PCAST to accept written public comments of any length, and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on July 14, 2015 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast.* This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *http://whitehouse.gov/ostp/pcast,* no later than 12:00 p.m. Eastern Time on July 6, 2015. Phone or email reservations will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of up to 15 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the PCAST members.

Written Comments: Although written comments are accepted continuously, written comments should be submitted to PCAST no later than 12:00 p.m. Eastern Time on July 6, 2015 so that the comments may be made available to the PCAST members prior to this meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled ''Connect with PCAST.'' Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Ashley Predith at least ten business days prior to the meeting so that appropriate arrangements can be made.

Issued in Washington, DC on June 11, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–15278 Filed 6–17–15; 4:15 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Impact Statement for the Recapitalization of Infrastructure Supporting Naval Spent Nuclear Fuel Handling at the Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The U.S. Department of Energy (DOE) Naval Nuclear Propulsion Program (NNPP) announces the availability of the *Draft Environmental Impact Statement for the Recapitalization of Infrastructure Supporting Naval Spent Nuclear Fuel Handling at the Idaho National Laboratory* (DOE/EIS–0453–D) for public review and comment, as well as the locations, dates and times for public hearings. The Draft EIS evaluates the potential environmental impacts associated with recapitalizing the infrastructure needed to ensure the long-term capability of the NNPP to support naval spent nuclear fuel handling for at least the next 40 years.

DATES: The NNPP invites interested parties to comment on the Draft EIS during the public comment period which ends August 10, 2015. NNPP will consider all comments received or postmarked during the comment period in preparing the Final EIS. NNPP will consider any comments postmarked after the comment period to the extent practicable.

The NNPP will hold three public hearings on the Draft EIS. Locations, dates and times are provided in the **SUPPLEMENTARY INFORMATION** portion of this notice.

ADDRESSES: Copies of the Draft EIS are available in public reading rooms and libraries as indicated in the **SUPPLEMENTARY INFORMATION** portion of

this notice. The Draft EIS is also available for review at *www.ecfrecapitalization.us* and on the DOE's NEPA Web site at *http://energy.gov/nepa.*

Written comments on the EIS may be submitted by mailing to: Erik Anderson, Department of Navy, Naval Sea Systems Command, 1240 Isaac Hull Avenue SE., Stop 8036, Washington Navy Yard, DC 20376–8036.

Comments provided by electronic mail (email) should be submitted to: *ecfrecapitalization@unnpp.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about this Draft EIS, contact Mr. Erik Anderson, as described above.

For information regarding the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: The NNPP prepared this Draft EIS in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), and the DOE NEPA implementing procedures (10 CFR part 1021). The NNPP is committed to manage naval spent nuclear fuel in a manner that is consistent with the *Department of Energy (DOE) Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement* (DOE/EIS–0203–F), and to comply with the Settlement Agreement, as amended in 2008, among the State of Idaho, the DOE, and the Navy concerning the management of naval spent nuclear fuel. Consistent with the Record of Decision for DOE/EIS–0203–F, naval spent nuclear fuel is shipped by rail from shipyards and prototype facilities to the Idaho National Laboratory (INL) for processing. To allow the NNPP to continue to unload, transfer, prepare, and package naval spent nuclear fuel for disposal, three alternatives are evaluated in the Draft EIS: No Action Alternative, Overhaul Alternative, and New Facility Alternative.

Background

The mission of the NNPP, also know as the Naval Reactors Program, is to provide the U.S. with safe, effective, and affordable naval nuclear propulsion plants and to ensure their continued safe and reliable operation through lifetime support, research and development, design, construction, specification, certification, testing, maintenance, and disposal. A crucial component of this mission, naval spent nuclear fuel handling, occurs at the end of a nuclear propulsion system's useful life or when naval nuclear fuel has been depleted. The NNPP is responsible for removal of the naval spent nuclear fuel through a defueling or refueling operation. Both operations remove the naval spent nuclear fuel from the reactor, but a refueling operation also involves installing new fuel, allowing the nuclear-powered ship to be redeployed into the U.S. Navy fleet. Once the naval spent nuclear fuel has been removed from an aircraft carrier, submarine, or prototype, it is sent to the Naval Reactors Facility (NRF) for examination and further naval spent nuclear fuel handling including transferring, preparing, and packaging for transfer to an interim storage facility or geologic repository.

The NNPP ensures that naval spent nuclear fuel handling is performed in a safe and environmentally responsible manner in accordance with 50 U.S.C. 2406, 2511 (codifying Executive Order 12344). Nuclear fuel handling is an intricate and intensive process requiring a complex infrastructure.

Proposed Action

NNPP is proposing to recapitalize the current naval spent nuclear fuel handling capabilities provided by the Expended Core Facility (ECF) located at the NRF on the INL. The purpose of the proposed action is to provide the infrastructure necessary to support the naval nuclear reactor defueling and refueling schedules required to meet the operational needs of the U.S. Navy. The proposed action is needed because significant upgrades are necessary to ECF infrastructure and water pools to continue safe and environmentally responsible naval spent nuclear fuel handling until at least 2060.

The transfer, preparation, and packaging of naval spent nuclear fuel are vital to the NNPP's mission of maintaining the reliable operation of the naval nuclear fleet and developing effective nuclear propulsion plants. Although ECF continues to be maintained and operated in a safe and environmentally responsible manner, the ECF structures, systems, and equipment necessary to accomplish the work of naval spent nuclear fuel handling need significant upgrades to continue safe and environmentally responsible naval spent nuclear fuel handling until at least 2060. Efforts are ongoing to sustain this infrastructure, preserve these essential capabilities, and ensure that the high NNPP standards for protecting the environment continue to be met. However, major portions of this infrastructure have been in service for over 50 years.

Alternatives

Consistent with the Record of Decision for on DOE/EIS–0203–F, naval spent nuclear fuel would continue to be shipped by rail from shipyards and prototypes to NRF for processing. To allow the NNPP to continue unload, transfer, prepare, and package naval spent nuclear fuel for disposal, three alternatives were identified and analyzed in this Draft EIS.

1. No Action Alternative

The No Action Alternative involves maintaining ECF without a change to the present course of action or management of the facility. The current naval spent nuclear fuel handling infrastructure would continue to be used while the NNPP performs only preventative and corrective maintenance. The No Action Alternative does not meet the purpose for the proposed action because it would not provide the infrastructure necessary to support the naval nuclear reactor defueling and refueling schedules required to meet the operational needs of the U.S. Navy. The No Action Alternative does not meet the NNPP's need because significant upgrades are necessary to the ECF infrastructure to continue safe and environmentally responsible naval spent nuclear fuel handling until at least 2060. As currently configured, the ECF infrastructure cannot support use of the new M–290 shipping containers. Significant changes in configuration of the facility and spent fuel handling processing locations in the water pool would be required to support unloading fuel from the new M–290 shipping containers. In addition, over the next 45 years, preventative and corrective maintenance without significant upgrades and refurbishments may not be sufficient sustain the proper functioning of ECF structures, systems, and components. Upgrades and refurbishments needed to support use of the new M–290 shipping containers and continue safe and environmentally responsible operations would not meet the definition of the No Action Alternative; therefore, these actions are represented by the Overhaul Alternative.

The implementation of the No Action Alternative (*i.e.,* failure to perform upgrades and refurbishments), in combination with the NNPP commitment to only operate in a safe and environmentally responsible manner, may result in ECF eventually being unavailable for handling naval spent nuclear fuel. If the NNPP naval spent nuclear fuel handling infrastructure were to become unavailable, the inability to transfer, prepare, and package naval spent nuclear fuel could immediately and profoundly impact the NNPP's mission and national security needs to refuel and defuel nuclear-powered submarines and aircraft carriers. In addition, the U.S. Navy could not ensure its ability to meet the requirements of the Settlement Agreement and its 2008 addendum.

Since the No Action Alternative does not meet the purpose and need for the proposed action, it is considered to be an unreasonable alternative; however, the No Action Alternative is included in the Draft EIS as required by CEQ regulations.

2. Overhaul Alternative

The Overhaul Alternative involves continuing to use the aging infrastructure at ECF, while incurring increasing costs to provide the required refurbishments and workaround actions necessary to ensure uninterrupted aircraft carrier and submarine refuelings and defuelings. Under the Overhaul Alternative, the NNPP would operate ECF in a safe and environmentally responsible manner by continuing to maintain ECF while implementing major refurbishment projects for the ECF infrastructure and water pools. This would entail:

▪ Short-term actions necessary to keep the infrastructure in safe working order, including regular upkeep and sufficient to sustain the proper functioning of structures, systems, and components (*e.g.,* the ongoing work currently performed in ECF to inspect and repair deteriorating water pool concrete coatings).

▪ Facility, process, and equipment reconfigurations needed for specific capabilities required in the future. These actions involve installation of new equipment and processes, and relocation of existing equipment and processes, within the current facility to provide a new capability (*e.g.,* modification of ECF and reconfiguration of the water pool as necessary to handle M–290 shipping containers).

▪ Major refurbishment actions necessary to sustain the life of the infrastructure (*e.g.,* to the extent practicable, overhaul the water pools to bring them up to current design and construction standards).

Refurbishment activities would take place in parallel with ECF operations for the majority of the Overhaul Alternative time period. The first 33 years of the 45 years (*i.e.,* the refurbishment period) would include refurbishment and operations activities being conducted in parallel. During certain refurbishment phases, operations could be limited due to the nature of the refurbishment activities (*e.g.,* operations would not continue in water pools that are under repair). There would then be a 12-year period where only operational activities would take place in ECF (*i.e.,* the post-refurbishment operational period).

Failure to implement this overhaul in advance of infrastructure deterioration would impact the ability of ECF to operate for several years. Further, overhaul actions would necessitate operational interruptions for extended periods of time.

3. New Facility Alternative

A New Facility Alternative would acquire capital assets to recapitalize naval spent nuclear fuel handling capabilities. While a new facility requires new process and infrastructure assets, the design could leverage use of the newer, existing ECF support facilities and would leverage use of newer equipment designs. The facility would be designed with the flexibility to integrate future identified mission needs.

Under the current budget and funding levels for the New Facility Alternative, it is anticipated that construction activities would occur over approximately a 3-year period.

Construction of the New Facility Alternative would occur in parallel with ECF operations. An approximately two year period would follow the construction of the New Facility Alternative when new equipment would be installed and tested, and training would be provided to qualify the operations workforce.

A new facility would include all current naval spent nuclear fuel handling operations conducted at ECF. In addition, it would include the capability to unload naval spent nuclear fuel from M–290 shipping containers in the water pool and handle aircraft carrier naval spent nuclear fuel assemblies without prior disassembly for preparation and packaging for disposal. Such capability does not currently exist within the ECF water pools, mainly due to insufficient available footprint in areas of the water pool with the required depth of water.

The NNPP will continue to operate ECF during new facility construction, during a transition period, and after the new facility is operational for examination work. To keep the ECF infrastructure in a safe working order during these time periods, some limited upgrades and refurbishments may be necessary. Details are not currently available regarding which specific actions will be taken; therefore, they are not explicitly analyzed as part of the New Facility Alternative. The environmental impacts from these upgrades and refurbishments are considered to be bounded by the environmental impacts described in the Refurbishment Period of the Overhaul Alternative.

Public Reading Rooms and Libraries

The Draft EIS is available for review at the following reading rooms:

Idaho Operations Office, Department of Energy, Public Reading Room, 2251 N. Boulevard, Idaho Falls, ID 83402, Telephone: (208) 526–1185.

Idaho Falls Public Library, 457 W. Broadway, Idaho Falls, ID 83402, Telephone: (208) 612–8460.

Shoshone-Bannock Library, Bannock and Pima Streets, P.O. Box 306, Fort Hall, ID 83203, Telephone: (208) 238–3882.

Eli M. Oboler Library, Idaho State University, 850 South 9th Avenue, Pocatello, ID 83209, Telephone: (208) 282–2958.

Twin Falls Public Library, 201 Fourth Avenue East, Twin Falls, ID 83301, Telephone: (208) 733–2964.

Marshall Public Library, 113 South Garfield, Pocatello, ID 83204, Telephone: (208) 232–1263.

Boise Public Library, 715 S. Capitol, Boise, ID 83702, Telephone: (208) 972–8200.

Idaho Commission for Libraries, 325 W. State Street, Boise, ID 83702, Telephone: (208) 334–2150.

Latah County, Free Library District, 110 S. Jefferson, Moscow, ID 83843, Telephone: (208) 882–3925.

Public Hearings and Invitation To Comment

The NNPP invites Federal agencies; Tribal, State, and local governments; and the general public to comment on the Draft EIS. The NNPP will consider all comments received by August 10, 2015, and to the extent practical comments received after that date in the preparation of the Final EIS. NNPP will hold three public hearings on the Draft EIS:

• August 4, 2015, 6:00 p.m. to 9:00 p.m., Residence Inn, Idaho Falls, Idaho

• August 5, 2015, 6:00 p.m. to 9:00 p.m., Red Lion Hotel, Pocatello, Idaho

• August 6, 2015, 6:00 p.m. to 9:00 p.m., La Quinta Inn, Twin Falls, Idaho NNPP will provide additional notification of the hearing times and locations through newspaper advertisements and other appropriate media.

At each hearing, NNPP will hold an open house for the first hour prior to beginning the formal portion of the hearing to allow participants to view informational materials, ask questions of NNPP representatives, and register to provide oral comments. The registration table will have a registration form to indicate mailing list preferences for future communications about the project and whether oral comments will be given. The public may provide written and/or oral comments at the hearings. Speakers may be asked to limit their oral comments to a certain time limit to be decided at the beginning of each of the public hearings so as to ensure that as many people as possible have the opportunity to speak.

Persons unable to attend these hearings may view informational materials by visiting the NNPP Web site *www.ecfrecapitalization.us.*

Written comments on the Draft EIS also may be submitted to the addresses shown above under **ADDRESSES**.

Issued in Washington, DC on 15 June 2015.

John M. McKenzie,

Director, Regulatory Affairs, Naval Nuclear Propulsion Program.

[FR Doc. 2015–15140 Filed 6–18–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–495–000]

Columbia Gas Transmission, LLC; Notice of Application

Take notice that on May 20, 2015, Columbia Gas Transmission, LLC (Columbia) 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations seeking authorization to abandon approximately 33 miles of Line 138, an existing multi-diameter pipeline located in Fayette and Somerset Counties, Pennsylvania, Preston County, West Virginia, and Garrett County, Maryland. Columbia also proposes to construct: (1) Approximately 150 feet of 2-inch diameter pipe from its Line 1804 and Line 10240 in Somerset County, Pennsylvania, to the right-of-way of Line 138; and (2) an additional 3,300 feet of 2-inch diameter pipe along the right-of-way of Line 138 to the Columbia of Pennsylvania measuring station in Somerset County, Pennsylvania, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Tyler Brown, Senior Counsel, Columbia Gas Transmission, LLC, 5151 San Felipe Suite 2500, Houston, TX 77056, or call (713) 386–3797.

To ensure continued firm transportation for an existing customer, Columbia must construct the proposed 3,450 feet of pipeline extending from Columbia's Line 1804 and Line 10240 to replace the 33 miles of Line 138 to be abandoned. Columbia states that no other firm transportation customers exist on the Line 138 section proposed to be abandoned.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on June 25, 2015

Dated: June 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15111 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–156–000.

Applicants: American Transmission Company LLC.

Description: Application of American Transmission Company LLC for Authority to Acquire Certain Facilities under Section 203 of the Federal Power Act.

Filed Date: 6/12/15.

Accession Number: 20150612–5253.

Comments Due: 5 p.m. ET 7/6/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–95–000.

Applicants: Blue Sky West, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Blue Sky West, LLC.

Filed Date: 6/11/15.

Accession Number: 20150611–5238.

Comments Due: 5 p.m. ET 7/2/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3576–011; ER11–3401–010.

Applicants: Golden Spread Electric Cooperative, Inc., Golden Spread Panhandle Wind Ranch, LLC.

Description: Notice of Non-material Change in Status of Golden Spread Electric Cooperative, Inc.

Filed Date: 6/12/15.

Accession Number: 20150612–5254.

Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1913–000..

Applicants: Ameren Illinois Company

Description: Section 205(d) Rate Filing: Cancellation of Rate Schedule 106 to be effective 3/30/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5228.

Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1914–000.

Applicants: 87RL 8me LLC.

Description: Baseline eTariff Filing: 87RL 8me LLC MBR Tariff to be effective 8/1/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5229.

Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1915–000.

Applicants: Clean Energy Future—Lordstown, LLC.

Description: Request for Limited Waiver of Clean Energy Future—Lordstown, LLC.

Filed Date: 6/12/15.

Accession Number: 20150612–5252.

Comments Due: 5 p.m. ET 7/6/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–34–000.

Applicants: Central Maine Power Company.

Description: Application for Authorization to Issue Short-term Debt Instruments of Central Maine Power Company.

Filed Date: 6/12/15.

Accession Number: 20150612–5255.

Comments Due: 5 p.m. ET 7/6/15.

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: June 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15103 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD15–28–000]

SPS of Oregon; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On June 4, 2015, SPS of Oregon filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed SPS2 Hydro project would have an installed capacity of 13 kilowatts (kW) and would be located on the existing Westside Ditch, used for irrigation, and will be enclosed with a 10-inch-diameter pipe. The project would be located near Wallowa in Wallowa County, Oregon.

Applicant Contact: Kyle Petrocine, SPS of Oregon, 401 NE First St., Suite A, Enterprise, OR 97828, Phone No. (541) 398–0018.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) 2,500 feet of 10-inch PVC pipe located on the existing Westside Ditch; (2) a proposed 5′x8′ powerhouse containing one generating unit with an installed capacity of 13 kW; (3) a short tailrace exhausting flow back into the irrigation ditch; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 81.895 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ...	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY—Continued

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*e.g.,* CD15–28–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: June 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15100 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2014).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14513–001]

Idaho Irrigation District, New Sweden Irrigation District; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for an Original License and Commencing Pre-filing Process.

b. *Project No.:* 14513–001.

c. *Date Filed:* April 20, 2015.

d. *Submitted By:* Idaho Irrigation District, New Sweden Irrigation District (the Districts).

e. *Name of Project:* County Line Road Hydroelectric Project.

f. *Location:* On the Snake River, in Jefferson and Bonneville Counties, Idaho. The project would occupy 0.1 acre of United States lands under the jurisdiction of the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Applicant Contact:* Nicholas Josten, 2742 Saint Charles Ave, Idaho Falls, Idaho 83404; (208) 528–6152 or email at *gsense@cableone.com.*

i. *FERC Contact:* Matt Cutlip at (503) 552–2762 or email at *matt.cutlip@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item n. below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or National Marine Fisheries Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. The Districts filed with the Commission a Pre-Application Document (PAD), pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public

Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov.* In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14513–001.

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by August 18, 2015.

o. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date and Time: Wednesday, July 8, 2015, 7:00 p.m. (MDT).

Location: Shilo Inn Suites Hotel, 780 Lindsay Blvd., Idaho Falls, ID.

Phone Number: (208) 523–0088.

Daytime Scoping Meeting

Date and Time: Thursday, July 9, 2015, 9:30 a.m. (MDT).

Location: Shilo Inn Suites Hotel, 780 Lindsay Blvd., Idaho Falls, ID.

Phone Number: (208) 523–0088.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The Districts and Commission staff will conduct an Environmental Site Review of the project on Wednesday, July 8, starting at 1:00 p.m. (MDT). All participants should meet at the West River Road Boat Ramp, located at 9924 North River Road, Idaho Falls, Idaho 83402. All participants are responsible for their own transportation. Please contact Mr. Nick Josten at *gsense@cableone.net* by July 2, 2015, if you plan to attend the environmental site review.

Directions: From the junction of Highway 20 and Lindsay Boulevard in Idaho Falls, go north on Lindsay Boulevard for 2 miles, continue onto North River Road for 3.5 miles to the public boat launch and picnic area on the west side of the Snake River.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item m. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15109 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2744–043]

N.E.W. Hydro, Inc.; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2744–043.

c. *Date filed:* February 28, 2013.

d. *Applicant:* N.E.W. Hydro, Inc.

e. *Name of Project:* Menominee/Park Mill Hydroelectric Project.

f. *Location:* The existing project is located on the Menominee River, in the city of Menominee, Menominee County, Michigan, and in the city of Marinette, Marinette County, Wisconsin. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Scott Klabunde, North American Hydro Holdings, LLC, P.O. Box 167, Neshkoro, WI 54960–0167; Telephone (920) 293–4628 Ext. 314.

i. *FERC Contact:* Chelsea Hudock, Telephone (202) 502–8448, and email at *chelsea.hudock@ferc.gov*.

j. *Deadline for filing motions to intervene, protests, comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2744–043.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now is ready for environmental analysis.

l. The Menominee-Park Mill Project consists of two developments: The Menominee Development and the Park Mill Development. The applicant proposes no new changes to project operation at either development as part of relicensing the project. The centerline of the Menominee River constitutes the common border between Michigan and Wisconsin. The Menominee powerhouse is located on the Michigan side of the Menominee River whereas the powerhouse for the Park Mill development is located on the Wisconsin side of the Menominee River. The project is estimated to generate an average of 28 million kilowatt-hours annually.

Park Mill Development

The Park Mill Development consists of the following existing features: (1) A 538.58-foot-long, 22-foot-high, concrete gravity dam that includes, a 48.5-foot-long overflow spillway with a crest elevation of 607.93 feet National Geodetic Vertical Datum (NGVD), topped with flashboards providing a crest elevation of 610.93 feet NGVD; a 168.58-foot-long spillway with seven 20-foot-wide by 13-foot-high Tainter gates with a sill elevation of 597.23 feet NGVD and a top of gate elevation 610.93 feet NGVD; an 18-foot-long abandoned fishway having a crest elevation of 610.93 feet NGVD; and a 303.5-foot-long overflow spillway with a crest elevation of 607.93 feet NGVD, topped with flashboards providing a crest elevation of 610.93 feet NGVD; (2) a reservoir with a normal operating elevation of 610.43 feet NGVD, a surface area of about 539 acres, a gross storage of 3,788 acre-feet, and a hydraulic height of 16 feet; (3) inlet works that consist of a 100-foot-wide concrete gravity section with five 16-foot-wide by 16-foot-high Tainter gates having a sill elevation of 595.23 feet NGVD and a top of gate elevation of 611.23 feet NGVD; and a 77.84-foot-long side overflow spillway with a crest elevation of 610.13 NGVD, topped with flashboards providing a crest elevation of 611.13 feet NGVD; (4) a 2,400-foot-long power canal that is created by an earthen embankment with a 16-foot top width and a crest elevation of 613 feet NGVD; (5) angled trashracks that are 80 feet long by 20 feet high with 1.75 inch clear bar spacing; (6) a 169-foot-long, 62-foot-wide stone and brick powerhouse at the downstream end of the headrace canal with a total installed capacity of 2.375 megawatts (MW), consisting of one 300-horsepower (HP) Kaplan turbine connected to a 0.225-MW generator, two 800-HP Francis turbines each connected to a 0.420-MW generator, two 700-HP Kaplan turbines each connected to a 0.430-MW generator, one 465-HP Kaplan turbine connected to a 0.450-MW generator; (7) a 3-phase 3,000-kilovolt ampere (kVA), 0.48/24.9-kilovolt (kV) step-up transformer; (8) a 4,630-foot-long, 24.9-kV transmission line from the Park Mill transformer to its interconnection with Wisconsin Public Service Corporation (WPSC); and (9) appurtenant facilities. As part of a Commission-approved amendment of its current license, the applicant is currently modifying the Park Mill development by installing fish passage facilities.

Menominee Development

The Menominee Development consists of the following existing features: (1) A 466.5-foot-long, 24-foot-high, concrete gravity dam that includes, an 8-foot-long abandoned fishway having a crest elevation of 593.93 feet NGVD; a 150.5-foot-long overflow spillway with a crest elevation of 593.93 feet NGVD; a 293-foot-long spillway with 12 20-foot-wide by 12-foot-high Tainter gates with a sill elevation of 582.43 feet and a top of gate elevation 594.43 feet NGVD; and a 15-foot-long dam with a crest elevation of 598.43 feet NGVD; (2) a 20-foot-long earthen embankment with a concrete core wall connected to the concrete dam at the south end of the dam; (3) a reservoir with a normal operating elevation of 593.53 feet NGVD, a surface area of about 143 acres, a normal operating head of 12 feet, and a gross storage of 350 acre-feet; (4) a set of angled trashracks in front of generating units #4 and #5 that are each 15½ foot-high by 28-foot-wide and are comprised of 7 panels with 3.5 inch clear bar spacing; a set of angled trashracks in front of generating units #8 and #9 that are each 15½ foot-high by 24 and ¼ feet-wide and comprised of 6 panels with 3.5-inch clear bar spacing; (5) a 54-foot-long, 29-foot-wide concrete powerhouse containing two turbine/generator units, and a 67-foot-long, 31-foot-wide concrete powerhouse containing two turbine/generator units, with powerhouses integral with the north side of the dam with a total installed capacity of 2.240 MW and a total combined maximum hydraulic capacity of 2,622 cfs, consisting of two 500-HP Kaplan turbines each connected to a 0.458 MW generator, and two 1,130-HP Kaplan turbines each connected to a 0.662 MW generator; (6) a 3-phase 3,000-kVA 4.16/24.9-kV step-up transformer; (7) a 558-foot-long, 24.9-kV transmission line; and (8) appurtenant facilities. As part of a Commission-approved amendment of its current license, the applicant is currently modifying the Menominee development by installing fish passage facilities.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be

viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport. A copy of the application is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *Procedural Schedule:*

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target Date
Filing of recommendations terms and conditions, and prescriptions.	August 2015.
Commission issues Environmental Assessment.	February 2016.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15097 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD15–26–000]

Mountain Village, CO; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On June 3, 2015, the town of Mountain Village, CO filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed San Joaquin PRV Hydro Project would have an installed capacity of 15 kilowatts (kW) and would be located on the existing water supply pipeline for Mountain Village, which transports water for municipal consumption. The project would be located near Mountain Village in San Miguel County, Colorado.

Applicant Contact: Finn Kjome, Director of Public Works, 455 Mountain Village Blvd., Suite A, Mountain Village, CO 81435, Phone No. (970) 369–8206.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed short, 2-inch-diameter intake pipe that connects to a 10-inch-diameter main water supply pipe; (2) a proposed powerhouse that contains one turbine-generator unit with an installed capacity of 15 kW; (3) a proposed short 2-inch-diamter exit pipe returning flow to the main water supply pipe, making the total bypass approximately 10-feet; and (5) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 15 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ...	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY—Continued

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*e.g.,* CD15–26–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: June 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15098 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD15–27–000]

Mountain Village, CO; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On June 3, 2015, the town of Mountain Village, CO filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Double Cabins PRV Hydro Project would have an installed capacity of 5 kilowatts (kW) and would be located on the existing water supply pipeline for Mountain Village, which transports water for municipal consumption. The project would be located near Mountain Village in San Miguel County, Colorado.

Applicant Contact: Finn Kjome, Director of Public Works, 455 Mountain Village Blvd., Suite A, Mountain Village, CO 81435, Phone No. (970) 369–8206.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed short, 2-inch-diameter intake pipe that connects to a 10-inch-diameter main water supply pipe; (2) a proposed powerhouse that contains one turbine-generator unit with an installed capacity of 5 kW; (3) a proposed short 2-inch-diameter exit pipe returning flow to the main water supply pipe, making the total bypass approximately 10-feet; and (5) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 10 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

[1] 18 CFR 385.2001–2005 (2014).

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA.	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA.	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*e.g.,* CD15–27–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: June 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15099 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2014).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the New York Independent System Operator, Inc.

The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting

June 25, 2015, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/services/planning/index.jsp.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket Nos. ER13–102, ER13–1942, ER13–1946, New York Independent System Operator, Inc. and New York Transmission Owners

Docket No. ER13–1926, PJM Transmission Owners

Docket Nos. ER13–1947, ER13–198, PJM Interconnection, L.L.C.

Docket Nos. ER13–1957, ER13–193, ER13–196, ISO New England Inc.

Docket No. ER13–1960, ISO New England Inc., Participating Transmission Owners Administrative Committee, and New England Power Pool Participants Committee

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: June 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15108 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–504–000]

Dominion Carolina Gas Transmission, LLC; Notice of Application

Take notice that on May 29, 2015, Dominion Carolina Gas Transmission, LLC (DCG), 601 Old Taylor Road, Cayce, South Carolina, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate its approximately 28-mile Columbia to Eastover Project to provide 18,000 dekatherms per day of firm service from DCG's system in Calhoun County, South Carolina to the Eastover Plant in Richland County, South Carolina, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application may be directed to Richard D. Jessee, Gas Transmission Certificates Program Manager, 701 East Cary Street, Richmond, VA 23219, by telephone at (804) 771–3704, by facsimile at (804) 771–4804 and by email at *Richard.Jessee@dom.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on July 6, 2015.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15092 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the Southeastern Regional Transmission Planning (SERTP) Process.

The SERTP Process Second Quarter Meeting.

June 25, 2015, 10:00 a.m.–2:00 p.m. (Eastern Time)

The above-referenced meeting will be via web conference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *www.southeasternrtp.com.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket Nos. ER13–83, ER13–1928, *Duke Energy Carolinas/Carolina Power & Light*

Docket Nos. ER13–908, ER13–1941, *Alabama Power Company et al.*

Docket Nos. ER13–913, ER13–1940, *Ohio Valley Electric Corporation.*

Docket Nos. ER13–897, ER13–1930, *Louisville Gas and Electric Company and Kentucky Utilities Company.*

For more information, contact Valerie Martin, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6139 or *Valerie.Martin@ferc.gov.*

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15096 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1908–000]

West Chicago Battery Storage LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of West Chicago Battery Storage LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 2, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15095 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2586–002.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing per 35: 20150612_IPE4–5_SecondCompliance to be effective 2/2/2015.
Filed Date: 6/12/15.
Accession Number: 20150612–5130.
Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1430–001.
Applicants: Appalachian Power Company.
Description: Tariff Amendment per 35.17(b): Reactive Supply and Voltage Control Amendment Amd to be effective 6/1/2015.
Filed Date: 6/12/15.
Accession Number: 20150612–5143.
Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1432–001.
Applicants: AEP Generation Resources Inc.
Description: Tariff Amendment per 35.17(b): Reactive Supply and Voltage Control Amendment Amd to be effective 6/1/2015.
Filed Date: 6/12/15.
Accession Number: 20150612–5145.
Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1444–001.
Applicants: Wheeling Power Company.
Description: Compliance filing per 35: Power Coordination Agreement Concurrence Compliance to be effective 6/1/2015.
Filed Date: 6/12/15.
Accession Number: 20150612–5150.
Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1446–001.
Applicants: Wheeling Power Company.
Description: Compliance filing per 35: System Integration Agreement Concurrence Compliance to be effective 6/1/2015.
Filed Date: 6/12/15.
Accession Number: 20150612–5151.
Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1912–000.
Applicants: PJM Interconnection, L.L.C.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement Nos. 2526, 2527, 2528, and 2529 to be effective 5/13/2015.
Filed Date: 6/12/15.
Accession Number: 20150612–5207.
Comments Due: 5 p.m. ET 7/6/15.

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: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15102 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–505–000]

Natural Gas Pipeline Company of America LLC; Notice of Application

Take notice that on June 1, 2015, Natural Gas Pipeline Company of America LLC (Natural) 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515–7918, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations seeking authorization to construct and operate a new greenfield compressor station and related facilities located in Livingston County, Illinois (Chicago Market Expansion Project). The Chicago Market Expansion Project will add 30,000 horsepower of new compression to Natural's system. The proposed project is in response to market demand and will support an

additional 238,000 dekatherms per day of firm transportation service to the Chicago market area, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Bruce H. Newsome, Vice President, Natural Gas Pipeline Company of America LLC, 3250 Lacey Road, Suite 700, Downers Grove, IL 60515 or call (630) 725–3070 or by email *bruce_newsome@kindermorgan.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on July 6, 2015.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15105 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1907–000]

Joliet Battery Storage LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Joliet Battery Storage LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 2, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15094 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

Oak Grove Management Company LLC	EG15–58–000
Sandow Power Company LLC	EG15–59–000
Solar Star Colorado III, LLC	EG15–60–000
Bear Mountain Limited	EG15–61–000
Chalk Cliff Limited	EG15–62–000
McKittrick Limited	EG15–63–000
Live Oak Limited	EG15–64–000
NTE Carolinas, LLC	EG15–65–000
NTE Ohio, LLC	EG15–66–000
Arbuckle Mountain Wind Farm LLC	EG15–67–000
Waverly Wind Farm LLC	EG15–68–000
Benson Power, LLC	EG15–69–000
CPV Biomass Holdings, LLC	EG15–70–000

Take notice that during the month of May 2015, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: June 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15106 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–155–000.

Applicants: American Transmission Company LLC.

Description: Application of American Transmission Company LLC for Authority to Acquire Transmission Facilities Under Section 203 of the Federal Power Act.

Filed Date: 6/11/15.

Accession Number: 20150611–5199.

Comments Due: 5 p.m. ET 7/2/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1813–001.

Applicants: The Connecticut Light and Power Company.

Description: Tariff Amendment per 35.17(b): Amendment to Joint Market Based Tariff to be effective 5/30/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5095.

Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1907–000.

Applicants: Joliet Battery Storage LLC.

Description: Initial rate filing per 35.12 Application for Market-Based Rate Authority to be effective 6/12/2015.

Filed Date: 6/11/15.

Accession Number: 20150611–5191.

Comments Due: 5 p.m. ET 7/2/15.

Docket Numbers: ER15–1908–000.

Applicants: West Chicago Battery Storage LLC.

Description: Initial rate filing per 35.12 Application for Market-Based Rate Authority to be effective 6/12/2015.

Filed Date: 6/11/15.

Accession Number: 20150611–5193.

Comments Due: 5 p.m. ET 7/2/15.

Docket Numbers: ER15–1909–000.

Applicants: Kingfisher Wind, LLC.

Description: Initial rate filing per 35.12 Kingfisher Wind Rate Schedule FERC No. 1 to be effective 6/30/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5000.

Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1910–000.

Applicants: Southwest Power Pool, Inc.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2014 Southwestern Power Administration Amendatory Agreement Extension to be effective 5/31/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5081.

Comments Due: 5 p.m. ET 7/6/15.

Docket Numbers: ER15–1911–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: Compliance filing per 35: Compliance Revisions to Wholesale TSC Formula Rate of National Grid to be effective 7/1/2013.

Filed Date: 6/12/15.

Accession Number: 20150612–5109.

Comments Due: 5 p.m. ET 7/6/15.

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: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15101 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–503–000]

Comanche Trail Pipeline, LLC; Notice of Application

Take notice that on May 29, 2015, Comanche Trail Pipeline, LLC (Comanche Trail), 1300 Main Street, Houston, TX 77002, filed an application pursuant to section 3 of the Natural Gas Act and part 153 of the Commission's regulations, for an order authorizing construction of new border crossing natural gas pipeline facilities for the exportation of up to 1,100,000 Mcf per day of natural gas at the International Boundary between the United States and Mexico in El Paso County, Texas, and for the issuance of a Presidential Permit for those facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Mr. Kelly Allen, Manager, Regulatory Affairs Department, Comanche Trail Pipeline, LLC, 1300 Main Street, Houston, TX 77002, or call (713) 989–2606 or fax (713) 989–1205.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or

issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on July 6, 2015.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15104 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1914–000]

87RL 8me LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of 87RL 8me LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 6, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15107 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1905–000]

AZ721 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of AZ721 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888

First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 2, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15093 Filed 6–18–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2005–0008; FRL—9929–33–OSWER]

Proposed Information Collection Request; Comment Request; Emergency Planning and Release Notification Requirements under the Emergency Planning and Community Right-to-Know Act.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Emergency Planning and Release Notification Requirements under the Emergency Planning and Community Right-to-Know Act.'' (EPA ICR No. 1395.09, OMB Control No. 2050–0092) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through December 31, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before August 18, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–SFUND–2005–0008, online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; fax number: (202) 564–2620; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The authority for these requirements is sections 302, 303, and 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 1986 (42 U.S.C. 11002, 11003, and 11004). EPCRA established broad emergency planning and facility reporting requirements. Section 302 requires facilities to notify their state emergency response commission (SERC) that the facility is subject to emergency planning. This activity has been completed; this ICR covers only new facilities that are subject to this requirement. Section 303 requires the local emergency planning committees (LEPCs) to prepare emergency plans for facilities that are subject to section 302. This activity has been also completed; this ICR only covers any updates needed for these emergency response plans. Section 304 requires facilities to report to SERCs and LEPCs releases in excess

of the reportable quantities listed for each extremely hazardous substance (EHS). This ICR also covers the notification and the written follow-up required under this section. The implementing regulations and the list of substances for emergency planning and emergency release notification are codified in 40 CFR part 355.

Form Number: There are no forms associated with this collection.

Respondents/affected entities: Entities potentially affected by this action are those which have a threshold planning quantity of an extremely hazardous substance (EHS) listed in 40 CFR part 355, Appendix A and those which have a release of any of the EHS above a reportable quantity. Entities more likely to be affected by this action may include chemical manufacturers, non-chemical manufacturers, retailers, petroleum refineries, utilities, etc.

Respondent's obligation to respond: EPCRA Section 302 reporting is a one-time notification unless there are changes to the reported information; EPCRA Section 303 reporting is only when LEPC requests information from a facility for developing or modifying the emergency response plan; EPCRA section 304 notification is only when a release occurs from the facility.

Estimated number of respondents: 110,456.

Frequency of response: This information collection is not an annual requirement. See the section on ''Respondents obligation to respond'' in this document.

Total estimated burden: 267,206 hours.

Total estimated cost: $60,327 annualized O&M costs. There is no capital costs associated with this ICR.

Changes in Estimates: The burden hours and cost indicated in this **Federal Register** Notice are from ICR 1395.08, currently approved by OMB. EPA is requesting comments on the burden hours and costs currently approved by OMB. The supporting statement for the ICR can be viewed at *www.regulations.gov* by searching ''ICR 1395.08.''

Dated: June 4, 2015.

Reggie Cheatham,

Acting Director, Office of Emergency Management.

[FR Doc. 2015–15160 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0011–0022; FRL–9928–21]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticides products containing currently registered new uses. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before July 20, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0011–0022 and the File Symbol 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: Jennifer Mclain, Acting Director, Antimicrobials Division (AD) (7510P), main telephone number: (703) 305–7090; email address: *ADFRNotices@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 application 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).

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. Registration Applications

EPA has received applications to register pesticide products containing new uses not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

1. *EPA Registration Numbers:* 10163–282 and 10163–283. *Docket ID Number:* EPA–HQ–OPP–2015–0308. *Applicant:* Gowan Company, P.O. Box 5569, Yuma, AZ 85366. *Active ingredient:* EPTC, (S-ethyl dipropylthiocarbamate). *Product Type:* Herbicide. *Proposed Use:* Grass Grown for Seed. *Contact:* RD.

2. *EPA Registration Numbers:* 264–824 and 264–825. *Docket ID number:* EPA–HQ–OPP–2015–0327. *Applicant:* Bayer CropScience LP, 2 T.W. Alexander Drive, P.O. Box 12014, RTP, NC 27709. *Active ingredient:* Prothioconazole. *Product type:* Fungicide. *Proposed Use:* Sorghum seed treatment. *Contact:* RD.

3. *EPA File Symbol:* 89825–R. *Docket ID number:* EPA–HQ–OPP–2015–0328. *Applicant:* Barnacle-Blocker, LLC., 12907 Yacht Club Place, Cortez, FL 34215. *Active ingredient:* Capsaicin. *Product type:* Antifoulant. *Proposed Use:* Boats. *Contact:* AD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 3, 2015.

Jennifer Mclain,

Acting, Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 2015–15180 Filed 6–18–15; 08:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0236; FRL–9928–94]

Agency Information Collection Activities; Proposed Renewal and Comment Request; TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR)'' and identified by EPA ICR No. 0586.13 and OMB Control No. 2070–0054, represents the renewal of an existing ICR that is scheduled to expire on March 31, 2016. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before August 18, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0236, 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:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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: *For technical information contact:* Mike Mattheisen, Chemical Control Division (7405 M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–3077; email address: *mattheisen.mike@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Information Collection Activity or ICR Does this Action Apply to?

Title: TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR).

ICR number: EPA ICR No. 0586.13.

OMB control number: OMB Control No. 2070–0054.

ICR status: This ICR is currently scheduled to expire on March 31, 2016. 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 OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 8(a) of the Toxic Substances Control Act (TSCA) authorizes EPA to promulgate rules under which manufacturers, importers and processors of chemical substances and mixtures must maintain records and submit reports to EPA. EPA has promulgated the Preliminary Assessment Information Rule (PAIR) under TSCA section 8(a). EPA uses PAIR to collect information to identify, assess and manage human health and environmental risks from chemical substances, mixtures and categories. PAIR requires chemical manufacturers and importers to complete a standardized reporting form to help evaluate the potential for adverse human health and environmental effects caused by the manufacture or importation of identified chemical substances, mixtures or categories. Chemicals identified by EPA or any other federal agency, for which a justifiable information need for production, use or exposure-related data can be satisfied by the use of the PAIR are proper subjects for TSCA section 8(a) PAIR rulemaking. In most instances the information that EPA receives from a PAIR report is sufficient to satisfy the information need in question. This information collection addresses the reporting and recordkeeping requirements associated with TSCA section 8(a).

Responses to the collection of information are mandatory (see 40 CFR parts 712, 766, and 792). Respondents

may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 31.5 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are companies that manufacture, process or import chemical substances, mixtures or categories.

Estimated total number of potential respondents: 1.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 31.5 hours.

Estimated total annual costs: $2,388. This includes an estimated burden cost of $2,388 and an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 916 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects additional both adjustment changes from a reduction in the assumed number of PAIR reports filed annually, and program changes resulting from mandatory electronic submissions of PAIR reports. In recent years (FY 2011–FY 2014), EPA has received no PAIR submissions and, for the purposes of this analysis, EPA assumes an annual rate of one submission per year. At the time OMB last renewed this ICR, EPA estimated an average of 33 reports from 14.8 submitters based on fiscal year 2006–2010 data. The ICR supporting statement provides a detailed analysis of the change in burden estimate. This change is both an adjustment and a program change.

IV. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 10, 2015.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2015–14946 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0305; FRL–9928–69]

Use of High Throughput Assays and Computational Tools; Endocrine Disruptor Screening Program; Notice of Availability and Opportunity for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document describes how EPA is planning to incorporate an alternative scientific approach to screen chemicals for their ability to interact with the endocrine system. This will improve the Agency's ability to fulfill its statutory mandate to screen pesticide chemicals and other substances for their ability to cause adverse effects by their interaction with the endocrine system. The approach incorporates validated high throughput assays and a computational model and, based on current research, can serve as an alternative for some of the current assays in the Endocrine Disruptor Screening Program (EDSP) Tier 1 battery. EPA has partial screening results for over 1800 chemicals that have been evaluated using high throughput assays and a computational model for the estrogen receptor pathway. In the future, EPA anticipates that additional alternative methods will be available for EDSP chemical screening based on further advancements of high throughput assays and computational models for other endocrine pathways. Use of these alternative methods will accelerate the pace of screening, decrease costs, and reduce animal testing. In addition, this approach advances the goal of providing sensitive, specific, quantitative, and efficient screening using alternative test methods to some assays in the Tier 1 battery to protect human health and the environment.

DATES: Comments must be received on or before August 18, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0305, 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:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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: *For technical information contact:* Jane Robbins, Office of Science Coordination and Policy (OSCP), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–6625; email address: robbins.jane@*epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including those interested in endocrine testing of chemicals (including pesticides), and the EDSP in general. 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 is the agency authority for taking this action?

The EDSP is established under section 408(p) of the Federal Food, Drug and

Cosmetic Act (FFDCA), 21 U.S.C. 346a(p). Section 408(p)(1) requires EPA ''to develop a screening program, using appropriate validated test systems and other scientifically relevant information to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other effects as [EPA] may designate.'' [21 U.S.C. 346a(p)(1)]. Section 408(p)(2) requires that the screening program be implemented ''after obtaining public comment and review . . . by the scientific advisory panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act. . .'' [21 U.S.C. 346a(p)(2)].

This document describes the new scientific methods that are available as alternatives to some of the current EDSP Tier 1 screening assays and solicits public comment on EPA's plan to use these alternative approaches to screen chemicals for their ability to interact with the endocrine system. The approach described in this document is not binding on either EPA or any outside parties, and EPA may depart from the approach presented in this document where circumstances warrant and without prior notice.

C. What action is the agency taking?

This document describes and solicits comments on how EPA is planning to incorporate scientific advancements and tools into the EDSP. The adoption of scientific advancements into the EDSP has been underway and part of the public dialogue about EDSP for several years. As EPA has consistently indicated, the Agency intends to continue to incorporate in the EDSP new methods involving high throughput assays and computational toxicology. Also, EPA has identified a universe of approximately 10,000 chemicals as potential candidates for screening and testing under the EDSP (Ref. 1). This approach is expected to accelerate the pace of screening, add efficiencies, decrease costs, and reduce animal testing.

EPA is planning to incorporate the partial screening results from validated high throughput assays and computational models as an alternative to data from some of the current assays in the EDSP Tier 1 screening battery. Currently, EPA has partial screening results for over 1800 chemicals that have been evaluated using the high throughput assays and computational model for the estrogen receptor pathway.

The use of high-throughput assays and computational models for EDSP screening is an initial step in EPA's integration of 21st-century integrated assessment and testing approaches broadly, beyond EDSP, across a wide range of chemicals related to regulatory and non-regulatory decisions made in programs under the Agency's purview (Ref. 2). Much of the knowledge gained in using these approaches for EDSP screening will be useful in applying high throughput assays and computational models to thousands of chemicals across many toxicological endpoints and exposure scenarios.

D. 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

A. What is the Endocrine Disruptor Screening Program (EDSP)?

The Food Quality Protection Act (FQPA) of 1996 amended FFDCA to require EPA ''to develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other effects as [EPA] may designate'' (21 U.S.C. 346a(p)(1)). Also in 1996, the Agency chartered the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, section 9(c)), to provide advice on developing an endocrine disruptor screening program (Ref. 3). The EDSTAC was comprised of members representing the commercial chemical and pesticides industries, Federal and State agencies, worker protection and labor organizations, environmental and public health groups, and research scientists. EDSTAC recommended that EPA's program address both potential human and wildlife effects; examine effects on estrogen, androgen, and thyroid hormone-related processes; and include non-pesticide chemicals, contaminants, and mixtures in addition to pesticide chemicals (Ref. 2).

In 1998, based on the EDSTAC recommendations, EPA established the EDSP using a two-tiered approach (Ref. 4). The purpose of Tier 1 (referred to as ''screening'') is to identify substances that have potential biological activity (''bioactivity'') in the estrogen, androgen, or thyroid hormone pathways using a battery of assays. The purpose of Tier 2 (referred to as ''testing'') is to identify and establish a dose-response relationship for any adverse effects that might result from the endocrine bioactivity identified through the Tier 1 assays. The ultimate purpose of the EDSP is to provide information to the Agency that will allow the Agency to evaluate any possible endocrine effects associated with the use of a chemical and take appropriate steps to mitigate any related risks to ensure protection of public health.

In 2009, the Agency issued test orders requiring Tier 1 screening for 67 chemicals (''List 1'') (Ref. 5). Between the time needed to review the substantial volume of ''other scientifically relevant information'' submitted by test order recipients to satisfy selected screening assays, the time and resources of industry spent generating data, the time spent by the Agency reviewing the information, and the delays resulting from the limited laboratory capacity for conducting many of the Tier 1 assays and corresponding time extension requests, the review of the initial List 1 chemicals has taken over four years and has imposed significant burdens on test order recipients and the agency. The Agency is still finalizing the data evaluation records and determinations concerning which of the List 1 chemicals need further Tier 2 testing. More information on the EDSP history and the status of current activities is available at *http://www.epa.gov/endo.*

B. What is meant by ''high throughput assays and computational model''?

High throughput assays are automated methods that allow for a large number of chemicals to be rapidly evaluated for a specific type of bioactivity at the molecular or cellular level. This approach, which can help identify compounds that may modulate specific

biological pathways, was initially developed by pharmaceutical companies for drug discovery. The results of these methods provide an initial understanding of a biochemical interaction or possible role of a chemical in a given biological process. *In vitro* high throughput assays are usually conducted using a microtiter plate: a plate containing a grid with a large number of small divots called ''wells.'' The wells contain chemical and/or biological substrate (*e.g.,* living cells or proteins). Depending on the nature of the experiment, changes can be detected (*e.g.,* color, fluorescence, etc.) when the chemical is added to indicate whether there is bioactivity. High throughput microtiter plates typically come in multiples of 96 wells (96, 384, or 1536), so that through the use of robotics, data processing and control software, liquid handling devices, and sensitive detection methods, an extremely large number of chemicals can be evaluated very efficiently.

High throughput assays can be run for a range of test chemical concentrations and produce concentration-response information representing the relationship between chemical concentration and bioactivity. The concentration-response data from multiple assays can be mathematically integrated in a computational model of a biological pathway, providing values representative of a chemical's bioactivity in that pathway (*e.g.,* estrogen receptor pathway). To reduce non-specific results, the computational model can use results from multiple assays and technologies to predict whether a chemical is truly bioactive in the pathway being evaluated. The most prominent cause of non-specific results (activity in an assay that is likely not due to bioactivity of the chemical in the pathways) is cytotoxicity in cell-based assays. In other cases, chemicals influence the assays through a manner dependent on the physics and chemistry of the technology platform (*i.e.,* ''assay interference'').

C. What is ToxCast™?

To improve efficiencies in screening and testing chemicals, EPA scientists are harnessing advances in molecular and systems biology, chemistry, toxicology, mathematics, and computer technology. In doing this, they are helping to revolutionize chemical screening and safety testing based on advances in computational toxicology. A major part of this effort is the Agency's Toxicity Forecaster, or ToxCast™, which uses automated, robotics-assisted high throughput assays to expose living cells or proteins to chemicals and measure the results. The high throughput assays produce concentration-response information representing the relationship between chemical concentration and bioactivity. These innovative methods have the potential to quickly and efficiently screen large numbers of chemicals and other substances. ToxCast™ is part of EPA's contribution to a federal research collaboration called ''Toxicity Testing in the 21st Century'', or ''Tox21,'' pooling resources and expertise from EPA, the National Institutes of Health and the U.S. Food and Drug Administration to use robotics for screening thousands of chemicals for potential bioactivity (Ref. 6).

As part of EPA's commitment to gather and share its chemical data openly and clearly, all ToxCast™ chemical data are publicly available through user-friendly web applications called the interactive Chemical Safety for Sustainability (iCSS) and EDSP21 dashboards (Refs. 7 and 8). The EDSP21 and iCSS dashboards provide accessible portals for users to search and query the ToxCast™ chemical data. Users can review chemicals and data of interest, as well as export the information. Making ToxCast™ data available through the dashboards creates an environment that encourages external stakeholder interactions identifying potential issues, concerns, and suggesting improvements.

D. What is meant by the ToxCast™ ER Model for bioactivity?

The ToxCast™ ER Model for bioactivity (''ER Model'') includes data from 18 estrogen receptor (ER) high throughput assays from ToxCast™ that detect multiple events in the receptor pathway. The ER Model also includes a computational module that integrates the assay data to produce a value for ER agonist and antagonist bioactivity for each chemical (Ref. 9). An ER agonist binds and activates the receptor, and an antagonist binds and blocks activation. These 18 high throughput assays measure bioactivity at different sites along the ER pathway including receptor binding, receptor dimerization, chromatin binding of the mature transcription factor, gene transcription and changes in estrogen-receptor growth kinetics. Bioactivity (*i.e.,* response) is measured using various detection methods (*e.g.,* fluorescence, etc.) across a range of concentrations to examine potential concentration-response relationships, including no change across concentrations indicating no bioactivity. Concentration-response relationships for each assay are mathematically integrated in the ''ER Model'' to quantify bioactivity from multiple assays. The computational model integrates the results of each of the 18 ER assays as an area under the curve (AUC) for ER agonist or antagonist bioactivity for each chemical. The bioactivity values generally range from 0 to 1 for each chemical, with 0 indicating no bioactivity and 1 approximating the positive reference chemical (*e.g.,* estradiol for ER agonism).

In order to validate the ER Model, ToxCast™ data have been collected and reviewed on over 1800 chemicals, including ER reference agonists and antagonists (Ref. 10). ER agonist and antagonist bioactivity scores from the ''ER Model'' compare very well with reported bioactivity of reference chemicals across a range of structures and potencies. Of the over 1800 chemicals tested, over 1700 chemicals had very low or no detectable ER bioactivity (Ref. 10). The ''ER Model'' bioactivity scores were validated by comparing the scores to 45 reference chemicals, equivalent to a performance-based approach to validation. EPA also compared ''ER Model'' results to a database of curated uterotrophic studies published in peer-reviewed literature. ER agonist bioactivity scores accurately predicted *in vivo* ER agonist activity for a large set (~150) of chemicals with uterotrophic data (Refs. 9 and 11). The validation of the ''ER Model'' as an alternative screening method for three current Tier 1 assays (ER binding, ER transcriptional activation (ERTA), and uterotrophic) was peer reviewed by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) in December 2014 (Refs. 9 and 11). The FIFRA SAP fully endorsed the use of these alternatives for the ER binding and ERTA assays; however, there was not consensus among panel members on the use of the ''ER Model'' as an alternative for the uterotrophic assay (Ref. 11). In response to the concerns raised by the FIFRA SAP, EPA has published a paper clarifying the relationship between ''ER Model'' bioactivity and uterotrophic results, and illustrating that a uterotrophic assay would provide no added value if ''ER Model'' data are available (Ref. 12). Based on these findings, EPA concludes that ''ER Model'' data are sufficient to satisfy the Tier 1 ER binding, ERTA and uterotrophic assay requirements. The Agency intends to build on the performance-based validation approach presented at the December 2014 FIFRA SAP expanding this approach to include

other key events in the estrogen pathway.

III. Using High Throughput Assays and Computational Models for Screening

A. How Will ToxCast™ data be used for screening in the EDSP?

The ability to screen chemicals rapidly for bioactivity in several endocrine pathways, and reducing the use of animals in testing, have been EDSP goals since 1998, when the program was first adopted (Ref. 4). As previously noted, when the first Tier 1 orders (for List 1 chemicals) were issued in 2009, EPA had not confirmed the reliability and relevance of the ToxCast™ results so that they could be cited as ''other scientifically relevant information'' to satisfy the Tier 1 ER binding, ERTA, and uterotrophic assays (Ref. 13). However, since that time, EPA has reached a critical juncture, determining that the science has progressed such that reevaluation of EPA's earlier position is warranted. Based on scientific advances, EPA intends to implement the use of high throughput assays and computational models to evaluate, and to a significant extent, screen chemicals. The *in vitro* high throughput and computational model alternatives provide an accurate quantitative measure of specific endocrine pathway bioactivity and mechanisms. The current Tier 1 battery includes animal-based assays that do not clearly identify or differentiate pathways and mechanisms. Specifically, the current Tier 1 ER binding, ERTA and uterotrophic assays do not provide both estrogen agonist and antagonist activity and animals are required to conduct the ER binding and uterotrophic assays.

EPA is planning to adopt *in vitro* high throughput assays and computational models for detecting and measuring ER agonist and antagonist bioactivity as an alternative for three current Tier 1 assays: 1) ER binding *in vitro* assay (Ref. 14); 2) ER transcriptional activation *in vitro* assay (ERTA) (Ref. 15); and 3) *in vivo* uterotrophic assay (Refs. 16 and 17). EPA is also planning to accept existing results for chemicals that have been evaluated using the ToxCast™ ''ER Model'' for bioactivity. The accompanying database contains the ER agonist bioactivity and ER antagonist bioactivity for over 1800 chemicals and identifies those chemicals that are pesticide active ingredients, pesticide inert ingredients, and on EDSP Lists 1 or 2 (Ref. 10). This is a ''living'' database that will continue to incorporate bioactivity results for chemicals as they become available. This database is available at *http://www.epa.gov/endo* and in the docket identified for this document in a format that can be easily reviewed and manipulated electronically (Ref. 10). It is important, however, not to equate a determination of a chemical's bioactivity from the ''ER Model'' with a determination that a chemical causes endocrine disruption. The World Health Organization (WHO)/International Programme on Chemical Safety (IPCS) defines endocrine disruption as being caused by ''an exogenous substance or mixture that alters function(s) of the endocrine system . . . and . . .consequently causes adverse health effects in an intact organism or its progeny, or (sub)populations'' (Ref. 18). Bioactivity is an indicator that a chemical has the potential to alter endocrine function, but (1) whether the chemical actually alters endocrine function and (2) whether that altered function produces an adverse outcome in an intact animal cannot be determined without further testing (*i.e.,* Tier 2 testing).

The EDSP has been developed over the past 19 years, and has demonstrated that the current screening process may take upwards of 5 years before a Tier 1 decision is available or Tier 2 test orders are issued. In light of recent advances in high throughput assays and computational models, and advances likely to come in the next two years, it is prudent for the Agency to consider new, rapid screening methods. The availability of additional alternative high throughput assays and computational models in the near term will allow EPA to screen more chemicals in less time, involve fewer animals, and cost less for everyone. Furthermore, reconsideration of the EDSP List 2 chemicals may be appropriate since ''ER Model'' data are available for many List 2 and other chemicals (Refs. 10 and 19). Ongoing use of high throughput assays and computational models will address thousands of chemicals in the future.

These advancements in the EDSP screening program will not affect the overall framework—*i.e.,* the Tier 1 screening battery and Tier 2 testing approach focused on estrogen, androgen and thyroid pathways in humans and wildlife remains unaffected. Instead, as discussed above, EPA is planning to adopt sensitive, specific, quantitative, and efficient screening methods that will rapidly screen many chemicals and substantially decrease costs and animal use and may be used as an alternative to some EDSP Tier 1 screening assays. Accordingly, EPA intends a future recipient of an EDSP test order to be able to satisfy the screening requirement for ER, ERTA, and uterotrophic in one of three ways: (1) cite existing ToxCast™ ''ER Model'' for bioactivity data as ''other scientifically relevant information'' (where available); (2) generate new data relying on the 18 ER high throughput assays and the ToxCast™ ''ER Model'' for bioactivity; or (3) generate their own data using the current Tier 1 ER binding, ERTA, and uterotrophic assays.

B. How Does EPA intend to use high throughput assays and computational models for the EDSP in the future?

EPA believes that ongoing adoption of alternative methods and technologies will continue to advance EDSP screening of chemicals for bioactivity in the estrogen, androgen, and thyroid pathways. EPA is continuing research on the ''ER Model'' to determine if ToxCast™ assays can provide comparable information as that of the Female Rat Pubertal and the Fish Short Term Reproduction assays. In addition, research continues on the ToxCast™ ''AR Model'' for bioactivity which, if fully validated, may be considered as an alternative (alone or with the ''ER Model'') for the following current Tier 1 assays: AR binding, Male Rat Pubertal, Hershberger, and Fish Short Term Reproduction. Research is also underway to develop steroidogenesis ToxCast™ (STR) and thyroid (THY) bioactivity models. Over time, the Agency's goal is to develop a set of ''non-animal'' high throughput assays and computational bioactivity models as an alternative to all of the assays in the current Tier 1 screening battery. The following table is intended to illustrate the evolution of screening in the EDSP:

Current EDSP Tier 1 battery of assays	Alternative high throughput assays and computational model for EDSP Tier 1 battery
Estrogen Receptor (ER) Binding	ER Model (alternative).
Estrogen Receptor Transactivation (ERTA)	ER Model (alternative).
Uterotrophic	ER Model (alternative).
Female Rat Pubertal	ER, STR , and thyroid (THY) Models *(Future).*

Current EDSP Tier 1 battery of assays	Alternative high throughput assays and computational model for EDSP Tier 1 battery
Male Rat Pubertal	AR, STR, and THY Models *(Future).*
Androgen Receptor (AR) Binding	AR Model *(Future).*
Hershberger	AR Model *(Future).*
Aromatase	STR Model *(Future).*
Steroidogenesis (STR)	STR Model *(Future).*
Fish Short Term Reproduction	ER, AR, and STR Models *(Future).*
Amphibian Metamorphosis	THY Model *(Future).*

The table indicates combinations of various alternative assays and models that might overlap for evaluating potential endocrine bioactivity of chemicals. The *in vitro* high throughput and computational model alternatives provide a focused evaluation of the mechanistic aspects of endocrine pathways, thereby providing specific and quantitative measures of bioactivity. Several assays in the Tier 1 battery rely on intact animals and identify bioactivity in the multiple biological pathways present. For this reason, the specificity of the *in vitro* high throughput and computational model alternatives may be more informative of specific endocrine pathway bioactivity.

The annual EDSP Comprehensive Management Plan and future FIFRA SAP meetings are opportunities for staying informed on EPA's scientific progress on the evolution of Tier 1 screening in the EDSP. For information, visit EPA's Web site (*http://www.epa.gov/endo*) or sign-up to receive announcements go to (*http://www.epa.gov/endo/pubs/assayvalidation/listserv.htm*).

IV. Issues for Comment

In connection with EPA's stated intention to use the scientific tools discussed in this Notice as alternatives to some of the current EDSP Tier 1 screening assays, EPA is specifically seeking public comment on the following:

1. The use of the ToxCast™ ''ER Model'' for bioactivity as an alternative method for the current ER binding and ERTA Tier 1 screening assays.
2. The use of the ToxCast™ ''ER Model'' for bioactivity as an alternative method for the current uterotrophic Tier 1 screening assay.
3. The use of results from the ToxCast™ ''ER Model'' for bioactivity on over 1800 chemicals as partial screening for the estrogen receptor pathway.

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. U.S. EPA. Endocrine Disruptor Screening Program; Universe of Chemicals and General Validation Principles. November 2012. Available at *http://www.epa.gov/endo/pubs/edsp_chemical_universe_and_general_validations_white_paper_11_12.pdf.*
2. U.S. EPA. Endocrine Disruptor Screening Program for the 21st Century: (EDSP21 Work Plan); The Incorporation of In Silico Models and In Vitro High Throughput Assays in the Endocrine Disruptor Screening Program (EDSP) for Prioritization and Screening; Summary Overview. A Part of the EDSP Comprehensive Management Plan. September 30, 2011. Available at *http://www.epa.gov/endo/pubs/edsp21_work_plan_summary%20_overview_final.pdf.*
3. U.S. EPA. Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC); Final Report. August 1998. Available at *http://www.epa.gov/endo/pubs/edspoverview/finalrpt.htm.*
4. U.S. EPA. Endocrine Disruptor Screening Program; Proposed Statement of Policy; Notice. **Federal Register** (63 FR 71542, December 28, 1998) (FRL–6052–9).
5. U.S. EPA. Endocrine Disruptor Screening Program; Tier 1 Screening Order Issuance Announcement; Notice. **Federal Register** (74 FR 54422, October 21, 2009) (FRL–8434–8).
6. U.S. EPA. Office of Research and Development (ORD); Description of Computational Toxicology Research Program. Available at *http://epa.gov/ncct.*
7. U.S. EPA. Interactive Chemical Safety for Sustainability (iCSS) Dashboard, Version 0.5. Available at *http://actor.epa.gov/dashboard.*
8. U.S. EPA. EDSP21 Dashboard. Available at *http://actor.epa.gov/edsp21.*
9. U.S. EPA. Integrated Bioactivity and Exposure Ranking: A Computational Approach for the Prioritization and Screening of Chemicals in the Endocrine Disruptor Screening Program. December 2014. Docket ID No. EPA–HQ–OPP–2014–0614–0003. Available at *http://www.regulations.gov/#!documentDetail;D=EPA–HQ–OPP–2014–0614–0003.*
10. U.S. EPA. Endocrine Disruptor Screening Program (EDSP); Estrogen Receptor Bioactivity Based on ToxCa™ ''ER Model.'' June 1, 2015. Available at *http://www.epa.gov/endo.*
11. U.S. EPA. FIFRA SAP Minutes No. 2015–01. FIFRA SAP Meeting on the Integrated Bioactivity and Exposure-Based Prioritization and Screening, held December 2–4, 2014. Docket ID No. EPA–HQ–OPP–2014–0614–0029. March 2, 2015. Available at *http://www.epa.gov/scipoly/sap/meetings/2014/december/120214minutes.pdf.*
12. Browne, P., Judson, R.S., Casey, W., Kleinstreuer, N., Thomas, R.S. Screening Chemicals For Estrogen Receptor Bioactivity Using A Computational Model. Manuscript accepted for publication. *Environ. Sci. Technol.* June 12, 2015. Available in the docket and electronically at *http://pubs.acs.org/journal/esthag.*
13. U.S. EPA. Endocrine Disruptor Screening Program; Policies and Procedures for Initial Screening; Notice. **Federal Register** (74 FR 17560, April 15, 2009) (FRL–8399–9). Note: the status and progress of all List 1 Tier 1 orders are available at *http://www.epa.gov/endo/pubs/toresources/index.htm.*
14. U.S. EPA. Endocrine Disruptor Screening Program Test Guidelines; OPPTS 890.1250: Estrogen Receptor Binding Assay Using Rat Uterine Cytosol (ER–RUC). October 2009. EPA 740–C–09–005. Available at *http://www.epa.gov/ocspp/pubs/frs/publications/Test_Guidelines/series890.htm.*
15. U.S.EPA. Endocrine Disruptor Screening Program Test Guidelines; OPPTS 890.1300: Estrogen Receptor Transcriptional Activation (Human Cell Line (HeLa-9903)). October 2009. EPA 740–C–09–006. Available at *http://www.epa.gov/ocspp/pubs/frs/publications/Test_Guidelines/series890.htm.*
16. U.S.EPA. Endocrine Disruptor Screening Program Test Guidelines; OPPTS 890.1600: Uterotrophic Assay. October 2009. EPA 740–C–09–0010. Available at *http://www.epa.gov/ocspp/pubs/frs/publications/Test_Guidelines/series890.htm.*
17. Organization of Economic Co-operation and Development (OECD). Test Guideline No. 440:Uterotrophic Bioassay in Rodents: A short-term screening test for oestrogenic properties. OECD Guidelines for the Testing of Chemicals, Section 4, OECD Publishing, Paris. DOI: *http://dx.doi.org/10.1787/*

9789264067417-en.

18. World Health Organization (WHO)/ International Programme on Chemical Safety (IPCS). Global Assessment of the State-of-the-Science of Endocrine Disruptors. WHO/IPCS/EDC/02.2. 2002. Available at *http://www.who.int/ipcs/publications/new_issues/endocrine_disruptors/en.*
19. U.S. EPA. Endocrine Disruptor Screening Program; Final Second List of Chemicals and Substances for Tier 1 Screening; Notice. **Federal Register** (78 FR 35922, June 14, 2013) (FRL–9375–8). Available at *http://www.gpo.gov/fdsys/pkg/FR–2013–06–14/pdf/2013–14232.pdf.*

Authority: 21 U.S.C. 346a(p).

Dated: June 11, 2015.

James J. Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2015–15182 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2006–0361; FRL—9929–32–OSWER]

Proposed Information Collection Request; Comment Request; Trade Secret Claim Submissions under the Emergency Planning and Community Right-to-Know Act.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Trade Secret Claims Submitted under the Emergency Planning and Community Right-to-Know Act.'' (EPA ICR No. 1428.10, OMB Control No. 2050–0078) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through December 31, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before August 18, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–SFUND–2006–0361, online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; fax number: (202) 564–2620; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This information collection request pertains to trade secrecy claims submitted under Section 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).

EPCRA contains provisions requiring facilities to report to State and local authorities, and EPA, the presence of extremely hazardous substances (Section 302), inventory of hazardous chemicals (Sections 311 and 312) and manufacture, process and use of toxic chemicals (Section 313).

Section 322 of EPCRA allows a facility to withhold the specific chemical identity from these EPCRA reports if the facility asserts a claim of trade secrecy for that chemical identity. The provisions in Section 322 establish the requirements and procedures that facilities must follow to request trade secrecy treatment of chemical identities, as well as the procedures for submitting public petitions to the Agency for review of the ''sufficiency'' of trade secrecy claims.

Trade secrecy protection is provided for specific chemical identities contained in reports submitted under each of the following: (1) Section 303 (d)(2)- Facility notification of changes that have or are about to occur, (2) Section 303 (d)(3)—Local Emergency Planning Committee (LEPC) requests for facility information to develop or implement emergency plans, (3) Section 311—Material Safety Data Sheets (MSDSs) submitted by facilities, or lists of those chemicals submitted in place of the MSDSs, (4) Section 312—Emergency and hazardous chemical inventory forms (Tier I and Tier II), and (5) Section 313 Toxic chemical release inventory form.

Form Number: EPA Form 9510–1.

Respondents/affected entities: Entities potentially affected by this action are manufacturers or non-manufacturers subject to reporting under Sections 303, 311/312 or 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

Respondent's obligation to respond: Mandatory if the respondents would like to claim the chemical identity for any of the chemicals as trade secret in any of the reports required to be submitted under EPCRA.

Estimated number of respondents: 332 (total).

Frequency of response: Annual for claims submitted under EPCRA Sections 312 and 313.

Total estimated burden: 3,154 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $206,155 (per year). No capital and operation and

maintenance costs are associated with any requirements in this ICR.

Changes in Estimates: The burden hours and cost indicated in this **Federal Register** Notice is taken from ICR 1428.09 that is currently approved by OMB. EPA is requesting comments on the ICR currently approved by OMB. The supporting statement for the ICR can be viewed at *www.regulations.gov* by searching ''ICR 1428.09.''

Dated: June 4, 2015.

Reggie Cheatham,

Acting Director, Office of Emergency Management.

[FR Doc. 2015–15178 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9021–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements (EISs)
Filed 06/08/2015 Through 06/12/2015
Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search*.

EIS No. 20150168, Draft, BR, CA, Mendota Pool Bypass and Reach 2B Channel Improvements Project EIS/EIR, Comment Period Ends: 08/10/2015, Contact: Katrina Harrison 916–978–5465.

EIS No. 20150169, Final, USFS, ID, Crooked River Valley Rehabilitation, Review Period Ends: 07/20/2015, Contact: Jennie Fischer 208–983–4048.

EIS No. 20150170, Draft, NPS, NY, Fire Island National Seashore General Management Plan, Comment Period Ends: 09/17/2015, Contact: Christopher Soller 631–687–4750.

EIS No. 20150171, Final, NOAA, PRO, PROGRAMMATIC—Habitat Restoration Activities Implemented throughout the Coastal United States, Review Period Ends: 07/20/2015, Contact: Melanie Gange 301–427–8664.

EIS No. 20150172, Draft, BLM, PRO, PROGRAMMATIC—Vegetation Treatments Using Aminopyralid, Fluroxypyr, and Rimsulfuron on Bureau of Land Management Lands in 17 Western States, Comment Period Ends: 08/03/2015, Contact: Gina Ramos 202–912–7226.

EIS No. 20150173, Draft Supplement, USACE, CO, Northern Integrated Supply Project, Comment Period Ends: 08/04/2015, Contact: John Urbanic 303–979–4120.

EIS No. 20150174, Draft, TVA, TN, Floating Houses Policy Review, Comment Period Ends: 08/18/2015, Contact: Matthew Higdon 865–632–8051.

EIS No. 20150175, Draft, USACE, NY, South Shore of Staten Island (SSSI) Coastal Storm Risk Management, Comment Period Ends: 08/10/2015, Contact: Catherine Alcoba 917–790–8216.

Amended Notices

EIS No. 20150038, Final, USFS, ID, WITHDRAWN—Crooked River Valley Rehabilitation Project, Review Period Ends: 04/13/2015, Contact: Jennie Fischer 208–983–4048.

Revision to FR Notice Published 02/20/2015; Officially Withdrawn by Preparing Agency.

Dated: June 12, 2015.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2015–15154 Filed 6–18–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2015–6008]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 92–50 Short-Term Multi-Buyer Export Credit Insurance Policy Applications (ST Multi-Buyer).

SUMMARY: The Export-Import Banks of the United States (Ex-Im Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine eligibility of the applicant for Ex-Im Bank assistance.

The Application for Short-Term Multi-Buyer Export Credit Insurance Policy will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its insurance program. Export-Import Bank customers will be able to submit this form on paper or electronically.

The Export-Import Bank has made a change to the report to have the applicant provide their number of employees or annual sales volume. That information is needed to determine whether or not they meet the SBA's definition of a small business. The applicant already provides their name, address and industry code (NAICS). These additional pieces of information will allow Ex-Im Bank to better track the extent to which its support assists U.S. small businesses.

The other change that Ex-Im Bank has made is to require the applicant to indicate whether it is a minority-owned business, women-owned business and/or veteran-owned business. Although answers to the questions are mandatory, the company may choose any one of the three answers: Yes/No/Decline to Answer. The option of ''Decline to Answer'' allows a company to consciously decline to answer the specific question should they not wish to provide that information.

The application tool can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib92-50.pdf.*

DATES: Comments must be received on or before August 18, 2015 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92–50 Export-Import Bank of the United States Short-Term Multi-Buyer Export Credit Insurance Policy Applications (ST Multi-Buyer).

OMB Number: 3048–0023.

Type of Review: Regular.

Need and Use: The Application for Short-Term Multi-Buyer Export Credit Insurance Policy will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its insurance program.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 285.

Estimated Time per Respondent: 0.5 hours.

Annual Burden Hours: 143.

Frequency of Reporting of Use: As needed.

Government Reviewing Time per Year:

Reviewing time per year: 285 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: (time*wages) $12,113.

Benefits and Overhead: 20%.

Total Government Cost: $15,504.

Bonita Jones-McNeil,

Agency Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2015–15089 Filed 6–18–15; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2015–6009]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 10–02 Application for Short-Term Express Credit Insurance Policy.

SUMMARY: The Export-Import Banks of the United States (Ex-Im Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine eligibility of the applicant for Ex-Im Bank assistance.

The Export-Import Bank has made a change to the report to have the applicant provide the number of employees or annual sales volume. That information is needed to determine whether or not they meet the SBA's definition of a small business. The applicant already provides their name, address and industry code (NAICS). These additional pieces of information will allow Ex-Im Bank to better track the extent to which its support assists U.S. small businesses.

The other change that Ex-Im Bank has made is to require the applicant to indicate whether it is a minority-owned business, women-owned business and/or veteran-owned business. Although answers to the questions are mandatory, the company may choose any one of the three answers: Yes/No/Decline to Answer. The option of ''Decline to Answer'' allows a company to consciously decline to answer the specific question should they not wish to provide that information.

The application tool can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib10_02.pdf*

DATES: Comments must be received on or before August 18, 2015 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 10–02 Application for Short-Term Express Credit Insurance Policy

OMB Number: 3048–0031.

Type of Review: Regular.

Need and Use: This form is used by an exporter (or broker acting on its behalf) in order to obtain approval for coverage of the repayment risk of export sales. The information received allows Ex-Im Bank staff to make a determination of the eligibility of the applicant and the creditworthiness of one of the applicant's foreign buyers for Ex-Im Bank assistance under its programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 500.

Estimated Time per Respondent: 0.25 hours.

Annual Burden Hours: 125 hours.

Frequency of Reporting of Use: Once per year.

Government Expenses:

Reviewing time per year: 1,000 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: (Time*wages) $42,250.

Benefits and Overhead: 20%.

Total Government Cost: $51,000.

Bonita Jones,

Program Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–15084 Filed 6–18–15; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2015–6012]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 09–01 Payment Default Report OMB 3048–0028.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection allows insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor. Ex-Im Bank customers will submit this form electronically through Ex-Im Online, replacing paper reporting. Ex-Im Bank has simplified reporting of payment defaults in this form by including checkboxes and providing for many fields to be self-populated. Ex-Im Bank provides insurance, loans, and guarantees for the financing of exports of goods and services.

The form can be viewed at: *http://www.exim.gov/sites/default/files/tools/credit_admin/EIB-09-01.pdf.*

DATES: Comments should be received on or before August 18, 2015 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or mail to Ms. Michele Kuester, Export Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571. Attn: 3048–0028.

FOR FURTHER INFORMATION CONTACT: Stacy Lee, Export Import Bank, 811 Vermont Avenue NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 09–01, Payment Default Report.

OMB Number: 3048–0028.

Type of Review: Regular.

Need and Use: The information requested enables insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor.

Affected Public: Insured/guaranteed parties and brokers.

Annual Number of Respondents: 200.

Estimated Time per Respondent: 15 minutes.

Government Review Time: 50 hours.

Cost to the Government: $2,000.

Bonita Jones-McNeil,

Agency Clearance Officer.

[FR Doc. 2015–15012 Filed 6–18–15; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: June 24, 2015; 10:00 a.m.

PLACE: 800 N. Capitol Street NW., First Floor Hearing Room, Washington, DC.

STATUS: The first portion of the meeting will be held in Open Session; the second in Closed Session.

MATTERS TO BE CONSIDERED:

Open Session

1. Public Access to Commission Information and Records
2. S. 2444—Howard Coble Coast Guard and Maritime Transportation Act of 2014
3. Briefing on 2nd Global Maritime Regulatory Summit
4. Briefing on the Maersk/MSC Vessel Sharing Agreement, FMC Agreement No. 012293
5. Docket No. P1–14: Petition of United Arab Shipping Company for Exemption from the Commission's Controlled Carrier Rules—46 U.S.C. § 40703
6. U.S. Port Congestion and Related International Supply Chain Issues—An Overview of Stakeholder Discussions at FMC Port Forums

Closed Session

1. Pacific Ports Operational Improvement Agreement, FMC Agreement No. 201227

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Secretary, (202) 523 5725.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–15326 Filed 6–17–15; 4:15 pm]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 16, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Baylake Corp.,* Sturgeon Bay, Wisconsin; to merge with NEW Bancshares, Inc., and thereby indirectly acquire Union State Bank, both in Kewaunee, Wisconsin.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Connections Bancshares, Inc.,* Ashland, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Calvert Financial Corporation, and thereby indirectly acquire voting shares of Mainstreet Bank, both in Ashland, Missouri.

Board of Governors of the Federal Reserve System, June 16, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–15079 Filed 6–18–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies; Correction

This notice corrects a notice (FR Doc. 2015–14407) published on page 33520 of the issue for Friday, June 12, 2015.

Under the Federal Reserve Bank of Cleveland heading, the entry for CF Mutual Holding Company and CF Bancorp, Inc., both in Cincinnati, Ohio, is revised to read as follows:

1. *CF Mutual Holding Company and Cincinnati Bancorp, Inc.,* both in Cincinnati, Ohio; to become savings and loan holding companies by acquiring Cincinnati Federal Savings Loan Association, Cincinnati, Ohio.

Comments on this application must be received by July 9, 2015.

Board of Governors of the Federal Reserve System, June 16, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–15080 Filed 6–18–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: Parts open to the public begin at 1:30 p.m. June 25, 2015.

PLACE: 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Closed to the Public (12:30 p.m.–1:30 p.m.)

1. Security
2. Procurement

Parts Open to the Public (1:30 p.m.–3:00 p.m.)

3. Approval of the Minutes of the May 18, 2015 Joint ETAC/Board Member Meeting
4. Monthly Reports
   (a) Monthly Participant Activity Report
   (b) Monthly Investment Report
   (c) Legislative Report
5. Office of External Affairs Report

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: June 17, 2015.

James Petrick,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2015–15311 Filed 6–17–15; 4:15 pm]

BILLING CODE 6760–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2015–0076; Sequence 15; OMB Control No. 9000–0066]

Information Collection; Professional Employee Compensation Plan

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding the extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning submission of a Professional Employee Compensation Plan.

DATES: Submit comments on or before August 18, 2015.

ADDRESSES: Submit comments identified by Information Collection 9000–0066, Professional Employee Compensation Plan by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0066, Professional Employee Compensation Plan''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0066, Professional Employee Compensation Plan'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0066, Professional Employee Compensation Plan.

Instructions: Please submit comments only and cite Information Collection 9000–0066, Professional Employee Compensation Plan, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, Office of Acquisition Policy, GSA, 202–501–3775 or email *edward.loeb@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 22.1103 requires that all professional employees are compensated fairly and properly. Accordingly, FAR 52.222–46, Evaluation of Compensation for Professional Employees, is required to be inserted in solicitations for negotiated service contracts when the contract amount is expected to exceed $650,000 and the service to be provided will require meaningful numbers of professional employees. The purpose of the provision at FAR 52.222–46 is to require offerors to submit for evaluation a total compensation plan setting forth proposed salaries and fringe benefits for professional employees working on the contract. Plans indicating unrealistically low professional employees' compensation may be assessed adversely as one of the factors considered in making a contract award.

B. Annual Reporting and Recordkeeping Burden

Respondents: 12,921.

Responses per Respondent: 3.

Total Responses: 38,763.

Hours per Response: 1.333333.

Total Burden Hours: 51,684.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0066, Professional Employee Compensation Plan, in all correspondence.

Dated: June 15, 2015.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2015–15132 Filed 6–18–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2015–0076; Sequence 19; [OMB Control No. 9000–0080]

Federal Acquisition Regulation; Information Collection; Integrity of Unit Prices

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Integrity of Unit Prices.

DATES: Submit comments on or before August 18, 2015.

ADDRESSES: Submit comments identified by Information Collection 9000–0080, Integrity of Unit Prices by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0080, Integrity of Unit Prices''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0080, Integrity of Unit Prices'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NE, Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0080, Integrity of Unit Prices.

Instructions: Please submit comments only and cite Information Collection 9000–0080, Integrity of Unit Prices, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst,

Office of Acquisition Policy, GSA, 202–501–0650 or email *edward.loeb@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at FAR 52.215–14, Integrity of Unit Prices, requires offerors and contractors under Federal contracts that are to be awarded without adequate price competition to identify in their proposals those supplies which they will not manufacture or to which they will not contribute significant value. The policies included in the FAR are required by 41 U.S.C. 3503 (a)(1)(A)(for the civilian agencies) and 10.U.S.C 2306a(b)(1)(A)(i)(for DOD and NASA). The rule contains no reporting requirements on contracts below the simplified acquisition threshold, construction and architect-engineering services, utility services, service contracts where supplies are not required, commercial items, and contracts for petroleum products.

B. Annual Reporting Burden

Respondents: 950.
Responses per Respondent: 10.
Annual Responses: 9,500.
Hours per Response: 1.
Total Burden Hours: 9,500.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW., Washington, DC, 20405, telephone 202501–4755. Please cite OMB Control No. 9000–0080, Integrity of Unit Prices.

Dated: June 15, 2015.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2015–15131 Filed 6–18–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15GE]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) 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; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Improving the Impact of Laboratory Practice Guidelines: A New Paradigm for Metrics—Clinical and Laboratory Standards Institute—NEW —Center for Surveillance, Epidemiology and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is funding three 5-year projects collectively entitled ''Improving the Impact of Laboratory Practice Guidelines: A New Paradigm for Metrics''. An ''LPG'' is defined as written recommendations for voluntary, standardized approaches for medical laboratory testing that takes into account processes for test selection, sample procurement and processing, analytical methods, and results reporting for effective diagnosis and management of disease and health conditions. LPGs may be disseminated to, and used by, laboratorians and clinicians to assist with test selection and test result interpretation. The overall purpose of these cooperative agreements is to increase the effectiveness of LPGs by defining measures and collecting information to inform better LPG creation, revision, dissemination, promotion, uptake, and impact on clinical testing and public health. The project will explore how these processes and their impediments and facilitators differ among various intended users of LPGs. Through this demonstration project, CDC seeks to understand how to customize LPG creation and promotion to better serve these intended users of LPGs. An important goal is to help organizations that sponsor the development of LPGs create a sustainable approach for continuous quality improvement to evaluate and improve an LPG's impact through better collection of information.

The CDC selected three organizations that currently create and disseminate LPGs to support activities under a cooperative agreement funding mechanism to improve the impact of their LPGs. The American Society for Microbiology (ASM), the Clinical and Laboratory Standards Institute (CLSI), and the College of American Pathologists (CAP), will each use their LPGs as models to better understand how to improve uptake and impact of these and future LPGs. Only the CLSI submission will be described in this notice.

Specifically, the CLSI project will address two LPGs that are important to clinical testing and have a high public health impact: *POCT12, Point-of-Care Blood Glucose Testing in Acute and Chronic Care Facilities* and *POCT13, Glucose Monitoring in Settings without Laboratory Support.* These LPGs provide guidance and recommendations for personnel monitoring patient glucose levels at sites that have access to a hospital laboratory and at locations, such as physician offices or nursing

homes, that do not have an on-site moderate or high complexity laboratory. It is expected that as a result of sustained improvements in the process of creating and updating these clinical LPGs, public health, which depends upon accurate and appropriate laboratory testing guided by the use of LPGs, will also generally benefit. The intended users of the CLSI's *POCT12* and *POCT13* LPGs will include point-of-care coordinators, clinical laboratory directors, medical technologists, nurses, and medical doctors.

The CLSI plans to collect information using the same survey instrument, ''Fingerstick Glucose Survey'' (FGS), on three separate occasions. During the first information collection (FGS1), all targeted respondents will be asked to complete the survey. Respondents who indicate that they are not familiar with either *POCT12* or *POCT13* will be asked to provide an email address and offered a free copy of the applicable LPG. This subset of respondents will be asked to complete the same survey (FGS2) 4–6 months after receiving the free LPG. After analysis of the information collected during the first 2 surveys, CLSI will make improvements to *POCT12* and *POCT13,* such as provision of educational materials or helpful products such as quality control logs, and may also alter their marketing campaigns to address issues related to awareness and use of CLSI documents. The third survey (FGS3) will then be sent to all targeted respondents approximately 2.5 years after the first survey to obtain information that can be used to evaluate the impact of these improvements. Respondents that received a free copy of *POCT12* or *POCT13* following the first survey will also be contacted by email and asked to take the third survey.

A link to the survey will be distributed to all targeted respondents either by email or postcard. The CLSI will solicit participation from physician office laboratories, Department of Defense laboratories, and hospitals that offer point-of-care glucose testing. Participants will be recruited by COLA, the Joint Commission and a Point-of-Care Coordinator network, who have agreed to distribute links to the survey through their membership mailing lists. In addition, participants will also be solicited through mailing lists purchased by CLSI from Clinscan and the American Hospital Association. Clinical sites offering point-of-care glucose testing in the Department of Defense medical system will also be asked to participate through the Department of Defense Clinical Laboratory Improvement Program (CLIP). In order to obtain the needed number of respondents for a statistically valid study, additional laboratories, selected at random from a database of Clinical Laboratory Improvement Amendment (CLIA) certificate holders, will also be solicited. The survey will contain instructions to direct it to the individual in each laboratory responsible for the development or revision of procedures for fingerstick glucose testing. Directing the survey to the individual with this specific responsibility will help to ensure that only one response will be obtained from each participating laboratory. Respondents include point-of-care coordinators, clinical laboratory directors, managers, and supervisors, medical technologists, nurses, and medical doctors.

The CLSI hopes to achieve an 80% response rate with their laboratory information collections, or 24,000 out of about 30,000 potential respondents. The second survey will occur approximately 4–6 months after the initial survey and will only target responders from the first survey that received a complimentary copy of one of the LPG documents. CLSI anticipates that approximately 12,000 participants will be asked to take the second survey. Approximately two and a half years after the initial survey, the same survey will be sent to the same laboratories as the first survey (*i.e.* we will solicit approximately 30,000 potential respondents and expect about 24,000 individuals to take the survey). The third survey will measure the impact of the modifications to the documents and marketing strategy made based on the data collected from the first 2 surveys. The response rate for all surveys will be maximized by repeated reminders using the same channel that will be used to distribute the survey. All targeted laboratories will receive an email or postcard approximately one month before distribution of the survey. This letter will describe the survey and our purpose for collecting information. Another email or postcard with a link to the survey will then be sent to the same targeted laboratories. We also plan to resend the link to the survey to all targeted laboratories approximately one month later to remind them of the survey.

The CLSI believes completion of the survey will take approximately 15 minutes. The survey will be pilot tested with 9 or fewer respondents before deployment to assure that they require 15 minutes or less to complete.

The total estimated annualized burden is 6,173 hours. This is calculated by dividing the total burden hours by the number of years (three) over which data is collected. The maximum burden is 7,407 hours that occurs in years 1 and 3.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Point-of-Care Coordinators	FGS1	500	1	15/60
	FGS2	250	1	15/60
	FGS3	500	1	15/60
Laboratory Directors	FGS1	4,276	1	15/60
	FGS2	2,138	1	15/60
	FGS3	4,276	1	15/60
Laboratory Managers	FGS1	4,276	1	15/60
	FGS2	2,138	1	15/60
	FGS3	4,276	1	15/60
Laboratory Supervisors	FGS1	4,276	1	15/60
	FGS2	2,138	1	15/60
	FGS3	4,276	1	15/60
Medical Technologists	FGS1	7,800	1	15/60
	FGS2	3,900	1	15/60
	FGS3	7,800	1	15/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Nurses	FGS1	5,000	1	15/60
	FGS2	2,500	1	15/60
	FGS3	5,000	1	15/60
Medical Doctors	FGS1	3,500	1	15/60
	FGS2	1,750	1	15/60
	FGS3	3,500	1	15/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–15128 Filed 6–18–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10141 and CMS–10540]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 20, 2015.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806, *or* Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Prescription Drug Benefit Program; *Use:* Part D plans and, to the extent applicable, MA organizations use the information to comply with the eligibility and associated Part D participating requirements. We use this information to approve contract applications, monitor compliance with contract requirements, make proper payment to plans, and to ensure that correct information is disclosed to potential and current enrollees. *Form Number:* CMS–10141 (OMB control number 0938–0964); *Frequency:* Once; *Affected Public:* Private sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 4,101,066; *Total Annual Responses:* 46,099,944; *Total Annual Hours:* 7,572,223. (For policy questions regarding this collection contact Deborah Larwood at 410–786–9500).

2. *Type of Information Collection Request:* New collection (Reqeust for a new OMB control number); *Title of Information Collection:* Quality Improvement Strategy Implementation Plan and Progress Report; *Use:* Section 1311(c)(1)(E) of the Affordable Care Act requires qualified health plans (QHPs) offered through an Exchange must implement a quality improvement strategy (QIS) as described in section 1311(g)(1). Section 1311(g)(3) of the Affordable Care Act specifies the guidelines under Section 1311(g)(2) shall require the periodic reporting to the applicable Exchange the activities that a qualified health plan has conducted to implement a strategy as described in section 1311(g)(1). We intend to have QHP issuers complete the QIS Plan and Reporting Template annually for initial certification and subsequent annual updates of progress in implementation of their strategy. The

template will include topics to assess an issuer's compliance in creation on a payment structure that provides increased reimbursement or other incentives to improve the health outcomes of plan enrollees, prevent hospital readmissions, improve patient safety and reduce medical errors, promote wellness and health, and reduce health and health care disparities, as described in Section 1311(g)(1) of the Affordable Care Act.

The Quality Improvement Strategy Plan and Reporting Template will allow (1) HHS to evaluate the compliance and adequacy of QHP issuers' quality improvement efforts, as required by Section 1311(c) of the Affordable Care Act, and (2) HHS will use the issuers' validated information to evaluate the issuers' quality improvement strategies for compliance with the requirements of Section 1311(g) of the Affordable Care Act. *Form Number:* CMS–10540 (OMB control number: 0938–NEW); *Frequency:* Annually; *Affected Public:* Individuals and Households; Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 251,681; *Total Annual Responses:* 251,681; *Total Annual Hours:* 82,800. (For policy questions regarding this collection contact Kimberly Kufel at 410–786–1750).

Dated: June 16, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–15125 Filed 6–18–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1642–PN]

Medicare Program; Request for an Exception to the Prohibition on Expansion of Facility Capacity Under the Hospital Ownership and Rural Provider Exceptions to the Physician Self-Referral Prohibition

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

ACTION: Proposed notice.

SUMMARY: The Social Security Act prohibits a physician-owned hospital from expanding its facility capacity, unless the Secretary of the Department of Health and Human Services (the Secretary) grants the hospital's request for an exception to that prohibition after considering input on the hospital's request from individuals and entities in the community in which the hospital is located. The Centers for Medicare & Medicaid Services (CMS) has received a request from a physician-owned hospital for an exception to the prohibition against expansion of facility capacity. This notice solicits comments on the request from individuals and entities in the community in which the physician-owned hospital is located. Community input may inform our determination regarding whether the requesting hospital qualifies for an exception to the prohibition against expansion of facility capacity.

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 20, 2015.

ADDRESSES: In commenting, please refer to file code CMS–1642–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (please choose only one of the ways listed):

1. Electronically. You may submit electronic comments on this exception request to *http://www.regulations.gov.* Follow the instructions under the ''More Search Options'' tab.

2. By regular mail. You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1642–PN, P.O. Box 8010, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Department of Health and Human Services, Attention: CMS–1642–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Patricia Taft, (410) 786–4561 or Teresa Walden, (410) 786–3755.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments

All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

We will allow stakeholders 30 days from the date of this notice to submit written comments. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of this notice, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, please phone 1–800–743–3951.

I. Background

Section 1877 of the Social Security Act (the Act), also known as the physician self-referral law—(1) prohibits a physician from making referrals for certain ''designated health services'' (DHS) payable by Medicare to an entity with which he or she (or an immediate family member) has a financial relationship (ownership or compensation), unless the requirements of an applicable exception are satisfied; and (2) prohibits the entity from filing claims with Medicare (or billing another individual, entity, or third party payer) for those DHS furnished as a result of a prohibited referral.

Section 1877(d)(2) of the Act provides an exception for physician ownership or investment interests in rural providers (the ''rural provider exception''). In order for an entity to qualify for the rural provider exception, the DHS must be furnished in a rural area (as defined in section 1886(d)(2) of the Act) and substantially all the DHS furnished by the entity must be furnished to individuals residing in a rural area.

Section 1877(d)(3) of the Act provides an exception, known as the hospital ownership exception, for physician ownership or investment interests held in a hospital located outside of Puerto Rico, provided that the referring physician is authorized to perform services at the hospital and the ownership or investment interest is in the hospital itself (and not merely in a subdivision of the hospital).

Section 6001(a)(3) of the Patient Protection and Affordable Care Act (Pub. L. 111–148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (hereafter referred to together as ''the Affordable Care Act'') amended the rural provider and hospital ownership exceptions to the physician self-referral

prohibition to impose additional restrictions on physician ownership and investment in hospitals and rural providers. Since March 23, 2010, a physician-owned hospital that seeks to avail itself of either exception is prohibited from expanding facility capacity unless it qualifies as an ''applicable hospital'' or ''high Medicaid facility'' (as defined in sections 1877(i)(3)(E), (F) of the Act and 42 CFR 411.362(c)(2), (3) of our regulations) and has been granted an exception to the prohibition by the Secretary of the Department of Health and Human Services (the Secretary). Section 1877(i)(3)(A)(ii) of the Act provides that individuals and entities in the community in which the provider requesting the exception is located must have an opportunity to provide input with respect to the provider's request for the exception. For further information, we refer readers to the CMS Web site at: *http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Physician_Owned_Hospitals.html.*

II. Exception Request Process

On November 30, 2011, we published a final rule in the **Federal Register** (76 FR 74122, 74517 through 74525) that, among other things, finalized § 411.362(c), which specified the process for submitting, commenting on, and reviewing a request for an exception to the prohibition on expansion of facility capacity. We published a subsequent final rule in the **Federal Register** on November 10, 2014 (79 FR 66770) that made certain revisions to the expansion exception process; however, because this particular request was received prior to the effective date of that rule, it is being processed in accordance with the regulations that were in place at the time of submission.

As stated in regulations at § 411.362(c)(5), we will solicit community input on the request for an exception by publishing a notice of the request in the **Federal Register**. Individuals and entities in the hospital's community will have 30 days to submit comments on the request. Community input must take the form of written comments and may include documentation demonstrating that the physician-owned hospital requesting the exception does or does not qualify as an applicable hospital or high Medicaid facility, as such terms are defined in § 411.362(c)(2) and (3). In the November 30, 2011 final rule (76 FR 74522), we gave examples of community input, such as documentation demonstrating that the hospital does not satisfy one or more of the data criteria or that the hospital discriminates against beneficiaries of Federal health programs; however, we noted that these were examples only and that we will not restrict the type of community input that may be submitted. If we receive timely comments from the community, we will notify the hospital, and the hospital will have 30 days after such notice to submit a rebuttal statement (§ 411.362(c)(5)).

In the November 30, 2011 final rule (76 FR 74522 through 74523), this request for an exception to the facility expansion prohibition will be considered complete and ready for CMS review if no comments from the community are received by the close of the 30-day comment period. If we receive timely comments from the community, we will consider this request to be complete 30 days after the hospital is notified of the comments.

If we grant the request for an exception to the prohibition on expansion of facility capacity, the expansion may occur only in facilities on the hospital's main campus and may not result in the number of operating rooms, procedure rooms, and beds for which the hospital is licensed exceeding 200 percent of the hospital's baseline number of operating rooms, procedure rooms, and beds (§ 411.362(c)(6)). Our decision to grant or deny a hospital's request for an exception to the prohibition on expansion of facility capacity will be published in the **Federal Register** in accordance with our regulations at § 411.362(c)(7).

III. Hospital Exception Request

As permitted by section 1877(i)(3) of the Act and our regulations at § 411.362(c), the following physician-owned hospital has requested an exception to the prohibition on expansion of facility capacity:

Name of Facility: Harsha Behavioral Center, Incorporation.

Address: 1420 East Crossing Boulevard, Terre Haute, Indiana 47802.

County: Vigo County, Indiana.

Basis for Exception Request: High Medicaid Facility.

We seek comments on this request from individuals and entities in the community in which the hospital is located. We encourage interested parties to review the hospital's request, which is posted on the CMS Web site at: *http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Physician_Owned_Hospitals.html.* We especially welcome comments regarding whether the hospital qualifies as a high Medicaid facility. In November 30, 2011 final rule (76 FR 74521 through 74522), a high Medicaid facility is a hospital that satisfies the following criteria:

- The hospital is not the sole hospital in the county in which it is located;
- The hospital does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries; and
- With respect to each of the 3 most recent fiscal years for which data are available as of the date the hospital submits its request, has an annual percent of total inpatient admissions under Medicaid that is estimated to be greater than such percent with respect to such admissions for any other hospital located in the county in which the hospital is located.

Individuals and entities wishing to submit comments on the hospital's request should review the **DATES** and **ADDRESSES** sections above and state whether or not they are in the community in which the hospital is located.

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Response to Public Comments

We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble.

Dated: June 5, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2015–15141 Filed 6–18–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5514–N2]

Medicare Program; Oncology Care Model: Request for Applications; Extension of the Submission Deadline for Applications

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

ACTION: Notice.

SUMMARY: This notice extends the application submission deadline for organizations to participate in the

Oncology Care Model (OCM) beginning in 2016. The new deadline for receipt of online applications from payers and practices is 5:00 p.m. Eastern Daylight Time (EDT) on June 30, 2015. Only those payers and practices that submitted timely, complete Letters of Intent (LOIs) are eligible to apply to participate in OCM, and only the submission of web-based applications will be accepted.

DATES: *Application Submission Deadline:* Applications for payers and practices must be received by 5:00 p.m. Eastern Daylight Time (EDT) on June 30, 2015. Application materials and instructions are available at *http://innovation.cms.gov/initiatives/Oncology-Care/.*

FOR FURTHER INFORMATION CONTACT: *OncologyCareModel@cms.hhs.gov* for questions regarding the application process of OCM.

SUPPLEMENTARY INFORMATION:

I. Background

The Oncology Care Model (OCM) aims to improve health outcomes for people with cancer, improve the quality of cancer care, and reduce spending for cancer treatment. We expect that physician practices selected for participation in the model will be able to transform care delivery for their patients undergoing chemotherapy, leading to improved quality of care for beneficiaries at a decreased cost to payers. Through this care transformation, practices participating in OCM can reduce Medicare expenditures while improving cancer care for Medicare Fee-for-Service beneficiaries. Beneficiaries can experience improved health outcomes when health care providers work in a coordinated and person-centered manner. We are interested in partnering with payers and practitioners who are working to redesign care to deliver these aims.

The Request for Applications (RFA) requests applications to test the model, which is centered around a chemotherapy episode of care. For more details, see the RFA and related informational materials available on the Center for Medicare and Medicaid Innovation (Innovation Center) Web site at *http://innovation.cms.gov/initiatives/Oncology-Care/.*

On February 17, 2015, we published a notice in the **Federal Register** announcing the RFA for payers and practices to apply to participate in the testing of OCM for a 5-year performance period beginning in 2016 (80 FR 8323). In that notice, we stated that payers and practices interested in applying to participate in the testing of OCM must submit non-binding letters of intent (LOIs) by March 19, 2015 and April 23, 2015, respectively; and that all applications from payers and practices must be received by 5:00 p.m. EDT on June 18, 2015. We subsequently extended the deadlines for the submission of LOIs to April 9, 2015 (payers) and May 7, 2015 (practices), as announced on the Innovation Center Web site at (*http://innovation.cms.gov/initiatives/Oncology-Care/*), in updates to the RFA and related informational materials, and in emails to stakeholders.

II. Provisions of the Notice

Since the publication of the February 17, 2015 notice, several stakeholders have requested additional time to prepare their applications and form partnerships in order to participate in the OCM beginning in 2016. Therefore, the Innovation Center is extending the deadline for receipt of payer and practice applications from June 18, 2015 at 5:00 p.m. Eastern Daylight Time (EDT) to June 30, 2015 at 5:00 p.m. EDT. Only those payers and practices that submitted timely, complete LOIs are eligible to apply to participate in OCM, and only the submission of web-based applications will be accepted. The extended application deadline has already been announced on the Innovation Center Web site at (*http://innovation.cms.gov/initiatives/Oncology-Care/*), in updates to the RFA and related informational materials, and in emails to stakeholders.

In the **DATES** section of this notice, we are including the new submission deadline. For additional information on the OCM and how to apply, we refer readers to click on the RFA and related informational materials located on the Innovation Center Web site at *http://innovation.cms.gov/initiatives/Oncology-Care/.*

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirement. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Dated: June 12, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2015–15129 Filed 6–18–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–643]

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: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 18, 2015.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. 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–643 Hospice Survey and Deficiencies Report Form and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Hospice Survey and Deficiencies Report Form and Supporting Regulations; *Use:* We use the information collected as the basis for certification decisions for hospices that wish to obtain or retain participation in the Medicare and Medicaid programs. The information is used by CMS regional offices, which have the delegated authority to certify Medicare facilities for participation, and by State Medicaid agencies, which have comparable authority under Medicaid. The information on the Hospice Survey and Deficiencies Report Form is coded for entry into the OSCAR system. The data is analyzed by the CMS regional offices and by the CMS central office components for program evaluation and monitoring purposes. The information is also available to the public upon request. *Form Number:* CMS–643 (OMB control number: 0938–0379); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 3,976; *Total Annual Responses:* 1,325; *Total Annual Hours:* 1,325. (For policy questions regarding this collection contact Annette Snyder at 410–786–0807.)

Dated: June 16, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–15126 Filed 6–18–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1434]

Size, Shape, and Other Physical Attributes of Generic Tablets and Capsules; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Size, Shape, and Other Physical Attributes of Generic Tablets and Capsules.'' This guidance discusses FDA recommendations for the size, shape, and other physical attributes of generic tablets and capsules intended to be swallowed intact. FDA is concerned that differences in these physical characteristics between generic drugs and the originator drug could affect patient outcomes.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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.

FOR FURTHER INFORMATION CONTACT: Debra Catterson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 240–402–3861; or Vilayat Sayeed, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 240–402–9077.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Size, Shape, and Other Physical Attributes of Generic Tablets and Capsules.'' FDA is concerned that the differences in size, shape, and other physical characteristics between a generic drug and the originator drug may affect patient compliance and acceptability of medication regimens or could lead to medication errors. For example, studies show that tablet size and shape can affect ease of swallowing; generic tablets that are significantly larger than their corresponding reference drug product may be more difficult to swallow, leading to potential adverse events as well as noncompliance with treatment regimens. FDA is recommending that generic manufacturers consider the size, shape, and other physical characteristics of the originator drug when developing a generic version.

In the **Federal Register** of December 10, 2013 (78 FR 74154), this guidance was published as a draft guidance. We have carefully reviewed and considered the comments that were received on the draft guidance and have made editorial changes primarily for clarification.

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 the size, shape, and other physical attributes of generic tablets and capsules. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that 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 collection of information requested in the guidance is covered under FDA regulations at 21 CFR part 314 and approved under OMB control number 0910–0001.

III. 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.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceCompliance RegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: June 15, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–15076 Filed 6–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2033]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice and Retail Food Stores Facility Types

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 20, 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–NEW and title Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice and Retail Food Stores Facility Types. 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.

Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice and Retail Food Stores Facility Types (2015–2025)

(OMB Control Number 0910-NEW)

I. Background

From 1998–2008, FDA's National Retail Food Team conducted a study to measure trends in the occurrence of foodborne illness risk factors, preparation practices, and employee behaviors most commonly reported to the Centers for Disease Control and Prevention as contributing factors to foodborne illness outbreaks at the retail level. Specifically, data was collected by FDA Specialists in retail and foodservice establishments at 5-year intervals (1998, 2003, and 2008) in order to observe and document trends in the occurrence of the following foodborne illness risk factors:

- Food from Unsafe Sources,
- Poor Personal Hygiene,
- Inadequate Cooking,
- Improper Holding/Time and Temperature and
- Contaminated Equipment/Cross-Contamination.

FDA developed reports summarizing the findings for each of the three data collection periods (1998, 2003, and 2008) (Refs. 1–3). Data from all three data collection periods were analyzed to detect trends in improvement or regression over time and to determine whether progress had been made toward the goal of reducing the occurrence of foodborne illness risk factors in selected retail and foodservice facility types (Ref. 4).

Using this 10-year survey as a foundation, in 2013–2014, FDA initiated a new study in full service and fast food restaurants. This study will span 10 years with additional data collections planned for 2017–2018 and 2021–2022. FDA is proposing to collect data in select institutional foodservice and retail food store facility types in 2015–2016. This proposed study will also span 10 years with additional data collections planned for 2019–2020 and 2023–2024.

TABLE 1—DESCRIPTION OF THE FACILITY TYPES INCLUDED IN THE SURVEY

Facility type	Description
Healthcare Facilities	Hospitals and long-term care facilities foodservice operations that prepare meals for highly susceptible populations as defined as follows: • Hospitals—A foodservice operation that provides for the nutritional needs of inpatients by preparing meals and transporting them to the patient's room and/or serving meals in a cafeteria setting (meals in the cafeteria may also be served to hospital staff and visitors). • Long-term care facilities—A foodservice operation that prepares meals for the residents in a group care living setting such as nursing homes and assisted living facilities.

TABLE 1—DESCRIPTION OF THE FACILITY TYPES INCLUDED IN THE SURVEY—Continued

Facility type	Description
	Note: For the purposes of this study, healthcare facilities that do not prepare or serve food to a highly susceptible population, such as mental healthcare facilities, are not included in this facility type category.
Schools (K–12)	Foodservice operations that have the primary function of preparing and serving meals for students in one or more grade levels from Kindergarten through Grade 12. A school foodservice may be part of a public or private institution.
Retail Food Stores	Supermarkets and grocery stores that have a deli department/operation as described as follows: • Deli department/operation—Areas in a retail food store where foods, such as luncheon meats and cheeses, are sliced for the customers and where sandwiches and salads are prepared on-site or received from a commissary in bulk containers, portioned, and displayed. Parts of deli operations may include: • Salad bars, pizza stations, and other food bars managed by the deli department manager. • Areas where other foods are cooked or prepared and offered for sale as ready-to-eat and are managed by the deli department manager. Data will also be collected in the following areas of a supermarket or grocery store, if present: • Meat and seafood department/operation—Areas in a retail food store where raw animal food products, such as beef, pork, poultry, or seafood, are cut, prepared, stored, or displayed for sale to the consumer. • Produce department/operation—Areas in a retail food store where produce is cut, prepared, stored, or displayed for sale to the consumer. A produce operation may include salad bars or juice stations that are managed by the produce manager.

The purpose of the study is to:

• Assist FDA with developing retail food safety initiatives and policies focused on the control of foodborne illness risk factors;

• Identify retail food safety work plan priorities and allocate resources to enhance retail food safety nationwide;

• Track changes in the occurrence of foodborne illness risk factors in retail and foodservice establishments over time; and

• Inform recommendations to the retail and foodservice industry and state, local, tribal, and territorial regulatory professionals on reducing the occurrence of foodborne illness risk factors.

The statutory basis for FDA conducting this study is derived from the Public Health Service Act (42 U.S.C. 243, section 311(a)). Responsibility for carrying out the provisions of the Act relative to food protection was transferred to the Commissioner of Food and Drugs in 1968 (21 CFR 5.10(a)(2) and (4)). Additionally, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.)* and the Economy Act (31 U.S.C. 1535) require FDA to provide assistance to other Federal, state, and local government bodies.

The objectives of the study are to:

• Identify the foodborne illness risk factors that are in most need of priority attention during each data collection period;

• Track trends in the occurrence of foodborne illness risk factors over time;

• Examine potential correlations between operational characteristics of food establishments and the control of foodborne illness risk factors;

• Examine potential correlations between elements within regulatory retail food protection programs and the control of foodborne illness risk factors; and

• Evaluate the impact of industry food safety management systems in controlling the occurrence of foodborne illness risk factors.

The methodology to be used for this information collection is described as follows. In order to obtain a sufficient number of observations to conduct statistically significant analysis, FDA will conduct approximately 400 data collections in each facility type. This sample size has been calculated to provide for sufficient observations to be 95 percent confident that the compliance percentage is within 5 percent of the true compliance percentage.

A geographical information system database containing a listing of businesses throughout the United States will be used as the establishment inventory for the data collections. FDA will sample establishments from the inventory based on the descriptions in table 1. FDA does not intend to sample operations that handle only prepackaged food items or conduct low risk food preparation activities. The *FDA Food Code* contains a grouping of establishments by risk, based on the type of food preparation that is normally conducted within the operation (Ref. 5). The intent is to sample establishments that fall under risk categories 2 through 4.

FDA has approximately 25 Regional Retail Food Specialists (Specialists) who will serve as the data collectors for the 10-year study. The Specialists are geographically dispersed throughout the United States and possess technical expertise in retail food safety and a solid understanding of the operations within each of the facility types to be surveyed. The Specialists are also standardized by FDA's Center for Food Safety and Applied Nutrition personnel in the application and interpretation of the *FDA Food Code* (Ref. 5).

Sampling zones will be established which are equal to the 150 mile radius around a Specialist's home location. The sample will be selected randomly from among all eligible establishments located within these sampling zones. The Specialists are generally located in major metropolitan areas (*i.e.* population centers) across the contiguous United States. Population centers usually contain a large concentration of the establishments FDA intends to sample. Sampling from the 150 mile radius sampling zones around the Specialists' home locations provides three advantages to the study:

1. It provides a cross section of urban and rural areas from which to sample the eligible establishments.

2. It represents a mix of small, medium, and large regulatory entities having jurisdiction over the eligible establishments.

3. It reduces overnight travel and therefore reduces travel costs incurred by the Agency to collect data.

The sample for each data collection period will be evenly distributed among Specialists. Given that participation in the study by industry is voluntary and the status of any given randomly selected establishment is subject to change, substitute establishments will be selected for each Specialist for cases where the restaurant facility is misclassified, closed, or otherwise unavailable, unable, or unwilling to participate.

Prior to conducting the data collection, Specialists will contact the state or local jurisdiction that has regulatory responsibility for conducting retail food inspections for the selected establishment. The Specialist will verify with the jurisdiction that the facility has been properly classified for the purposes of the study and is still in operation. The Specialist will also ascertain whether the selected facility is under legal notice from the state or local regulatory authority. If the selected facility is under legal notice, the Specialist will not conduct a data collection, and a substitute establishment will be used. An invitation will be extended to the state or local regulatory authority to accompany the Specialist on the data collection visit.

A standard form will be used by the Specialists during each data collection. The form is divided into three sections: Section 1—''Establishment Information''; Section 2—''Regulatory Authority Information''; and section 3—''Foodborne Illness Risk Factor and Food Safety Management System Assessment.'' The information in section 1—''Establishment Information'' of the form will be obtained during an interview with the establishment owner or person in charge by the Specialist and will include a standard set of questions.

The information in section 2—''Regulatory Authority Information'' will be obtained during an interview with the program director of the state or local jurisdiction that has regulatory responsibility for conducting inspections for the selected establishment. Section 3 includes three parts: Part A for tabulating the Specialists' observations of the food employees' behaviors and practices in limiting contamination, proliferation, and survival of food safety hazards; part B for assessing the food safety management being implemented by the facility; and part C for assessing the frequency and extent of food employee hand washing. The information in part A will be collected from the Specialists' direct observations of food employee behaviors and practices. Infrequent, nonstandard questions may be asked by the Specialists if clarification is needed on the food safety procedure or practice being observed. The information in part B will be collected by making direct observations and asking follow up questions of facility management to obtain information on the extent to which the food establishment has developed and implemented food safety management systems. The information in part C will be collected by making direct observations of food employee hand washing. No questions will be asked in the completion of section 3, part C of the form.

FDA will collect the following information associated with the establishment's identity: Establishment name, street address, city, state, zip code, county, industry segment, and facility type. The establishment identifying information is collected to ensure the data collections are not duplicative. Other information related to the nature of the operation, such as seating capacity and number of employees per shift, will also be collected. Data will be consolidated and reported in a manner that does not reveal the identity of any establishment included in the study.

FDA is working with the National Center for Food Protection and Defense to develop a Web-based platform in FoodSHIELD to collect, store, and analyze data for the Retail Risk Factor Study. Once developed, this platform will be accessible to state, local, territorial, and tribal regulatory jurisdictions to collect data relevant to their own risk factor studies. FDA is currently transitioning from the manual entry of data to the use of hand-held technology. Contingent upon the completion of the Web-based platform, FDA intends to pilot test the use of hand-held technology during its 2015–2016 risk factor study data collection in institutional foodservice and retail food store facility types, with the goal to have it fully implemented by the next the data collection in restaurant facility types that will occur in 2017–2018. When a data collector is assigned a specific establishment, he or she will conduct the data collection and enter the information into the Web-based data platform. The interface will support the manual entering of data, as well as the ability to upload a fillable PDF.

In the **Federal Register** of December 17, 2014 (79 FR 75158), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

The burden for this collection of information is as follows. For each data collection, the respondents will include: (1) The person in charge of the selected facility type (whether it be a healthcare facility, school, or supermarket/grocery store); and (2) the program director (or designated individual) of the respective regulatory authority. In order to provide the sufficient number of observations needed to conduct a statistically significant analysis of the data, FDA has determined that 400 data collections will be required in each of the three facility types. Therefore, the total number of responses will be 2,400 (400 data collections × 3 facility types × 2 respondents per data collection).

The burden associated with the completion of sections 1 and 3 of the form is specific to the persons in charge of the selected facilities. It includes the time it will take the persons in charge to accompany the data collectors during the site visit and answer the data collectors' questions. The burden related to the completion of section 2 of the form is specific to the program directors (or designated individuals) of the respective regulatory authorities. It includes the time it will take to answer the data collectors' questions and is the same regardless of the facility type.

To calculate the estimate of the hours per response, FDA will use the average data collection duration for similar facility types during FDA's 2008 Risk Factor Study (Ref. 3) plus an extra 30 minutes (0.5 hours) for the information collection related to section 3, part B of the form. FDA estimates that it will take the persons in charge of healthcare facility types, schools, and retail food stores 150 minutes (2.5 hours), 120 minutes (2 hours), and 180 minutes (3 hours), respectively, to accompany the data collectors while they complete sections 1 and 3 of the form. FDA estimates that it will take the program director (or designated individual) of the respective regulatory authority 30 minutes (0.5 hours) to answer the questions related to section 2 of the form. The total burden estimate for a data collection, including both the program director's and the person in charge's responses, in healthcare facility types is 180 minutes (150 + 30) (3 hours), in schools is 150 minutes (120 + 30) (2.5 hours), and in retail food stores is 210 minutes (180 + 30) (3.5 hours).

Based on the number of entry refusals from the 2013–2014 Risk Factor Study in the restaurant facility types, we estimate a refusal rate of 2 percent in the institutional foodservice and retail food store facility types. The estimate of the time per non-respondent is 5 minutes (0.08 hours) for the person in charge to listen to the purpose of the visit and provide a verbal refusal of entry.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Number of non-respondents	Number of responses per non-respondent	Total annual non-responses	Average burden per response	Total hours
2015–2016 Data Collection (Healthcare Facilities)—Completion of Sections 1 and 3	400	1	400				2.5	1,000
2015–2016 Data Collection (Schools)—Completion of Sections 1 and 3	400	1	400				2	800
2015–2016 Data Collection (Retail Food Stores)—Completion of Sections 1 and 3	400	1	400				3	1,200
2015–2016 Data Collection-Completion of Section 2—All Facility Types	1,200	1	1,200				0.5	600
2017–2018 Data Collection-Entry Refusals—All Facility Types				24	1	24	0.08 (5 minutes)	1.92
Total Hours								3,601.92

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

II. References

The following references have 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 are available electronically at *http://regulations.gov.*

1. ''Report of the FDA Retail Food Program Database of Foodborne Illness Risk Factors (2000).'' Available at: *http://www.fda.gov/downloads/Food/FoodSafety/RetailFoodProtection/FoodborneIllnessandRiskFactorReduction/RetailFoodRiskFactorStudies/ucm123546.pdf.*

2. ''FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (2004).'' Available at: *http://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodborneIllnessRiskFactorReduction/UCM423850.pdf*

3. ''FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (2009).'' Available at: *http://www.fda.gov/downloads/Food/FoodSafety/RetailFoodProtection/FoodborneIllnessandRiskFactorReduction/RetailFoodRiskFactorStudies/UCM224682.pdf.*

4. FDA National Retail Food Team. ''FDA Trend Analysis Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (1998–2008).'' Available at: *http://www.fda.gov/downloads/Food/FoodSafety/RetailFoodProtection/FoodborneIllnessandRiskFactorReduction/RetailFoodRiskFactorStudies/UCM224152.pdf.*

5. FDA Food Code. Available at: *http://www.fda.gov/FoodCode.*

Dated: June 15, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–15077 Filed 6–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0438]

Agency Information Collection Activities; Proposed Collection; Comment Request; Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies must publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's procedures for early food safety evaluation of new non-pesticidal proteins produced by new plant varieties intended for food use, including bioengineered food plants.

DATES: Submit either electronic or written comments on the collection of information by August 18, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the

burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use (OMB Control Number 0910–0583)—Extension

Since May 29, 1992, when we issued a policy statement on foods derived from new plant varieties, we have encouraged developers of new plant varieties, including those varieties that are developed through biotechnology, to consult with us early in the development process to discuss possible scientific and regulatory issues that might arise (57 FR 22984). The guidance, entitled ''Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use,'' continues to foster early communication by encouraging developers to submit to us their evaluation of the food safety of their new protein. Such communication helps to ensure that any potential food safety issues regarding a new protein in a new plant variety are resolved early in development, prior to any possible inadvertent introduction into the food supply of the new protein.

We believe that any food safety concern related to such material entering the food supply would be limited to the potential that a new protein in food from the plant variety could cause an allergic reaction in susceptible individuals or could be a toxin. The guidance describes the procedures for early food safety evaluation of new proteins produced by new plant varieties, including bioengineered food plants, and the procedures for communicating with us about the safety evaluation.

Interested persons may use Form FDA 3666 to transmit their submission to the Office of Food Additive Safety in the Center for Food Safety and Applied Nutrition. Form FDA 3666 is entitled, ''Early Food Safety Evaluation of a New Non-Pesticidal Protein Produced by a New Plant Variety (New Protein Consultation),'' and may be used in lieu of a cover letter for a New Protein Consultation (NPC). Form FDA 3666 prompts a submitter to include certain elements of a NPC in a standard format and helps the respondent organize their submission to focus on the information needed for our safety review. The form, and elements that would be prepared as attachments to the form, may be submitted in electronic format via the Electronic Submission Gateway, or may be submitted in paper format, or as electronic files on physical media with paper signature page. The information is used by us to evaluate the food safety of a specific new protein produced by a new plant variety.

Description of Respondents: The respondents to this collection of information are developers of new plant varieties intended for food use.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Category	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
First four data components	Form FDA 3666	6	1	6	4	24
Two other data components	Form FDA 3666	6	1	6	16	96
Total						120

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of annual responses and average burden per response are based on our experience with early food safety evaluations. Completing an early food safety evaluation for a new protein from a new plant variety is a one-time burden (one evaluation per new protein). Many developers of novel plants may choose not to submit an evaluation because the field testing of a plant containing a new protein is conducted in such a way (*e.g.,* on such a small scale, or in such isolated conditions, etc.) that cross-pollination with traditional crops or commingling of plant material is not likely to be an issue. Also, other developers may have previously communicated with us about the food safety of a new plant protein, for example, when the same protein was expressed in a different crop.

For purposes of this extension request, we are re-evaluating our estimate of the annual number of responses that we expect to receive in the next 3 years. We received 12 NPCs during the 5-year period from 2005 through 2009, for an average of 2.4 NPCs per year. However, during the last extension period, we saw a decrease in the number of NPCs submitted by developers, with no NPCs submitted in 2010 through 2014. More recently, we received 4 NPCs in the first 4 months of 2015. Based on an approximate average from the years 2005 through 2009, and our experience in 2015, we are revising our estimate of the annual number of NPCs submitted by developers to be 6 or fewer.

The early food safety evaluation for new proteins includes six main data components. Four of these data components are easily and quickly obtainable, having to do with the identity and source of the protein. We estimate that completing these data components will take about 4 hours per NPC. We estimate the reporting burden for the first four data components to be 24 hours (4 hours × 6 responses).

Two data components ask for original data to be generated. One data component consists of a bioinformatics analysis which can be performed using publicly available databases. The other data component involves ''wet'' lab work to assess the new protein's stability and the resistance of the protein to enzymatic degradation using appropriate in vitro assays (protein digestibility study). The paperwork burden of these two data components consists of the time it takes the company to assemble the information on these two data components and include it in a NPC. We estimate that completing these data components will take about 16 hours per NPC. We estimate the reporting burden for the two other data components to be 96 hours (16 hours × 6 responses). Thus, we estimate the total annual hour burden for this collection of information to be 120 hours.

Dated: June 15, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–15078 Filed 6–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0052]

Food Allergen Labeling Exemption Petitions and Notifications; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (''FDA'' or ''we'') is announcing the availability of a guidance for industry entitled ''Food Allergen Labeling Exemption Petitions and Notifications.'' This guidance explains FDA's current thinking on the preparation of regulatory submissions for obtaining exemptions for ingredients from the labeling requirements for major food allergens in the Federal Food, Drug, and Cosmetic Act (FD&C Act) through submission of either a petition or a notification.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Nutrition, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

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.

FOR FURTHER INFORMATION CONTACT: Richard Bonnette, Center for Food and Applied Nutrition (HFS–255), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1235.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 8, 2014 (79 FR 26435), we announced the availability of a draft guidance entitled ''Draft Guidance for Industry: Food Allergen Labeling Exemption Petitions and Notifications'' and gave interested parties an opportunity to submit comments on the draft guidance at any time and comments on the proposed collection of information by September 25, 2014. We received several comments and revised the guidance accordingly.

The Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) (Title II of Pub. L. 108–282) amended the FD&C Act by defining the term ''major food allergen'' and stating that foods regulated under the FD&C Act are misbranded unless they declare the presence of each major food allergens on the product label using the common or usual name of that major food allergen. Section 201(qq) of the FD&C Act (21 U.S.C. 321(qq)) now defines a major food allergen as ''[m]ilk, egg, fish (*e.g.,* bass, flounder, or cod), Crustacean shellfish (*e.g.,* crab, lobster, or shrimp), tree nuts (*e.g.,* almonds, pecans, or walnuts), wheat, peanuts, and soybeans'' and also as a food ingredient that contains protein derived from such foods. The definition excludes any highly refined oil derived from a major food allergen and any ingredient derived from such highly refined oil.

In some cases, the production of an ingredient derived from a major food allergen may eliminate the allergenic proteins in that derived ingredient such that it is not a risk for food allergic individuals. In addition, a major food allergen may be used as an ingredient or as a component of an ingredient such that the level of allergenic protein in finished food products does not cause an allergic response that presents a risk for food allergic individuals. Therefore, FALCPA provides two mechanisms through which such ingredients may become exempt from the labeling requirement of section 403(w)(1) of the FD&C Act (21 U.S.C. 343(w)(1)). An ingredient may obtain an exemption through submission and approval of a petition containing scientific evidence that demonstrates that the ingredient ''does not cause an allergic response that poses a risk to human health'' (section 403(w)(6) of the FD&C Act). Alternately, an ingredient may become exempt through submission of a notification containing scientific evidence showing that the ingredient ''does not contain allergenic protein'' or that there has been a previous determination through a premarket approval process under section 409 of the FD&C Act (21 U.S.C. 348) that the ingredient ''does not cause an allergic response that poses a risk to human health'' (section 403(w)(7) of the FD&C Act).

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the current thinking of FDA on Food Allergen Labeling Exemption Petitions and Notifications. It does not create or confer any rights for or on any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that 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 collection of information in this guidance was approved under OMB control number 0910–0792.

III. Comments

Interested persons may submit either electronic comments regarding the guidance 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.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/FoodGuidances* or *http://www.regulations.gov.* Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: June 16, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–15119 Filed 6–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Announcement of Food and Drug Administration Demo Day for the 2014 Food and Drug Administration Food Safety Challenge; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing a public meeting entitled ''Demo Day for the 2014 FDA Food Safety Challenge.'' The 2014 FDA Food Safety Challenge (*http://www.foodsafetychallenge.com*) is a prize competition under the America COMPETES Reauthorization Act of 2010 which granted us (and other federal Agencies) broad authority to conduct prize competitions to spur innovation, solve tough problems, and advance our core mission. The purpose of the public meeting is for each of the five challenge finalists to present their concepts to the judges for selection of one or more winners.

DATES: The public meeting will be held on July 7, 2015, from 1 p.m. to 5 p.m.

ADDRESSES: The public meeting will be held at the Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy., Wiley Building Auditorium (Rm. 1A003–AR), College Park, MD 20740. Parking is extremely limited, so we encourage public meeting participants to use public transportation (Metro: College Park-U of MD station on the Green Line). Entrance for the public meeting participants (non-FDA employees) is through the main entrance of the Wiley Building where routine security check procedures will be performed.

FOR FURTHER INFORMATION CONTACT: Chad P. Nelson, Office of Foods and Veterinary Medicine, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–4643, FAX: 301–847–3534, email: *chad.nelson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The 2014 FDA Food Safety Challenge is a prize competition under the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358) which granted us (and other federal Agencies) broad authority to conduct prize competitions to spur innovation, solve tough problems, and advance our core mission. In the 2014 FDA Food Safety Challenge, we asked for potential breakthrough ideas on how to find disease-causing organisms—especially *Salmonella*—in food. We encouraged food safety experts, such as scientists, academics, entrepreneurs, and innovators, to participate in the challenge and to develop concepts specifically to address the detection of *Salmonella* in minimally processed fresh produce and the ability of a solution to address testing for other microbial pathogens and in other foods. The panel of food safety and pathogen detection experts from FDA, the Centers for Disease Control and Prevention, and the U.S. Department of Agriculture will judge the finalists' concepts and select a winner or winners.

II. Registration and Webcast Information

If you are interested in attending the meeting, submit your online registration information (including name, title, firm name, address, telephone number, and email) by June 29, 2015 at: *http://www.foodsafetychallenge.com/demoday/.* There is no registration fee for the public meeting. Early registration is recommended because seating is limited. There will be no onsite registration.

If you need special accommodations due to disability, please contact Chad Nelson (see Contact Person) at least 7 days in advance.

For those who are unable to attend in person, the public meeting will also be Webcast. Information about how to register to view the live Webcast of this meeting will be provided on the Challenge Web site at *http://foodsafetychallenge.com/demoday/.*

Dated: June 16, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–15124 Filed 6–18–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Dental Preventive and Clinical Support Centers Program; Correction

AGENCY: Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document in the **Federal Register** on June 5, 2015 for the FY 2015 New and Competing Continuation Funding Announcement for the Dental Preventive and Clinical Support Centers Program. The notice contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Patrick Blahut, DDS, MPH, Deputy Director, IHS Division of Oral Health, 801 Thompson Avenue, Suite 332, Rockville, MD 20852, Telephone: (301) 443–4323. (This is not a toll-free number.)

Corrections

In the **Federal Register** of June 5, 2015, 80 FR 32160, under the heading ''Key Dates'' replace the following dates to read as follows:

''Application Deadline Date: August 5, 2015,'' ''Anticipated Review Dates: August 12–14, 2015,'' ''Signed Tribal Resolutions Due Date: August 5, 2015,'' and ''Proof of Non-Profit Status Due Date: August 5, 2015.''

Dated: June 12, 2015.

Robert G. McSwain,

Acting Director, Indian Health Service.

[FR Doc. 2015–15156 Filed 6–18–15; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[Funding Announcement Number: HHS–2015–IHS–NIHOE–3–Health–Reform–0002; Catalog of Federal Domestic Assistance Number: 93.933]

Office of Direct Service and Contracting Tribes; National Indian Health Outreach and Education—Health Reform Funding Opportunity Announcement Type: New Limited Competition

Key Dates

Application Deadline Date: August 16, 2015.

Review Date: August 24–26, 2015.

Earliest Anticipated Start Date: September 30, 2015.

Proof of Non-Profit Status Due Date: August 16, 2015.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Direct Service and Contracting Tribes (ODSCT) and the Office of Resource Access and Partnerships (ORAP) is accepting cooperative agreement applications for the National Indian Health Outreach and Education (NIHOE) III—Health Reform funding opportunity that includes outreach and education activities on the following: The Patient Protection and Affordable Care Act, Pub. L. 111–148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. 111–152, collectively known as the Affordable Care Act (ACA), and the Indian Health Care Improvement Act (IHCIA), as amended. This program is authorized under: The Snyder Act, codified at 25 U.S.C. 13, and the Transfer Act, codified at 42 U.S.C. 2001(a). This program is described in the Catalog of Federal Domestic Assistance under 93.933.

Background

The NIHOE III–Health Reform program carries out health program objectives in the American Indian/Alaska Native (AI/AN) community in the interest of improving the quality of and access to health care for all 566 Federally-recognized Tribes including Tribal governments operating their own health care delivery systems through self-determination contracts and compacts with the IHS and Tribes that continue to receive health care directly from the IHS. This program addresses health policy and health program issues and disseminates educational information to all AI/AN Tribes and villages. These Health Reform awards require that public forums be held at Tribal educational consumer conferences to disseminate changes and updates on the latest health care information. These awards also require that regional and national meetings be coordinated for information dissemination as well as for the inclusion of planning and technical assistance and health care recommendations on behalf of participating Tribes to ultimately inform IHS and the Department of Health and Human Services (HHS) based on Tribal input through a broad based consumer network.

Purpose

The purpose of this IHS cooperative agreement announcement is to encourage national Indian organizations, IHS, and Tribal partners to work together to conduct ACA/IHCIA training and technical assistance throughout Indian Country. Under the Limited Competition NIHOE Health Reform Cooperative Agreement program, the overall program objective is to improve Indian health care by conducting training and technical assistance across AI/AN communities to ensure that the Indian health care system and all AI/ANs are prepared to take advantage of the new health insurance coverage options which will improve the quality of and access to health care services and increase resources for AI/AN health care. The goal of this program announcement is to coordinate and conduct training and technical assistance on a national scale for the 566 Federally-recognized Tribes and Tribal organizations on the changes, improvements and authorities of the ACA and IHCIA and the health insurance options available to AI/AN through the Health Insurance Marketplace.

Limited Competition Justification

Competition for the award included in this announcement is limited to national Indian organizations with at least ten years of experience providing training, education and outreach on a national scale. This limitation ensures that the awardee will have (1) a national information-sharing infrastructure which will facilitate the timely exchange of information between the HHS, Tribes, and Tribal organizations on a broad scale; (2) a national perspective on the needs of AI/AN communities that will ensure that the information developed and disseminated through the projects is culturally appropriate, useful and addresses the most pressing needs of AI/AN communities; and (3) established relationships with Tribes and Tribal organizations that will foster open and honest participation by AI/AN communities. Regional and local organizations will not have the mechanisms in place to conduct communication on a national level, nor will they have an accurate picture of the health care needs facing AI/ANs nationwide. Organizations with less experience will lack the established relationships with Tribes and Tribal organizations throughout the country that will facilitate participation and the open and honest exchange of information between Tribes and HHS. However, awardees will be expected to work with regional and local organizations to achieve the goals herein. With the limited funds available for these health reform projects, HHS must ensure that the training, education and outreach efforts described in this announcement reach the widest audience possible in a timely fashion, are appropriately tailored to the needs of AI/AN communities throughout the country, and come from a source that AI/ANs recognize and trust. For these reasons, this is a limited competition announcement.

II. Award Information

Type of Award

Cooperative Agreement

The IHS will accept applications as follows:

Two entities applying separately to accomplish appropriately divided program activities.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2015 is approximately $500,000. Individual award amounts are anticipated to be $300,000 and $200,000, respectively, if awarded to two entities applying separately. Further details are provided in the applicable section components. The amount of funding available for both competing and continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Two entities applying separately to accomplish appropriately divided program activities:

1. One entity will apply for $300,000.
2. The second entity will apply for the remaining $200,000.

Anticipated Number of Awards

Approximately two awards will be issued under this program announcement.

Project Period

The project period will be for one year and will run consecutively from September 30, 2015 to September 29, 2016.

Cooperative Agreement

Cooperative agreements awarded by the HHS are administered under the same policies as a grant. The funding agency (IHS) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

(1) The IHS assigned program official will work in partnership with the awardee in all decisions involving strategy, hiring of consultants, deployment of resources, release of public information materials, quality assurance, coordination of activities, any training activities, reports, budget and evaluation. Collaboration includes data analysis, interpretation of findings and reporting.

(2) The IHS assigned program official will approve the training curriculum content, facts, delivery mode, pre- and post-assessments, and evaluation before any materials are printed and the training is conducted.

(3) The IHS assigned program official will review and approve all of the final draft products before they are published and distributed.

B. Grantee Cooperative Agreement Award Activities

The awardee must comply with relevant Office of Management and Budget (OMB) Circular provisions regarding lobbying, any applicable lobbying restrictions provided under other law, and any applicable restriction on the use of appropriated funds for lobbying activities. Awardees are expected to:

(1) Foster collaboration across the Indian health care system to encourage and facilitate an open exchange of ideas and open communication regarding training and technical assistance on the ACA and IHCIA provisions.

(2) Conduct training and technical assistance on the ACA and IHCIA and the changes and requirements that will affect AI/ANs either independently or jointly via a partnership as described previously. The purpose of this IHS cooperative agreement announcement is to encourage national and regional Indian organizations and IHS and Tribal (I/T) partners to work together to conduct ACA/IHCIA training and technical assistance throughout Indian Country. The project goals are three-fold for the IHS and the selected entities:

(i) Materials—Develop and disseminate (upon IHS approval) training materials about the ACA/IHCIA impact on the Indian health care system including: Educating consumers on the health care insurance options available, educating the I/T system on the process for enrollment (with a special focus on the Certified Application Counselor (CAC) and Hardship Exemption requirements) and eligibility determinations, and maximizing revenue opportunities.

(ii) Training—Develop and implement an ACA/IHCIA implementation training plan and individual training sessions aimed at educating all Indian health care system stakeholders on health care system impact and changes, specifically implementation in the different types of marketplaces, the role of Health Insurance Marketplace assisters (special emphasis on CAC), Navigators, and the Hardship Exemption for AI/ANs. Collaborate and partner with other national organizations to identify ways to take full advantage of the health care coverage options offered through the Health Insurance Marketplace.

(iii) Technical Assistance—Provide technical assistance to I/T on the ACA/IHCIA implementation. Work with these entities to assess the training needs, identify innovations in ACA/IHCIA implementation, including technology, and promote the dissemination and replication of solutions to the challenges faced by I/T in implementing the ACA/IHCIA through the identification and promotion of best practices.

SUMMARY OF TASKS TO BE PERFORMED:

The project will conduct the following major activities:

1. Develop and implement a communications strategy as follows:

a. Applicant 1—$300,000.

i. Educate AI/ANs on the available health coverage options under the ACA;

ii. Focus on the needs of Direct Services Tribes, including: Providing policy review and analysis of health care issues, training Tribal leaders on the health insurance options available under the ACA and sharing outreach and education best practices among Direct Service Tribes.

iii. Develop a technical assistance plan and provide technical assistance to NIHOE Health Reform partners, Tribal leaders, Tribal employers and Direct Service Tribes on ACA/IHCIA implementation across the Indian health care system.

iv. Work with NIHOE Health Reform partners and Direct Service Tribes to achieve economies of scale and reduce duplication of AI/AN training and outreach and education materials, including the development of cross-cutting ACA/IHCIA content specific to the Indian health care system.

v. Work with NIHOE Health Reform partners and Direct Service Tribes to enhance collaboration with other Federal agency programs, local, state, Tribal and national partners.

b. Applicant 2—$200,000.

i. Educate Tribal leaders and Tribal employers on the health insurance options under the ACA including the Small Business Health Options Program and Tribal self-insurance; and

ii. Develop a technical assistance plan and provide technical assistance to NIHOE Health Reform partners, Tribal leaders, Tribal employers and Direct Service Tribes on ACA/IHCIA implementation across the Indian health care system.

The following key components need to be addressed in the work plan:

Develop a national coordination strategy for the Health Reform project to ensure a shared vision and mission amongst all partners and convene partners on a regular basis.

Applicants should describe plans for addressing the following:

Outreach and Education

- The awardee shall coordinate and develop a multiple strategy education and outreach training approach for I/T that reaches the widest audience possible in a timely fashion, appropriately tailored to the needs of AI/AN communities.
- The awardee shall conduct regional and national ACA/IHCIA education and outreach focusing on four consumer groups: 1) Consumers; 2) Tribal Leadership and Membership; 3) Tribal Employers; and 4) Indian Health Facility Administrators.
- The awardee shall provide measurable outcomes and performance improvement activities for ACA/IHCIA outreach and education actions.
- The awardee shall share information, innovative ideas, challenges and solutions, and provide progress reports.

Policy Analysis

- The awardee shall develop, monitor and review ACA review metrics that provide indicators of AI/AN participation in Marketplace plans and I/T participation as network providers in the Marketplace and disseminate ACA policy information at National Conferences and through IHS Advisory Committees.
- The awardee shall review and coordinate ACA/IHCIA policy recommendations and strategies by the I/T.
- The awardee shall ensure the training curriculum content addresses all new regulations and operations for implementing the ACA/IHCIA requirements.

Information Sharing and Technical Assistance

- The awardee shall collaborate and coordinate to ensure training and educational materials are widely distributed to Tribal leaders and frontline enrollment personnel.
- The awardee shall conduct and record monthly meetings with NIHOE Health Reform national and regional principals to share information, share best practices, and provide progress reports.
- The awardee shall plan communication around key moments or events through the grant period to increase education efforts.
- The awardees shall identify I/T audiences that may have challenges with enrollments and tailor outreach efforts accordingly.
- The awardees shall develop communications vehicles to showcase positive impact stories of I/T with ACA/IHCIA.
- The awardee shall develop and provide templates for Tribal, IHS, and community outreach and education.
- The awardee shall conduct workshops and/or presentations including, but not limited to, the

successes of the ACA/IHCIA promising practices and/or best practices of I/T programs at three national conferences (venue and content of presentations to be agreed upon in advance by the awardee and the IHS assigned program official).

• The awardee will provide postings on ACA/IHCIA outreach and education related information for appropriate Web site dissemination.

• The awardee will develop and/or maintain a comprehensive list of ACA/IHCIA outreach and education program development and business practice guidelines for use by I/T programs.

• The awardee shall act as a resource broker and identify subject matter experts to conduct trainings and technical assistance for implementation of the ACA enrollments.

• The awardee shall provide quarterly articles for national and local media outlets and I/T news information sources, focusing on the successful impact and outcomes of ACA/IHCIA in Tribal communities, available resources, and funding opportunities.

• The awardee shall meet with stakeholders to identify their needs from a community level and monitor level of access to education and outreach materials (*i.e.,* pharmacy bags, palm cards, posters, payroll inserts, etc.).

Training

• The awardee shall re-evaluate all ACA/IHCIA training material available for AI/AN, present findings to IHS, and mutually decide on new materials.

• The awardee shall record training sessions and make the recordings available to the I/T and AI/AN community on the Web sites of the national Indian organizations and partners.

• The awardee shall provide focused ACA/IHCIA education that translates in everyday language explaining the benefits of the ACA and the special provisions for Indians. The awardee, because involvement of community based partners and local leadership from all I/T levels is an important factor in the success of any enrollment process, shall develop modified training briefs for Tribal Health Directors, Chief Executive Officers, health care professionals, and Tribal leaders to assist with outreach efforts.

• The awardee shall provide ongoing AI/AN consumers training on tools developed for State Based Marketplace (SBM) implementation.

Reporting

• The awardee shall provide semi-annual reports documenting and describing progress and accomplishment of the activities specified above, attaching any necessary documentation to adequately document accomplishments.

• The awardee shall attend regularly scheduled, in-person and conference call meetings with the IHS assigned program official team to discuss the awardee's services and outreach and education related issues. The awardee must provide meeting minutes that highlight the awardee's specific involvement and participation.

• The awardee shall obtain approval from the IHS assigned program official for all PowerPoint presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to this award and any supplemental awards prior to the presentation or dissemination of such materials to any party, allowing for a reasonable amount of time for IHS review.

• The awardee shall conduct and record monthly meetings with NIHOE national and regional principals to share information and provide progress reports.

• The awardee shall assess and provide measurable outcomes and performance improvement activities for ACA/IHCIA outreach and education actions both quantitative and qualitative.

1. The awardee shall monitor and track I/T facility enrollment data and identify challenges and opportunities for outreach and education activities and report findings on a regular basis.

2. Identify successes and gaps in enrollment and develop future enrollment campaigns and report findings on a regular basis.

Deliverables

1. Attendance at regularly scheduled meetings between awardee and the IHS assigned program official, evidenced by meeting minutes which highlight the awardee's specific involvement and participation.

2. Participation on outreach and education conference calls identified by the IHS assigned program official, evidenced by meeting agenda and minutes as needed.

3. Report of outcomes at conferences (meeting booths, workshops and/or presentations provided):

(a) National Advisory Committee conference calls and meetings.

(b) IHS Area conference calls.

(c) IHS area and national webinars.

(d) Other AI/AN national conferences.

4. Completed programmatic reviews of semi and annual progress reports of outreach and education projects, in order to identify projects that require technical assistance. [Note: This review is not to replace IHS review of outreach and education programs. The programmatic reviews to be conducted by grantee are secondary reviews intended solely to identify programs in need of technical assistance.]

○ The awardee shall help the IHS assigned program official identify challenges faced by participating I/T and assist in developing solutions.

5. Copies of educational and practice-based information provided to I/T programs (electronic form and one hard copy).

6. Copies of all promotional and educational materials provided to I/T programs and other projects (electronic form and one hard copy).

7. Copies of all promotional materials provided to media and other outlets (electronic form and one hard copy).

8. Copies of all articles published (electronic form and one hard copy). Submit semi-annual and annual progress reports to ORAP and ODSCT, due no later than 30 days after the reporting cycle, attaching any necessary documentation. For example: Meeting minutes, correspondence with I/T programs, samples of all written materials developed including brochures, news articles, videos, and radio and television ads to adequately document accomplishments.

9. The awardee will submit a deliverable schedule to the program official not later than 30 days after the start date.

The IHS will provide guidance and assistance as needed. Copies of all deliverables must be submitted to the IHS ODSCT; IHS ORAP; and IHS Senior Advisor to the Director.

A. Collaboration and Coordination To Ensure Training and Materials Are Widely Distributed

1. Evaluate all available ACA/IHCIA training material available for AI/AN and create additional materials as needed that are related to ACA/IHCIA.

2. Record, track, and coordinate information sharing activities (enrollments, trainings, information shared, meetings, updates, etc.) with IHS Offices: ODSCT, ORAP and 11 IHS area offices including Albuquerque Area, Bemidji Area, Billings Area, California Area, Great Plains Area, Nashville Area, Navajo Area, Oklahoma Area, Phoenix Area, Portland Area and Tucson Area.

3. Record training sessions and describe how they will be made available on the Web sites of the national Indian organizations and partners.

4. Describe how to ensure the training curriculum content addresses all new regulations implementing the ACA and IHCIA requirements.

5. Participate in monthly meetings with NIHOE Health Reform national and regional principals to share information and provide progress reports.

6. Provide ongoing training on tools developed for SBM implementation.

7. Because involvement of community based partners and local leadership from all I/T levels is an important factor in the success of any enrollment process, develop modified training briefs for other community leaders to assist with outreach efforts.

B. Work Plan

1. Provide a Work Plan that describes the sequence of specific activities and steps that will be used to carry out each of the objectives, including updates about progress implementing the ACA.

2. Report the number of CAC staff trained and employed, network contracts, additional consumers enrolled in Medicaid, CHIP or Marketplace plan, and in- network contracts with a QHP in the Marketplace using the Model QHP Addendum for Indian Health Care Providers. Describe outreach and enrollment activities, partnerships, and planning.

3. Include a detailed time line that links activities to project objectives for the 12-month budget period.

4. Identify challenges, both opportunities and barriers that are likely to be encountered in designing and implementing the activities and approaches that will be used to address such challenges.

5. Describe communication methods with partners including plans for improving communication.

C. Evaluation

1. Provide a plan for assessing the achievement of the project's objectives and for evaluating changes in the specific problems and contributing factors.

2. Identify performance measures by which the project will track its progress over time.

3. Secure agreement with IHS on evaluation methods and deadlines.

D. Budget

Provide a functional categorically itemized budget and program narrative justification that supports accomplishing the program objectives, activities, and outcomes within the timeframes specified.

III. Eligibility Information

1. Eligibility

To be eligible for this ''New Limited competition Announcement'', an applicant must be a 501(c)(3) non-profit entity who meets the following criteria:

Eligible applicants that can apply for this funding opportunity are national Indian organizations.

The national Indian organizations must have the infrastructure in place to accomplish the work under the proposed program.

Eligible entities must have demonstrated expertise in the following areas:

- Representing all Tribal governments and providing a variety of services to Tribes, area health boards, Tribal organizations, and Federal agencies, and playing a major role in focusing attention on Indian health care needs, resulting in improved health outcomes for AI/ANs.
- Promoting and supporting Indian health care education and coordinating efforts to inform AI/AN of Federal decisions that affect Tribal government interests including the improvement of Indian health care.
- Administering national health policy and health programs.
- Maintaining a national AI/AN constituency and clearly supporting critical services and activities within the IHS mission of improving the quality of health care for AI/AN people.
- Supporting improved health care in Indian Country.
- Providing education and outreach on a national scale (the applicant must provide evidence of at least ten years of experience in this area).

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required such as proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

The following documentation is required:

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

An applicant submitting any of the above additional documentation after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.* FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding*.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed ten pages for each of the two components).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal letters of support (Optional).
- Letter of support from organization's Board of Directors.
- 501(c)(3) Certificate (if applicable).
- Position descriptions of key personnel.
- Resumes of key personnel.
- Contractor/Consultant resumes or qualifications and scope of work.

- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).
- Documentation of current OMB A–133 required Financial Audit (if applicable).

Acceptable forms of documentation include:

○ Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

○ Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database*.

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate Word document that is no longer than ten pages for each of the two components for a total of 20 pages: $500,000 to conduct ACA/IHCIA education and outreach training and technical assistance. Project narrative must: be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly address and answer all questions listed under the narrative and place them under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they shall not be considered or scored. These narratives will assist the ORC in becoming familiar with the applicant's activities and accomplishments prior to this cooperative agreement award. If the narrative exceeds the page limit, only the first ten pages of each component will be reviewed. The ten-page limit for the narrative does not include the work plan, standard forms, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (4 page Limitation for Each Component)

Section 1: Needs

Describe how the national Indian organization(s) has the experience to provide outreach and education efforts regarding the pertinent changes and updates in health care listed herein.

Part B: Program Planning and Evaluation (4 Page Limitation for Each Component)

Section 1: Program Plans

Describe fully and clearly the direction the national Indian organization plans to address the NIHOE III Health Reform requirements, including how the national Indian organization plans to demonstrate improved health education and outreach services to all 566 Federally-recognized Tribes. Include proposed timelines as appropriate and applicable.

Section 2: Program Evaluation

Describe fully and clearly how the outreach and education efforts will impact changes in knowledge and awareness in Tribes and Tribal organizations to encourage appropriate changes by increasing knowledge and awareness resulting in informed choices. Identify anticipated or expected benefits for the Tribal constituency.

Part C: Program Report (2 Page Limitation for Each Component)

Section 1: Describe major accomplishments over the last 24 months. Identify and describe significant program achievements associated with the delivery of quality health outreach and education. Provide a comparison of the actual accomplishments to the goals established for the project period, or if applicable, provide justification for the lack of progress.

Section 2: Describe major activities over the last 24 months. Please provide an overview of significant program activities and impacts (meaningful changes made), associated with the delivery of quality health outreach and education. This section should address significant program activities and impacts including those related to the accomplishments listed in the previous section.

B. *Budget Narrative:* This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative. The page limitation should not exceed five pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 11:59 p.m. Eastern Standard Time (EST) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. Grants.gov will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically through Grants.gov, a waiver must be requested. Prior approval must be requested and obtained from Ms. Tammy Bagley, Acting Director of DGM, (see Section IV.6 below for additional information). The waiver must: 1) be documented in writing (emails are acceptable), *before* submitting a paper application, and 2) include clear justification for the need to deviate from the required electronic grants submission process. A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov*. Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval *must* be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Acting Director of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EST, on

the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant receives a waiver to submit paper application documents, the applicant must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov*. Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the ODSCT will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on subawards. Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration (CCR) and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov*.

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics*.

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The ten page narrative for each component should include only the first year of activities. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (15 Points)

(1) Describe the individual entity's and/or partnering entities' (as applicable) current health, education and technical assistance operations as related to the broad spectrum of health

needs of the AI/AN community. Include what programs and services are currently provided (*i.e.,* Federally funded, State funded, etc.), any memorandums of agreement with other national, area or local Indian health board organizations, HHS' agencies that rely on the applicant as the primary gateway organization that is capable of providing the dissemination of health information, information regarding technologies currently used (*i.e.,* hardware, software, services, etc.), and identify the source(s) of technical support for those technologies (*i.e.,* in-house staff, contractors, vendors, etc.). Include information regarding how long the applicant has been operating and its length of association/partnerships with area health boards, etc. [historical collaboration].

(2) Describe the organization's current technical assistance ability. Include what programs and services are currently provided, programs and services projected to be provided, etc.

(3) Describe the population to be served by the proposed project. Include a description of the number of Tribes and Tribal members who currently benefit from the technical assistance provided by the applicant.

(4) State how previous cooperative agreement funds facilitated education, training and technical assistance nation-wide for AI/ANs and relate the progression of health care information delivery and development relative to the current proposed project. (Copies of reports will not be accepted.)

(5) Describe collaborative and supportive efforts with national, area and local Indian health boards.

(6) Describe how the project relates to the purpose of the cooperative agreement by addressing the following: Identify how the proposed project will address the changes and requirements of the Acts.

B. Project Objective(s), Work Plan and Approach (45 Points)

(1) Proposed project objectives must be:

a. Measurable and (if applicable) quantifiable.

b. Results oriented.

c. Time-limited.

(2) Submit a work plan in the appendix which includes the following information:

a. Provide the action steps on a timeline for accomplishing the proposed project objective(s).

b. Identify who will perform the action steps.

c. Identify who will supervise the action steps taken.

d. Identify what tangible products will be produced during and at the end of the proposed project objective(s).

e. Identify who will accept and/or approve work products during the duration of the proposed project and at the end of the proposed project.

f. Include any training that will take place during the proposed project and who will be attending the training.

g. Include evaluation activities planned.

(3) If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used):

a. Educational requirements.

b. Desired qualifications and work experience.

c. Expected work products to be delivered on a timeline.

d. If a potential consultant/contractor has already been identified, please include a resume in the Appendix.

C. Program Evaluation (15 Points)

Each proposed objective requires an evaluation component to assess its progression and ensure its completion. Also, include the evaluation activities in the work plan. Describe the proposed plan to evaluate both outcomes and process. Outcome evaluation relates to the results identified in the objectives, and process evaluation relates to the work plan and activities of the project.

(1) For outcome evaluation, describe:

a. What the criteria will be for determining success of each objective.

b. What data will be collected to determine whether the objective was met.

c. At what intervals will data be collected.

d. Who will collect the data and their qualifications.

e. How the data will be analyzed.

f. How the results will be used.

(2) For process evaluation, describe:

a. How the project will be monitored and assessed for potential problems and needed quality improvements.

b. Who will be responsible for monitoring and managing project improvements based on results of ongoing process improvements and their qualifications.

c. How ongoing monitoring will be used to improve the project.

d. Any products, such as manuals or policies, that might be developed and how they might lend themselves to replication by others.

(3) How the project will document what is learned throughout the project period. Describe any evaluation efforts that are planned to occur after the grant periods ends.

(4) Describe the ultimate benefit for the AI/ANs that will be derived from this project.

D. Organizational Capabilities, Key Personnel and Qualifications (15 Points)

(1) Describe the organizational structure of the organization.

(2) Describe the ability of the organization to manage the proposed project. Include information regarding similarly sized projects in scope and financial assistance as well as other cooperative agreements/grants and projects successfully completed.

(3) Describe what equipment (*i.e.,* fax machine, phone, computer, etc.) and facility space (*i.e.,* office space) will be available for use during the proposed project.

(4) List key personnel who will work on the project. Include title used in the work plan. In the appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Resumes must indicate that the proposed staff member is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

E. Categorical Budget and Budget Justification (10 Points)

(1) Provide a categorical budget for 12-month budget period requested.

(2) If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the appendix.

(3) Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient cost and other details to facilitate the determination of cost allowability (*i.e.,* equipment specifications, etc.).

Additional documents can be uploaded as Appendix Items in Grants.gov

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 60 points or more, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the ODSCT within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application submitted. The ODSCT will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2015, the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM. Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Reports must be submitted electronically via GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar

quarter to the Payment Management Services, HHS at: *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: 1) The project period start date was October 1, 2010 or after and 2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Mr. Chris Buchanan, Director, ODSCT, 801 Thompson Avenue, Suite 220, Rockville, Maryland 20852, Telephone: (301) 443–1104, E-Mail: *Chris.Buchanan@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Mr. John Hoffman, Grants Management Specialist, DGM, 801 Thompson Avenue, TMP Suite 360, Rockville, Maryland 20852, Telephone: (301) 443–5204, Fax: (301) 443–9602, E-Mail: *John.Hoffman@ihs.gov.*

3. Questions on systems matters may be directed to: Mr. Paul Gettys, Grant Systems Coordinator, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 443–9602, E-Mail: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: June 12, 2015.

Robert G. McSwain,

Acting Director, Indian Health Service.

[FR Doc. 2015–15157 Filed 6–18–15; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Clinical and Epidemiology Grant Applications I.

Date: July 22, 2015.

Time: 3:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Jeanette M. Hosseini, Ph.D., Scientific Review Officer, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892, 301–451–2020, *jeanetteh@mail.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Translational Research Program on Therapy for Visual Disorders (R24).

Date: July 31, 2015.

Time: 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch Division of Extramural Research National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 15, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15029 Filed 6–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; 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 Eye Institute Special Emphasis Panel; NEI Clinical Trial and Cooperative Agreement Applications.

Date: July 20, 2015.

Time: 9:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, Msc 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 15, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15028 Filed 6–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; 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: Center for Inherited Disease Research Access Committee.

Date: July 17, 2015.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Camilla E. Day, Ph.D., Scientific Review Officer, CIDR, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4075, Bethesda, MD 20892, 301–402–8837, *camilla.day@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 15, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15031 Filed 6–18–15; 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 Training Grants Review.

Date: July 10, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6706 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xincheng Zheng, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, 301–451–4838, *xincheng.zheng@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: June 12, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15023 Filed 6–18–15; 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 AMSC Member Conflict Review Meeting.

Date: July 2, 2015.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Conference Room 803, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Xincheng Zheng, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, 301–451–4838, *xincheng.zheng@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: June 12, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15024 Filed 6–18–15; 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 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 of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–12–265:

Ancillary Clinical Studies in Diabetes Complications (R01).

Date: July 9, 2015.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–14–019: Studies of HIV in Digestive Diseases (R01).

Date: July 30, 2015.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.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: June 15, 2015

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15027 Filed 6–18–15; 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: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Integrated Preclinical/Clinical AIDS Vaccine Development Program (IPCAVD).

Date: July 10, 2015.

Time: 10:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3F100, 5601 Fisher Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Roberta Binder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G21A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5050, *rbinder@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: June 15, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15030 Filed 6–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 05, 2015, 04:00 a.m. to June 05, 2015, 06:00 p.m., Hotel Palomar, 2121 P Street NW., Washington, DC, 20037 which was published in the **Federal Register** on May 11, 2015, 80 FR Pg. 26932.

The meeting will be held at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. The meeting will be held on June 15, 2015 and start at 1:00 p.m. and end at 2:00 p.m. The meeting is closed to the public.

Dated: June 12, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15025 Filed 6–18–15; 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: Center for Scientific Review Special Emphasis Panel; PAR–13–375: Nutrigenetics and Nutrigenomics Approaches for Nutrition Research.

Date: July 8, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Hui Chen, MD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1044, *chenhui@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biochemistry and Biophysical Chemistry.

Date: July 9–10, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, (301)–437–7927, *jollieda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Learning, Memory, Language, Communication and Related Neurosciences.

Date: July 16, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Fairmont Hotel, Washington DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR13–005: Counter ACT Exploratory Grants.
Date: July 16, 2015.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.
Contact Person: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biological Chemistry and Macromolecular Biophysics.
Date: July 16–17, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301)–435–1722, *jollieda@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA applications: Infectious Diseases and Microbiology.
Date: July 16, 2015.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motor Function, Speech and Rehabilitation.
Date: July 16, 2015.
Time: 1:00 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Biology and Tissue Engineering.
Date: July 16, 2015.
Time: 12:00 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: Yanming Bi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–451–0996, *ybi@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.
Date: July 17, 2015.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Warwick Seattle Hotel, 401 Lenora Street, Seattle, WA 98121.
Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; HIV/AIDS Vaccines Study Section.
Date: July 17, 2015.
Time: 8:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Mayflower Renaissance Hotel, 1127 Connecticut Avenue NW.,Washington, DC 20036.
Contact Person: Robert Freund, Ph.D.. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegeneration and Mitochondria.
Date: July 17, 2015.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroscience of Stress, Sleep, and Psychopathology.
Date: July 17, 2015.
Time: 2:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 12, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15026 Filed 6–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of 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 Mental Health Special Emphasis Panel; A Target Approach to Safer Use of Antipsychotics in Youth.
Date: June 30, 2015.
Time: 1:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: David I. Sommers, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: June 12, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15022 Filed 6–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of 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 Center for Advancing Translational Sciences Special Emphasis Panel; Conference Grant Review.

Date: July 10, 2015.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Rahat Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 15, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15021 Filed 6–18–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2015–0382; OMB Control Number 1625–0067]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a reinstatement, with change, of a previously approved collection for which approval has expired: 1625–0067, Claims under the Oil Pollution Act of 1990. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before August 18, 2015.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–0382] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR(s) are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE STOP 7710, WASHINGTON DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0382], and must be received by August 18, 2015. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2015–0382], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via

http://www.regulations.gov), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* 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 DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2015–0382'' in the ''Search'' box. 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 will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2015–0382'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF 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., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in 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 statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

1. *Title:* Claims under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0067.

Summary: This information collection provides the means to develop and submit a claim to the National Pollution Funds Center to seek compensation for removal costs and damages incurred resulting from an oil discharge or substantial threat of discharge. This collection also provides the requirements for a responsible party to advertise where claims may be sent after an incident occurs.

Need: This information collection is required by 33 CFR part 136, for implementing 33 U.S.C. 2713(e) and 33 U.S.C. 2714(b).

Forms: None.

Respondents: Claimants and responsible parties of oil spills.

Frequency: On occasion.

Burden Estimate: The estimated burden increased from 8,267 hours to 9,370 hours a year due to an increase in the estimated number of annual respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 8, 2015.

Thomas P. Michelli,

U.S. Coast Guard,

Chief Information Officer, Acting.

[FR Doc. 2015–15139 Filed 6–18–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4223–DR; Docket ID FEMA–2015–0002]

Texas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4223–DR), dated May 29, 2015, and related determinations.

DATES: Effective June 9, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 29, 2015.

Angelina, Archer, Atascosa, Baylor, Bowie, Burleson, Cass, Cherokee, Clay, Comal, Comanche, Fannin, Fayette, Garza, Gillespie, Grayson, Harrison, Hood, Houston, Jasper, Kaufman, Kendall, Lamar, Lee, Liberty, Lynn, Madison, Nacogdoches, Newton, Polk, Refugio, Sabine, San Jacinto, Tyler, Uvalde, Walker, Wharton, Wilson, and Zavala Counties for Public Assistance.

Bastrop, Blanco, Caldwell, Denton, Henderson, Johnson, Milam, Montague, Rusk, Travis, Williamson and Wise Counties for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–15144 Filed 6–18–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4222–DR; Docket ID FEMA–2015–0002]

Oklahoma; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4222–DR), dated May 26, 2015, and related determinations.

DATES: *Effective Date:* June 4, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 26, 2015.

Atoka, Bryan, Comanche, Johnston, Kiowa, Le Flore, McClain, McCurtain, Pittsburg, and Pottawatomie Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); ≤97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–15143 Filed 6–18–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4222–DR; Docket ID FEMA–2015–0002]

Oklahoma; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4222–DR), dated

May 26, 2015, and related determinations.

DATES: Effective date: June 4, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 26, 2015.

Atoka, Bryan, Cleveland, Grady, McClain, and Pittsburg Counties for Public Assistance (already designated for Individual Assistance).

Cotton, Haskell, Hughes, Johnston, Latimer, Okfuskee, Pontotoc, Seminole, Stephens, and Tillman Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–15142 Filed 6–18–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0044]

Agency Information Collection Activities: Application for Action on an Approved Application or Petition, Form I–824; Revision of a Currently Approved Collection.

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: 60-Day Notice.

SUMMARY: DHS, USCIS invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 18, 2015.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0044 in the subject box, the agency name and Docket ID USCIS–2007–0012. 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–2007–0012;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0012 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is

offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Action on an Approved Application or Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–824; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–824 is used to request a duplicate approval notice, or to notify the U.S. Consulate that a petition has been approved or that a person has been adjusted to permanent resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–824 is 12,609 and the estimated hour burden per response is .417 hours (25 minutes).

(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 5,258 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 $122.50.

Dated: June 11, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–15138 Filed 6–18–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5849–N–03]

Notice of Federal Advisory Committee Manufactured Housing Consensus Committee Structure and Design Subcommittee Teleconference

AGENCY: Office of the Assistant Secretary for Housing–Federal Housing Commissioner, HUD.

ACTION: Notice of a Federal Advisory Meeting; Manufactured Housing Consensus Committee (MHCC).

SUMMARY: This notice sets forth the schedule and proposed agenda for a teleconference meeting of the MHCC Structure and Design Subcommittee. The teleconference meeting is open to members of the public. The agenda provides an opportunity for members of the public to comment on the business before the MHCC Structure and Design Subcommittee.

DATES: The teleconference meeting will be held on July 15, 2015, from 1:00 p.m. to 4:00 p.m. EST. The teleconference numbers are: US toll-free:1–866–622–8461, and Participant Code: 4325434.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator and Designated Federal Official (DFO), Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9168, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 *et seq.*) as amended by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring; and
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment: Members of the public wishing to make oral comments on the business of the MHCC Structure and Design Subcommittee are encouraged to register on or before July 10, 2015, by contacting Home Innovation, 400 Prince Georges Blvd., Upper Marlboro, MD 20774; Attention: Kevin Kauffman, email to: *MHCC@HomeInnovation.com;* phone number 1–888–602–4663. Written comments are encouraged. The MHCC strives to accommodate public comment to the extent possible within the time constraints of the meeting agenda. Advance registration is strongly encouraged. The MHCC will also provide an opportunity for public comment on specific matters before the MHCC Structure and Design Subcommittee.

Tentative Agenda

July 15, 2015, from 1:00 p.m. to 4:00 p.m. EST.

I. Call to Order and Roll Call
II. Opening Remarks: Subcommittee Chair and DFO
III. Approve minutes from the December 4, 2014 meeting
IV. Review items assigned to Structure and Design Subcommittee by MHCC
(The following are posted on HUD's MHCC Web site at: *hud.gov/mhs*)
Log #78—3280.304(a)—Materials
Log #100—3280.204—Kitchen Cabinet Protection
AI–3 Southern Yellow Pine Letter
V. Open Discussion
VI. Adjourn: 4:00 p.m.

Dated: June 16, 2015.

Pamela Beck Danner,

Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2015–15127 Filed 6–18–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5828–N–25]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040, Washington, DC 20405, (202) 501–0084; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management; Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (These are not toll-free numbers).

Dated: June 11, 2015.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 06/19/2015

Suitable/Available Properties

Building

Alabama

SGT Jack Richburg USARCr
107 Kinston Highway
Opp AL 36467
Landholding Agency: GSA
Property Number: 54201520016
Status: Excess
GSA Number: 4–D–AL–0816AA
Directions: GSA—Disposal Agency; US Army Reserve—Landholding Agency.
Comments: 4,316 sq. ft.; administrative bldg.; office; built: 1967; sits on 4.53 acres; asbestos; remediation required; contact GSA for more information.

Suitable/Available Properties

Land

Pennsylvania

FAA 0.65 Acres Vacant Land
Westminster Rd.
Wilkes-Barre PA 18702
Landholding Agency: GSA
Property Number: 54201520013
Status: Surplus
GSA Number: 4–U–PA–0828AA
Directions: GSA—Disposal Agency; FAA—Landholding Agency.
Comments: Cleared area w/gravel; contact GSA for more information.

Suitable/Available Properties

Land

Tennessee

Parcel 279.01
Northwest corner of Administration Rd. & Laboratory Rd.
Oak Ridge TN 37830
Landholding Agency: GSA
Property Number: 54201520014
Status: Surplus
GSA Number: 4–B–TN–0664–AD
Directions: Disposal Agency; Energy—Landholding Agency.
Comments: Corner lot w/out an est. driveway/curb; transferee will need to contact the City of Oak Ridge for ingress/egress requirements (865–425–3581; *www.oakridgetn.gov*); contact GSA for more information.

Parcel ED–3 E and W (168.30 ± acres)
South Side of Oak Ridge Turnpike
Oak Ridge TN 37763
Landholding Agency: GSA
Property Number: 54201520015

Status: Surplus
GSA Number: 4–B–TN–0664–AG
Directions: GSA—Disposal Agency; Energy—Landholding Agency; (State Rte. 58).
Comments: Accessibility/usage subjected to Federal, state, & local laws including but not limited to historic preservation, floodplains, wetlands, endangered species, Nat'l EPA; contact GSA for more information.

Unsuitable Properties

Land

District of Columbia

4 Vacant Parcels
Joint Base Anacostica-Bolling
Washington DC
Landholding Agency: Navy
Property Number: 77201520015
Status: Underutilized
Directions: N. end ball fields; vacant/underutilized land & parking lot S. of N. end ball fields; vacant/underutilized land W. of #370; open space off Duncan Ave.
Comments: Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area.

[FR Doc. 2015–14835 Filed 6–18–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FW–HQ–ES–2015–N120; 4500030113]

Proposed Information Collection; Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on August 31, 2015. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by August 18, 2015.

ADDRESSES: Send your comments on the IC to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0119'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 4 of the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*) specifies the process by which we can list species as threatened or endangered. When we consider whether or not to list a species, the ESA requires us to take into account the efforts being made by any State or any political subdivision of a State to protect such species. We also take into account the efforts being made by other entities. States or other entities often formalize conservation efforts in conservation agreements, conservation plans, management plans, or similar documents. The conservation efforts recommended or called for in such documents could prevent some species from becoming so imperiled that they meet the definition of a threatened or endangered species under the ESA.

The Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE) (68 FR 15100, March 28, 2003) encourages the development of conservation agreements/plans and provides certainty about the standard that an individual conservation effort must meet in order for us to consider whether it contributes to forming a basis for making a decision about the listing of a species. PECE applies to ''formalized conservation efforts'' that have not been implemented or have been implemented but have not yet demonstrated if they are effective at the time of a listing decision.

Under PECE, formalized conservation efforts are defined as conservation efforts (specific actions, activities, or programs designed to eliminate or reduce threats or otherwise improve the status of a species) identified in a conservation agreement, conservation plan, management plan, or similar document. To assist us in evaluating a formalized conservation effort under PECE, we collect information such as conservation plans, monitoring results, or progress reports. The development of such agreements/plans is voluntary. There is no requirement that the individual conservation efforts included in such documents be designed to meet the standard in PECE. The PECE policy is posted on our Candidate Conservation Web site at *http://www.fws.gov/endangered/esa-library/pdf/PECE-final.pdf.*

II. Data

OMB Control Number: 1018–0119.

Title: Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE).

Service Form Number: None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Primarily State, local, or tribal governments. However, individuals, businesses, and not-for-profit organizations could develop agreements/plans or may agree to implement certain conservation efforts identified in a State agreement/plan.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
Original Agreement	4	4	2,000	8,000
Monitoring	7	7	600	4,200
Reporting	7	7	120	840
Totals	18	18		13,040

Estimated Annual Nonhour Burden Cost: None.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 15, 2015.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2015–15035 Filed 6–18–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS—GX15GL00DT7ST00]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of revision of a currently approved information collection (1028–0087).

SUMMARY: We (the U.S. Geological Survey) are notifying the public that we have submitted to Office of Management and Budget (OMB) the information collection request (ICR) described below. To comply with the Paperwork Reduction Act of 1995 (PRA) and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR. This collection is scheduled to expire on September 30, 2015.

DATES: To ensure that your comments on this ICR are considered, OMB must receive them on or before July 20, 2015.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, via email: (*OIRA_SUBMISSION@omb.eop.gov*); or by fax (202) 395–5806; and identify your submission with 'OMB Control Number 1028–0087 National Geological and Geophysical Data Preservation Program'. Please also forward a copy of your comments and suggestions on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7195 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'OMB Information Collection 1028–0087: National Geological and Geophysical Data Preservation Program' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Betty Adrian at (303) 202–4828 or by mail at U.S. Geological Survey, Box 25046, MS 975, Denver Federal Center, Denver, CO 80225, or by email at *badrian@usgs.gov.* You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding under the NGGDPP. We will accept proposals from State geological surveys requesting funds to (1) inventory, assess, and preserve the condition of geoscientific collections and individual physical samples, (2) create metadata for individual samples and collections, (3) create or update digital infrastructure, including data migration to contemporary formats to assure data are not lost due to recording media degradation or changing data recording formats or software programs; and (4) rescue data at risk. Financial assistance will be awarded annually on a competitive basis following the evaluation and ranking of State proposals by a review panel composed of representatives from the Department of the Interior, State geological surveys, academic institutions, and the private sector. To submit a proposal, respondents must complete a project narrative and submit the application via *www.grants.gov.* Grant recipients must complete a final technical report at the end of the project period. Narrative and report guidance is available through *http://datapreservation.usgs.gov* and at *www.grants.gov.*

II. Data

OMB Control Number: 1028–0087.

Form Number: not applicable.

Title: National Geological and Geophysical Data Preservation Program (NGGDPP).

Type of Request: Revision of a currently approved information collection.

Respondent Obligation: Voluntary, but necessary to receive benefits.

Frequency of Collection: Annually.

Description of Respondents: All State Geological Surveys will have the opportunity to apply for matching Federal funds.

Estimated Total Number of Annual Responses: 59 (32 applications and 27 reports).

Estimated Time per Response: We estimate that it will take 42 hours per person to fill out and submit an application requesting financial assistance and provide a final report.

Estimated Annual Burden Hours: 1,324 burden hours. We expect to receive approximately 32 applications. It takes each applicant approximately 38 hours to complete the narrative and to present supporting documents. This includes the time for project conception and development, proposal writing and reviewing, and submitting the proposal application through Grants.gov (totaling 1,324 burden hours). We anticipate awarding 27 grants per year. The award recipients must submit a final report. We estimate that it will take approximately 4 hours to complete the requirement for the final report (totaling 108 hours).

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. Until the OMB approves a collection of information, you are not obliged to respond.

Comments: On March 24, 2015, we published a **Federal Register** notice 80 FR 15631 announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on May 26, 2015. We received no comments.

III. Request for Comments

We again invite comments concerning this ICR as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties,

including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask the OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Betty M. Adrian,

Program Coordinator, National Geological and Geophysical Data Preservation Program.

[FR Doc. 2015–15073 Filed 6–18–15;8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–FHC–2015–N117; FVHC98210408710–XXX–FF04G01000]

Deepwater Horizon Oil Spill; Draft Phase IV Early Restoration Plan and Environmental Assessments

AGENCY: Interior.

ACTION: Notice of availability; extension of public comment period.

SUMMARY: We are extending the public comment period on our Draft Phase IV Early Restoration Plan and Environmental Assessments (Draft Phase IV ERP/EA) regarding the *Deepwater Horizon* Oil Spill. We opened the comment period via a May 20, 2015, notice of availability.

DATES: Comments must be submitted electronically or postmarked by 11:59 p.m. Mountain Time on July 6, 2015.

ADDRESSES: *Document Availability:* You may download the Draft Phase IV ERP/EA at *http://www.gulfspillrestoration.noaa.gov* or at *http://www.doi.gov/deepwaterhorizon.* Alternatively, you may request a CD of the Draft Phase IV ERP/EA (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

Submitting Comments: You may submit comments on the Draft Phase IV ERP/EA by one of following methods:

(1) *Electronically: http://www.gulfspillrestoration.noaa.gov.*

(2) *By hard copy:* Submit by U.S. mail to: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, at *nanciann_regalado@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 *et seq.*) and the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), the Federal and State natural resource trustee agencies (Trustees) have prepared a Draft Phase IV Early Restoration Plan and Environmental Assessments (Draft Phase IV ERP/EA).

The Draft Phase IV ERP/EA proposes 10 early restoration projects that are consistent with the early restoration program alternatives selected in the Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement. The Draft Phase IV ERP/EA also includes a notice of change and supporting analysis for one Phase III Early Restoration Project, ''Enhancement of Franklin County Parks and Boat Ramps—Eastpoint Fishing Pier Improvements.''

Background

For additional background information, see our original **Federal Register** notice, with which we opened the comment period (May 20, 2015; 80 FR 29019).

Public Comments

If you submit a comment via *http://www.gulfspillrestoration.noaa.gov,* your entire comment—including any personal identifying information—may be made publicly available at any time. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and the implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990.

Kevin Reynolds,

Deepwater Horizon Natural Resource Damage Assessment and Restoration Case Manager, Department of the Interior.

[FR Doc. 2015–15152 Filed 6–18–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM950000 L13110000.BX0000 15XL1109PF]

Notice of Filing of Plats of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, thirty (30) calendar days from the date of this publication.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico. Copies may be obtained from this office upon payment. Contact Carlos Martinez at 505–954–2096, or by email at *cjjmarti@blm.gov,* for assistance. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico (NM)

The Supplemental plat, representing the dependent resurvey in Township 22 South, Range 8 East, of the New Mexico Principal Meridian, accepted April 23, 2015 for Group, 1168, NM.

The Indian Meridian, Oklahoma (OK)

The plat, in three sheets, representing the dependent resurvey and survey in Township 9 North, Range 25 East, of the Indian Meridian, accepted April 15, 2015, for Group 220 OK.

These plats are scheduled for official filing 30 days from the notice of publication in the **Federal Register**, as provided for in the BLM Manual Section 2097—Opening Orders. Notice from this office will be provided as to the date of said publication. If a protest against a

survey, in accordance with 43 CFR 4.450–2, of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest.

A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the Bureau of Land Management New Mexico State Director stating that they wish to protest.

A statement of reasons for a protest may be filed with the Notice of Protest to the State Director or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

Robert A. Casias,

Acting Branch Chief, Cadastral Survey.

[FR Doc. 2015–15083 Filed 6–18–15; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO–220000–L1020000–JA0000–LXSIVEIS0000–15XL1109AF]

Notice of Availability of the Draft Programmatic Environmental Impact Statement To Evaluate the Use of Herbicides on Public Lands Administered by the Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), the Bureau of Land Management (BLM) is making available for public review and comment a national Draft Programmatic Environmental Impact Statement (EIS) on vegetation treatments involving the use of aminopyralid, fluroxypyr, and rimsulfuron herbicides on public lands administered by the BLM in 17 western states, including Alaska.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Draft Programmatic EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Draft Programmatic EIS by any of the following methods:

- Web site: *http://blm.gov/3vkd.*
- Email: *blm_wo_vegeis@blm.gov.*
- Fax: 206–623–3793.
- Mail: AECOM, Attn. Stuart Paulus, 710 Second Avenue, Suite 1000, Seattle, WA 98104.

Documents pertinent to this proposal may be examined at the BLM Washington Office, 20 M Street SE., Room 2134, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Gina Ramos, Senior Weeds Specialist, telephone 202–912–7226; or Stuart Paulus, Project Manager, telephone 206–403–4287. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the referenced individuals during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM proposes to add aminopyralid, fluroxypyr, and rimsulfuron to the agency's approved list of herbicides for: (1) Controlling noxious weeds and other invasive species; and (2) Conserving and restoring native vegetation, watersheds, and fish and wildlife habitat. The Draft Programmatic EIS will evaluate the use of the three new herbicides as part of the BLM's vegetation treatment programs on public lands in 17 Western States. Approval of this proposal would increase the number of active ingredients approved for use, and would give the BLM increased flexibility and options when designing herbicide treatments. The analysis area includes only surface estate public lands administered by 11 BLM state offices: Alaska, Arizona, California, Colorado, Idaho, Montana (Montana, North Dakota/South Dakota), New Mexico (New Mexico, Oklahoma, Texas, Nebraska), Nevada, Oregon (Oregon, Washington), Utah, and Wyoming.

For further information, to provide written comments, or to be placed on the mailing list, contact Gina Ramos, BLM Project Manager, Bureau of Land Management,1849 C Street NW., Rm 2134 LM, WO–220, Washington, DC 20240; email *gramos@blm.gov;* telephone 202– 912–7226. The Draft Programmatic EIS and associated documents will be available for review in either hard copy or on compact disks at all BLM State, District, and Field Office public rooms. The entire document can also be reviewed or downloaded at the BLM National Web site at *http://blm.gov/3vkd.* Please note that public comments and information submitted, including names, street addresses, and email addresses of persons who submit comments, will be available for public review and disclosure at the locations listed under **ADDRESSES** during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Shelley Smith,

Acting Assistant Director, Resources and Planning.

[FR Doc. 2015–15118 Filed 6–18–15; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–NEW]

Agency Information Collection Activities; Approval of a New Collection; Privacy Industry Feedback Survey

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day Notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) Cyber Division (CyD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the 80 *FR* 20014, April 14, 2015, allowing for a 30 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 20, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Paul Konshak, FBI, Cyber Division, Cyber Outreach Section, 935

Pennsylvania Ave. NW., Washington, DC 20535. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Room 10235, 725 17th Street NW., Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—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:* Approval of a new collection.

2. *The Title of the Form/Collection:* Private Industry Feedback Survey.

3. *The agency form number:* There will not be a form number on the survey.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary the FBI, Cyber Division, produces reports that provide information related to cyber trends and threats for private sector partners. The reports are referred to as Private Industry Notifications (PINs) and FBI Liaison Alert Systems (FLASHs). In order to improve the PIN/FLASH reports, a ''Feedback'' Section will be added to the reports which will contain a URL that will link to a voluntary on-line survey. The results will be reviewed by CyD and used to improve future reports to better serve the FBI's private sector partners.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 5000 respondents, respondents will complete the survey each year. It is estimated that it will take each respondent 3 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 250 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: June 16, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–15074 Filed 6–18–15; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0111]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; National Crime Victimization Survey (NCVS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the 80 *FR* 20013, April 14, 2015, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 20, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lynn Langton, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Lynn.Langton@usdoj.gov;* telephone: 202–353–3328). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* National Crime Victimization Survey (NCVS).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* NCVS. Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Persons 12 years or older living in NCVS sampled households located throughout the United States. The National Crime Victimization Survey (NCVS) collects, analyzes, publishes, and disseminates statistics on criminal victimization in the U.S.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 143,911. It will take the average interviewed

respondent an estimated 20 minutes to respond, the average non-interviewed respondent an estimated 7 minutes to respond, the estimated average follow-up interview is 15 minutes, and the estimated average follow-up for a non-interview is 1 minute.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 106,399 total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: June 16, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–15075 Filed 6–18–15; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,379; TA–W–85,379A]

Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Including On-Site Leased Workers From Technical Needs, Lowell, Massachusetts; Aerotek, Working On-Site at Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Lowell, Massachusetts; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 14, 2014, applicable to workers of Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Lowell, Massachusetts, including on-site leased workers from Technical Needs. The Department's notice of determination was published in the **Federal Register** on September 11, 2014 (79 FR 54297).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of radar sensors.

The company reports that workers leased from Aerotek were employed on-site at the Lowell, Massachusetts location of Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Aerotek working on-site at the Lowell, Massachusetts location of Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department.

The amended notice applicable to TA–W–85,379 is hereby issued as follows:

All workers of Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, including on-site leased workers from Technical Needs, Lowell, Massachusetts (TA–W–85,379), who became totally or partially separated from employment on or after June 5, 2013, through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

AND

All workers of Aerotek, reporting to Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Lowell, Massachusetts (TA–W–85,379A), who became totally or partially separated from employment on or after June 5, 2013, through August 14, 2016, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 14th day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15069 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,937; TA–W–82,937A; TA–W–82,937B; TA–W–82,937C; TA–W–82,937D; TA–W–82,937E; TA–W–82,937F; TA–W–82,937G; TA–W–82,937H; TA–W–82,937I]

Cambia Health Solutions, Inc., Claims Department and Membership Team, Portland, Oregon; Cambia Health Solutions, Inc., Claims Department and Membership Team, Lewiston, Idaho; Cambia Health Solutions, Inc., Claims Department and Sales Operations, Medford, Oregon; Cambia Health Solutions, Inc., Claims Department and Sales Operations, Salt Lake City, Utah; Cambia Health Solutions, Inc., Claims Department, Membership Team and Sales Operations, Seattle, Washington; Cambia Health Solutions, Inc., Claims Department and Membership Team, Tacoma, Washington; Cambia Health Solutions, Inc., Membership Team, Burlington, Oregon; Cambia Health Solutions, Inc., Sales Operations, Bend, Oregon; Cambia Health Solutions, Inc., Sales Operations, Boise, Idaho; Cambia Health Solutions, Inc., Sales Operations, Spokane, Washington; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 7, 2013, applicable to workers from Cambia Health Solutions, Inc, Claims Department, Portland, Oregon (TA–W–82,937), Lewiston, Idaho (TA–W–82,937A), Medford, Oregon (TA–W–82,937B), Salt Lake City, Utah (TA–W–82,937C), Seattle, Washington (TA–W–82,937D), and Tacoma, Washington (TA–W–82,937E). The Department's Notice of Determination was published in the **Federal Register** on August 27, 2013 (78 FR 52976).

At the request of a Company Official, the Department reviewed the certification for workers of the subject firm. The workers' firm is engaged in the supply of claims processing services.

The investigation confirmed that worker separations in the Membership Team and Sales Operations at ten locations are attributable to the acquisition of services from a foreign country that was the basis of the original certification. The worker group includes remote workers in Washington State

reporting to the Lewiston, Idaho location (TA–W–82,937A).

Based on these findings, the Department is amending this certification to include workers in the Membership Team and Sales Operations.

The amended notice applicable to TA–W–82,937 is hereby issued as follows:

All workers of Cambia Health Solutions, Inc., Claims Department and Membership Team, Portland, Oregon (TA–W–82,937), Cambia Health Solutions, Inc., Claims Department and Membership Team, Lewiston, Idaho (TA–W–82,937A), Cambia Health Solutions, Inc., Claims Department and Sales Operations, Medford, Oregon (TA–W–82,937B), Cambia Health Solutions, Inc., Claims Department and Sales Operations, Salt Lake City, Utah (TA–W–82,937C), Cambia Health Solutions, Inc., Claims Department, Membership Team and Sales Operations, Seattle, Washington (TA–W–82,937D), and Cambia Health Solutions, Inc., Claims Department and Membership Team, Tacoma, Washington (TA–W–82,937E), Cambia Health Solutions, Inc., Membership Team, Burlington, Oregon (TA–W–82,937F), Cambia Health Solutions, Inc., Sales Operations, Bend, Oregon (TA–W–82,937G), Cambia Health Solutions, Inc., Sales Operations, Boise, Idaho (TA–W–82,937H), and Cambia Health Solutions, Inc., Sales Operations, Spokane, Washington (TA–W–82,937I), who became totally or partially separated from employment on or after July 18, 2012 through August 7, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through August 7, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 21st day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15060 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,778A]

Energizer; One Worker Reporting to the Westlake Facility Located in Marietta, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. § 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 25, 2013, applicable to workers from Energizer, including on-site leased workers from Adecco, Westlake, Ohio. The Department's Notice of Determination was published in the **Federal Register** on August 13, 2013 (78 FR 49293).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers' firm is engaged in the production of batteries.

The investigation confirmed that additional workers in the Marietta, Ohio facility report to the Westlake, Ohio facility. Their total or partial separations or threat of total or partial separations are attributable to the same shift in production to a foreign country that was the basis for the original certification.

Based on these findings, the Department is amending this certification to include workers reporting to the Westlake facility located in Marietta, Ohio.

The amended notice applicable to TA–W–82,778 is hereby issued as follows:

All workers of Energizer, including on-site leased workers from Adecco, Westlake, Ohio (TA–W–82,778) and Energizer, Workers reporting to the Westlake facility located in Marietta, Ohio (TA–W–82,778A) who became totally or partially separated from employment on or after June 3, 2012 through July 25, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through July 25, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 20th day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15052 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *April 27, 2015 through May 8, 2015.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm

have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,429 San Bernardino Sun, San Bernardino, California. July 15, 2013.

85,429A, Inland Valley Daily Bulletin, Ontario, California. July 15, 2013.

85,679, Stuart Manufacturing LLC, Central Falls, Rhode Island. December 1, 2013.

85,743, OSRAM Sylvania, Inc., St. Mary's, Pennsylvania. July 10, 2014.

85,743A, Manpower and YOH Services LLC, St. Mary's, Pennsylvania. December 19, 2013.

85,861, The Smead Manufacturing Company, Hastings, Minnesota. July 6, 2015.

85,861A, The Smead Manufacturing Company, Cedar City, Minnesota. March 2, 2014.

85,861B, The Smead Manufacturing Company, McAllen, Texas. March 2, 2014.

85,861C, The Smead Manufacturing Company, Logan, Ohio. March 2, 2014.

85,875, ADM Cocoa, Hazleton Township, Pennsylvania. March 8, 2014.

85,884, The Levy Group Inc., New York, New York. March 17, 2014.

85,889, Lufkin Industries LLC, Lufkin, Texas. March 19, 2014.

85,894, Micromedics, Inc., St. Paul, Minnesota. March 23, 2014.

85,899, Sabritec, Costa Mesa, California. March 24, 2014.

85,905, Hampton Products International Corporation, Shell Lake, Wisconsin. March 16, 2014.

85,911, Arrow International, Asheboro, North Carolina. March 27, 2014.

85,911A, Arrow International, Ramseur, North Carolina. March 27, 2014.

85,909, Lear Corporation, Rochester Hills, Michigan. March 27, 2014.

85,919, Republic Steel, Lorain, Ohio. March 31, 2014.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

85,923, Oerlikon Fairfield, Lafayette, Indiana.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,782, Flight Line Products LLC, Valencia, California.

85,793, Pacific Data Images, Inc., (PDI), Redwood City, California.

85,840, Nestle USA, Glendale, California.

85,865, Harland Clarke Corp. San Antonio, Texas.

85,881, Nabors Completion & Services Company, Gaylord, Michigan.

85,887, Unit Drilling Company, Oklahoma City, Oklahoma.

85,903, Verizon Communications, Richardson, Texas.

85,908, PEMCO Mutual Insurance Company, Seattle, Washington.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,724, Fiberoptic Lighting Inc., Grants Pass, Oregon.

85,854, Magnetation, Grand Rapids, Minnesota.

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

85,928, Dover Norris Company, Tulsa, Oklahoma.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

85,792, @Business, Inc., Irwindale, California.

85,792A, @Business, Inc., Rosemead, California.
85,792B, @Business, Inc., Irvine, California.
85,792C, @Business, Inc., Alhambra, California.
85,792D, @Business, Inc., Rancho Cucamonga, California.
85,792E, @Business, Inc., Fullerton, California.
85,792F, @Business, Inc., San Clemente, California.
85,792G, @Business, Inc., Pomona, California.
85,792H, @Business, Inc., La Palma, California.
85,792I, @Business, Inc., Westminster, California.

I hereby certify that the aforementioned determinations were issued during the period of *April 27, 2015 through May 8, 2015.* These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 18th day of May 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15066 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,857; TA–W–82,857A]

Rockwell Automation Shared Service Center Including On-Site Leased Workers From Allegis, Milwaukee, Wisconsin; Rockwell Automation-Anorad Financial Division, East Setauket, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 1, 2013, applicable to workers of Rockwell Automation, Shared Services Center, including on-site leased workers from Allegis, Milwaukee, Wisconsin. The Department's notice of determination was published in the **Federal Register** on August 27, 2013 (78 FR 52979).

The Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the supply of financial and accounting services for Rockwell Automation.

The investigation confirmed that worker separations at Rockwell Automation-Anorad, Financial Division, East Setauket, New York are attributable to the same shift of services to a foreign country that was the original basis for certification.

The amended notice applicable to the workers of Rockwell Automation, Shared Services Center, including on-site leased workers from Allegis, Milwaukee, Wisconsin (TA–W–82,857) and Rockwell Automation-Anorad, Financial Division, East Setauket, New York (TA–W–82,857A) is hereby issued as follows:

All workers of Rockwell Automation, Shared Services Center, including on-site leased workers from Allegis, Milwaukee, Wisconsin (TA–W–82,857) and Rockwell Automation-Anorad, Financial Division, East Setauket, New York (TA–W–82,857A) who became totally or partially separated from employment on or after June 27, 2012 through August 1, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification August 1, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 19th day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15068 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 29, 2015.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 29, 2015.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of May 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[44 TAA petitions instituted between 4/27/15 and 5/8/15]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85959	Wirerope Works Inc. (Workers)	Williamsport, PA	04/27/15	04/24/15
85960	Hamilton Scientific (State/One-Stop)	Round Rock, TX	04/27/15	04/23/15
85961	Modine Manufacturing Company (Company)	Washington, IA	04/27/15	04/24/15
85962	Murata Power Solutions (Company)	Mansfield, MA	04/27/15	04/24/15
85963	Pure Power Technologies (Union)	Indianapolis, IN	04/27/15	02/25/15
85964	TMK IPSCO Koppel Tubulars (Workers)	Ambridge, PA	04/27/15	04/23/15

APPENDIX—Continued

[44 TAA petitions instituted between 4/27/15 and 5/8/15]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85965	Cathedral Art Metal Company, Inc. (State/One-Stop).	Providence, RI	04/28/15	04/27/15
85966	Sirius Computer Solutions, Inc. (State/One-Stop).	San Antonio, TX	04/28/15	04/27/15
85967A	Leased Workers from Kelly Services and Co. Worx Staffing (Company).	Braintree, MA	04/28/15	04/27/15
85967	Haemonetics Corporation (Company)	Braintree, MA	04/28/15	04/27/15
85968	Wolff Fording & Company (Workers)	Richmond, VA	04/28/15	04/19/15
85969	Republic Storage Systems, LLC (Company)	Canton, OH	04/28/15	04/27/15
85970	Alcoa (Company)	Lafayette, IN	04/28/15	04/28/15
85971	Schott Gemtron (Workers)	Vincennes, IN	04/29/15	04/28/15
85972	Nut Processors Inc. (State/One-Stop)	El Paso, TX	04/30/15	04/29/15
85973	CenturyLink (Company)	Wake Forest, NC	05/01/15	04/30/15
85974	CenturyLink (Company)	Leesburg, FL	05/01/15	04/30/15
85975	Regulator Technologies Tulsa, LLC (Workers)	Tulsa, OK	05/01/15	04/30/15
85976	Bonney Forge (Workers)	Mount Union, PA	05/01/15	03/26/15
85977	Sanquine Gas Exploration LLC (State/One-Stop).	Tulsa, OK	05/04/15	05/01/15
85978	Simpson Lumber LLC (Union)	Shelton, WA	05/04/15	04/29/15
85979	American Standard (Company)	Nevada, MO	05/04/15	05/01/15
85980	Essex Group Inc. (Union)	Kendallville, IN	05/04/15	05/04/15
85981	Stein Steel Mill Services, Inc. (Union)	Granite City, IL	05/05/15	05/01/15
85982	Bosch Securities Inc. (Union)	Lancaster, PA	05/05/15	05/04/15
85983	MegaDiamond (Workers)	Provo, UT	05/05/15	05/04/15
85984	Micro Contacts, Inc. (Company)	Hicksville, NY	05/05/15	04/29/15
85985	New Wave Surgical/Covidien (Company)	Pompano Bay, FL	05/05/15	05/01/15
85986	Rockwell Automation-Anorad (State/One-Stop).	East Setauket, NY	05/05/15	05/01/15
85987	Dresser-Rand Company (State/One-Stop)	Wellsville, NY	05/06/15	05/04/15
85987A	Dresser-Rand Company (State/One-Stop)	Olean, NY	05/06/15	05/04/15
85988	Nextit (State/One-Stop)	Spokane, WA	05/06/15	04/23/15
85989	Milliken & Company (Company)	Greenville, SC	05/06/15	05/05/15
85990	Maxim Integrated (State/One-Stop)	Hillsboro, OR	05/06/15	05/05/15
85991	Caterpillar, Inc. (State/One-Stop)	Decatur, IL	05/07/15	05/06/15
85992	Verizon (State/One-Stop)	Cary, NC	05/07/15	05/06/15
85993	TMK–IPSCO Tubulars Kentucky Inc. (Union)	Wilder, KY	05/07/15	05/01/15
85994	Superior Industries International, Inc. (Company).	Van Nuys, CA	05/07/15	05/06/15
85995	Seacon Brantner & Associates (Company)	El Cajon, CA	05/07/15	05/06/15
85996	Willbanks Metals, Inc. fka First Process Steel (State/One-Stop).	Tulsa, OK	05/07/15	05/06/15
85997	United States Steel Corporation (State/One-Stop).	Pine Bluff, AR	05/08/15	05/07/15
85998	Baker Hughes Oilfield Operations, Inc. (State/One-Stop).	Hampton, AR	05/08/15	05/07/15
85999	Carlson Craft (State/One-Stop)	North Mankato, MN	05/08/15	05/07/15
86000	Cudd Energy Services (State/One-Stop)	Seminole, OK	05/08/15	03/23/15

[FR Doc. 2015–15051 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,478]

Brayton International; A Subsidiary of Steelcase, Inc.; Including On-Site Leased Workers From Manpower Group, Experis, Bradley Personnel Inc., Graham Personnel Services, Aerotek, Workforce Unlimited, Experis, Impact Business Group, and Century Employer Organization LLC; High Point, North Carolina; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 11, 2013, applicable to workers of Brayton International, a subsidiary of Steelcase, Inc., including on-site leased workers from The Manpower Group/Experis, High Point, North Carolina. The Department's Notice of Determination was published in the **Federal Register** on March 8, 2013 (Volume 78 FR 15051).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of office furniture.

The company reports that workers leased from Bradley Personnel Inc., Graham Personnel Services, Aerotek, Workforce Unlimited, Experis, imPact Business Group, and Century Employer Organization LLC were employed on-site at the High Point, North Carolina location of Brayton International. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include these leased workers on-site at the High Point, North Carolina location of Brayton International.

The amended notice applicable to TA–W–82,478 is hereby issued as follows:

All workers of Brayton International, a subsidiary of Steelcase, Inc., including on-site leased workers from Manpower Group, Experis, Bradley Personnel Inc., Graham Personnel Services, Aerotek, Workforce Unlimited, Experis, imPact Business Group, Century Employer Organization LLC, High Point, North Carolina, who became totally or partially separated from employment on or after February 15, 2012 through March 11, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through March 11, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 14th day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15067 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,293; TA–W–85,293A]

Microsemi Corporation, Including On-Site Leased Workers From Duran Hcp, Allentown, Pennsylvania, Microsemi Corporation, Including On-Site Leased Workers From Duran Human Capital, Superior Group, and Clearpath, San Jose, California; Notice of Revised Determination on Reconsideration

On October 10, 2014, the Department of Labor (Department) issued an Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of Microsemi Corporation, including on-site leased workers from Duran HCP, Allentown, Pennsylvania (TA–W–85,293). The workers are engaged in activities related to the production of field-programmable gate array (FPGA) products and related software (including design and testing of these products).

At the request of the subject firm, the Department also investigated an affiliated facility in San Jose, California (TA–W–85,293A) during the reconsideration investigation. Workers at the San Jose, California facility are also engaged in activities related to the production of FPGA products and related software (including design and testing of these products).

The worker group at the San Jose, California facility includes on-site leased workers from Duran Human Capital, Superior Group, and ClearPath.

Based on a careful review of previously-submitted information and additional information obtained during the reconsideration investigation, the Department determines that the worker groups at the Allentown, Pennsylvania and San Jose, California facilities have met the eligibility criteria set forth in the Trade Act of 1974, as amended.

Section 222(a)(1) has been met because a significant number or proportion of the workers in both the Allentown, Pennsylvania and San Jose, California facilities of the subject firm have become totally or partially separated, or are threatened to become totally or partially separated.

Section 222(a)(2)(B) has been met because the employment decline is related to the subject firm's shift in production of FPGA products and related software to a foreign country and there has been or is likely to be an increase in imports of like or directly competitive articles.

In accordance with Section 246 the Trade Act of 1974, as amended (''Act''), 26 U.S.C. 2813, the Department herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

The group eligibility requirements for workers of a firm under Section 246 (a)(3)(A)(ii) of the Trade Act are satisfied if the following criteria are met:

(I) Whether a significant number of workers in the workers' firm are 50 years of age or older;

(II) Whether the workers in the workers' firm possess skills that are not easily transferable; and

(III)The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Section 246(a)(3)(A)(ii)(I) has been met because a significant number of workers in the workers' firm are 50 years of age or older. Section 246(a)(3)(A)(ii)(II) has been met because the workers in the workers' firm possess skills that are not easily transferrable. Section 246(a)(3)(A)(ii)(III) has been met because conditions within the workers' industry are adverse.

Conclusion

After careful review of previously-submitted information and additional information obtained during the reconsideration investigation, I determine that workers and former workers of Microsemi Corporation, Allentown, Pennsylvania (TA–W–85,293) and San Jose, California (TA–W–85,293A), meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. § 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. § 2273, I make the following certification:

All workers of Microsemi Corporation, including on-site leased workers from Duran HCP, Allentown, Pennsylvania (TA–W–85,293) and Microsemi Corporation, including on-site leased workers from Duran Human Capital, Superior Group, and ClearPath, San Jose, California (TA–W–

85,293A), who became totally or partially separated from employment on or after April 30, 2013 through two years from the date of this certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 20th day of May, 2015.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15053 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,306]

Riverside Publishing Company, Technical Production Services Group, A Subsidiary of Houghton Mifflin Harcourt Publishing Company, Including On-Site Leased Workers From Zero Chaos, Apex Systems, and Pro Unlimited, Inc., Rolling Meadows, Illinois; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. § 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 16, 2013, applicable to workers of Riverside Publishing Company, Technical Production Services Group, a subsidiary of Houghton Mifflin Harcourt Publishing Company, including on-site leased workers from Zero Chaos and Apex Systems, Rolling Meadows, Illinois. The Department's notice of determination was published in the **Federal Register** on February 6, 2013 (78 FR 8593).

At the request of the state workforce office, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of educational tests.

The company reports that workers leased from PRO Unlimited, Inc. were employed on-site at the Rolling Meadows, Illinois location of the Riverside Publishing Company, Technical Production Services Group. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from PRO Unlimited, Inc. working on-site at the Rolling Meadows, Illinois location of the Riverside Publishing Company, Technical Production Services Group.

The amended notice applicable to TA–W–82,306 is hereby issued as follows:

All workers of PRO Unlimited, Inc., reporting to Riverside Publishing Company, Technical Production Services Group, a subsidiary of Houghton Mifflin Harcourt Publishing Company, Rolling Meadows, Illinois, who became totally or partially separated from employment on or after January 2, 2012, through January 16, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 14th day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15061 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0861]

OSHA Strategic Partnership Program (OSPP) for Worker Safety and Health

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management Budget's (OMB) approval of the information collection requirements specified in the OSHA Strategic Partnership Program (OSPP) for Worker Safety and Health.

DATES: Comments must be submitted (postmarked, sent, or received) by August 18, 2015.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0861, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA Docket No. (OSHA–2011–0861) for the Information Collection Request (ICR). All documents, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments 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 (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information

collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The OSPP allows OSHA to enter into an extended, voluntary, cooperative relationship with groups of employers, employees, and representatives (sometimes including other stakeholders, and sometimes involving only one employer) to encourage, assist and recognize their efforts to eliminate serious hazards and to achieve a high level of worker safety and health that goes beyond what historically has been achieved from traditional enforcement methods. Each OSHA Strategic Partnership (OSP) determines what information will be needed, determining the best collection method, and clarifying how the information will be used. At a minimum, each OSP must identify baseline injury and illness data corresponding to all summary line items on the OSHA 300 logs, and must track changes at either the worksite level or participant-aggregate level. An OSP may also include other measures of success, such as training activity, self-inspections, and/or workers' compensation data. In this regard, the information collection requirements for the OSPP are used by the Agency to gauge the effectiveness of its programs, identify needed improvements, and ensure that its resources are being used for good and effective purposes.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is proposing to adjust the information collection burden hour requirements contained in the Agency's Strategic Partnership Program for Worker Safety and Health (5 CFR 1320.5). The Agency is requesting to decrease its current burden hour total from 108,702 to 67,697 hours for a total decrease of 41,005 hours. The decrease is a result of a decrease in the number of employers and participants. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: OSHA Strategic Partnership Program (OSPP) for Worker Safety and Health.

OMB Control Number: 1218–0244.

Affected Public: Businesses or other for-profits; Federal Government; State, Local or Tribal Government.

Number of Respondents: 93.

Frequency of Responses: On occasion.

Average Time per Response: Eleven (11) hours to develop the partnership requirements, craft agreement language, and conduct an internal review process.

Estimated Total Burden Hours: 67,697.

Estimated Cost (Operation and Maintenance): $7,790.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2011–0861) for this ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information, such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on June 15, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–15011 Filed 6–18–15; 8:45 am]

BILLING CODE 4510–26–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 15–CRB–0010–CA]

Adjustment of Cable Statutory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice announcing commencement of proceeding with request for petitions to participate.

SUMMARY: The Copyright Royalty Judges (Judges) announce the commencement of a proceeding to adjust the rates for the cable statutory license described in section 111 of the Copyright Act. The Judges also announce the date by which

a party who wishes to participate in the proceeding must file its Petition to Participate and pay the $150 filing fee.

DATES: Petitions to Participate and the filing fee are due no later than July 20, 2015.

ADDRESSES: This notice and request is also posted on the agency's Web site (*www.loc.gov/crb*) and on Regulations.gov (*www.regulations.gov*). Parties who plan to participate should see How to Submit Petitions to Participate in the **SUPPLEMENTARY INFORMATION** section below for physical addresses and further instructions.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, CRB Program Specialist, by telephone at (202) 707–7658, or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 111 of the Copyright Act grants a statutory copyright license to cable television systems for the retransmission of over-the-air television and radio broadcast stations to their subscribers. 17 U.S.C. 111(c). In exchange for the license, cable operators submit royalty payments and statements of account detailing their retransmissions semiannually to the Copyright Office. 17 U.S.C. 111(d)(1). The Copyright Office deposits the royalties into the United States Treasury for later distribution to copyright owners of the broadcast programming that the cable systems retransmit. 17 U.S.C. 111(d)(2).

A cable system calculates its royalty payments in accordance with the statutory formula described in 17 U.S.C. 111(d)(1). Royalty rates are based upon a cable system's gross receipts from subscribers who receive retransmitted broadcast signals. For rate calculation purposes, cable systems are divided into three tiers based on their gross receipts (small, medium, and large). 17 U.S.C. 111(d)(1)(B) through (F). Both the applicable rates and the tiers are subject to adjustment. 17 U.S.C. 801(b)(2). Every five years persons with a significant interest in the royalty rates may file petitions to initiate a proceeding to adjust the rates. 17 U.S.C. 804(a) and (b). No person with a significant interest has filed a petition to initiate a proceeding in 2015.[1] The Judges must, therefore, publish notice in the **Federal Register** announcing the commencement of a proceeding and calling for Petitions to Participate. *See* 17 U.S.C. 803(b)(1).

Petitions to Participate

Parties filing Petitions to Participate must comply with the requirements of section 351.1(b) of the Copyright Royalty Board's regulations. 37 CFR 351.1(b).

How to Submit Petitions to Participate

Any party wishing to participate in the proceeding to determine cable royalty rates for 2015 through 2019 shall submit to the Copyright Royalty Board the filing fee (US $150), an original Petition to Participate, five paper copies, and an electronic copy on a CD or other portable memory device in Portable Document Format (PDF) that contains searchable, accessible text (not a scanned image of text). Participants should conform filed electronic documents to the Judges' Guidelines for Electronic Documents posted online at *www.loc.gov/crb/docs/Guidelinesfor_Electronic_Documents.pdf.* Participants shall deliver Petitions to Participate to only one of the following addresses.

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000. *Deliver to:* Congressional Courier Acceptance Site, 2nd Street NE., and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000.

Dated: June 16, 2015.

Jesse M. Feder,

Copyright Royalty Judge.

[FR Doc. 2015–15137 Filed 6–18–15; 8:45 am]

BILLING CODE 1410–72–P

[1] The cable rates were last adjusted in 2005. Although the Judges commenced a rate proceeding relating to the 2010 rate adjustment, the Judges terminated it when passage of the Satellite Television Extension and Localism Act of 2010, Public Law 111–175, rendered the proceeding unnecessary. *Order Granting Request to Terminate Proceeding,* Docket No. 2010–1 CRB Cable Rate (July 13, 2010).

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), the U.S. Merit Systems Protection Board (MSPB) announces that it is planning to submit a request for a three-year extension of an Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting this ICR to OMB for review and approval, MSPB is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Written comments must be received on or before August 18, 2015.

ADDRESSES: Submit written comments on the collection of information to William D. Spencer, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; by fax: (202) 653–7130; or by email: *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dr. DeeAnn Batten at (202) 254–4495 or *deeann.batten@mspb.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. The MSPB intends to ask for a three-year renewal of its Generic Clearance Request for Voluntary Customer Surveys, OMB Control No. 3124–0012. Executive Order 12862, ''Setting Customer Service Standards,'' mandates that agencies identify their customers and survey them to determine the kind and quality of services they want and their level of satisfaction with existing services.

In this regard, we are soliciting comments on the public reporting burden. The reporting burden for the collection of information on this request is estimated to vary from 5 minutes to 45 minutes, with an average of 30 minutes, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. In the estimated annual reporting burden listed below, the reason that the annual number of respondents differs from the number of total annual responses is that our experience shows that only about 50% of those invited to participate in our voluntary customer surveys avail themselves of that opportunity.

In addition, MSPB invites comments on (1) whether the proposed collection of information is necessary for the proper performance of MSPB's functions, including whether the information will have practical utility; (2) the accuracy of MSPB's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

ESTIMATED ANNUAL REPORTING BURDEN

5 CFR Parts	Annual number of respondents	Frequency per response	Total annual responses	Hours per response (average)	Total hours
1200–1216	3,000	1	1,500	0.50	750

William D. Spencer,

Clerk of the Board.

[FR Doc. 2015–15047 Filed 6–18–15; 8:45 am]

BILLING CODE 7400–01–P

PEACE CORPS

Information Collection Request Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before August 18, 2015.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION: Peace Corps' Office of Volunteer Recruitment and Selection will use the information as an integral part of the selection process to learn whether an applicant possesses the necessary characteristics and skills to serve as a Volunteer.

OMB Control Number: 0420–XXXX.

Title: Interview Rating Tool—Questions.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents' Obligation To Reply: Voluntary.

Burden To The Public:

a. Number of Applicants: 22,000.

b. Estimated number of applicants who interview: 4500.

c. Frequency of response: One time.

d. Completion time: 60 minutes.

e. Annual burden hours: 4500 hours.

General Description of Collection: Peace Corps will use this information in order to learn whether an applicant possesses the necessary characteristics and skills to serve as a Volunteer. If Peace Corps were unable to gather responses to the interview questions and record the information requested on this form, the agency would run the risk of sending poorly qualified or unqualified representatives into foreign countries. The communities where Peace Corps assigns Volunteers often observe closely the actions and behaviors of Volunteers, who are representatives of the United States.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC on June 16, 2015.

Denora Miller,

FOIA Officer, Management.

[FR Doc. 2015–15213 Filed 6–17–15; 12:45 pm]

BILLING CODE 6051–01–P

OFFICE OF PERSONNEL MANAGEMENT

Hispanic Council on Federal Employment

AGENCY: U.S. Office of Personnel Management.

ACTION: July 23, 2015 council meeting.

SUMMARY: The Hispanic Council on Federal Employment (Council) meeting will be held on Thursday, July 23, 2015 at the location shown below from 3:00 p.m. to 5:30 p.m.

The Council is an advisory committee composed of representatives from Hispanic organizations and senior government officials. Along with its other responsibilities, the Council shall advise the Director of the Office of Personnel Management on matters involving the recruitment, hiring, and advancement of Hispanics in the Federal workforce. The Council is co-chaired by the Director of the Office of Personnel Management and the Chair of the National Hispanic Leadership Agenda (NHLA).

The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at any of the meetings. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

Location: U.S. Office of Personnel Management, 1900 E St. NW., Executive Conference Room, 5th Floor, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Veronica E. Villalobos, Director for the Office of Diversity and Inclusion, Office of Personnel Management, 1900 E St. NW., Suite 5H35, Washington, DC 20415. Phone (202) 606–0020 FAX (202) 606–2183 or email at *veronica.villalobos@opm.gov.*

U.S. Office of Personnel Management.

Katherine L. Archuleta,

Director.

[FR Doc. 2015–15153 Filed 6–18–15; 8:45 am]

BILLING CODE 6820–B2–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75173; File No. SR–CBOE–2015–027]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Regulatory Related References

June 15, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 2, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, of which Items I and III have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to update regulatory related references. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently entered into a Regulatory Services Agreement (''RSA'') with the Financial Industry Regulatory Authority, Inc. (''FINRA''), pursuant to which FINRA, among other things, will provide certain regulatory services to the Exchange.[3] As such, the Exchange proposes to make conforming changes to its rules to account for the new regulatory structure.

First, the Exchange seeks to rename the ''Regulatory Services Division'' to ''Regulatory Division'' and make conforming changes in Exchange Rules. As such, the Exchange seeks to replace all references to ''Regulatory Services Division'' with ''Regulatory Division'' in Exchange Rules 4.4 (Gratuities), 10.12 (Mandatory Closing of Fails), 10.14 (Procedure for Closing Defaulted Contract), and 17.2 (Complaint and Investigation).

Next, the Exchange seeks to eliminate references to ''Office of Enforcement'' in the Exchange Rules. By way of background, the Office of Enforcement was responsible for resolving disciplinary matters on behalf of the Exchange, which included negotiating settlements in disciplinary cases for the Business Conduct Committee's (''BCC'') consideration and in situations where a respondent in a disciplinary matter did not seek settlement, preparing and presenting the case for hearing before the BCC, as well as handling any subsequent appeals. The Exchange notes that while it continues to have responsibility for enforcing compliance with its rules, the Office of Enforcement services mentioned above transitioned to FINRA pursuant to the FINRA RSA. The Exchange therefore seeks to (i) remove the term ''Office of Enforcement'' from Rule 4.4 (Gratuities) and (ii) replace the term with ''Regulatory Division'' in Rules 17.9 (Decision) and 17.10 (Review), as ''Office of Enforcement'' is obsolete in light of the transition of certain regulatory functions to FINRA. Next, the Exchange seeks to replace current references to ''Exchange's Regulatory staff'' and ''Regulatory staff of the Exchange'' to ''Regulatory staff'' in Exchange Rules 17.2 (Complaint and Investigation), 17.3 (Expedited Proceeding), 17.4 (Charges), and 17.8 (Offers of Settlement), as reference to Regulatory staff may now also refer to employees of FINRA who are performing regulatory services to the Exchange in accordance with the abovementioned RSA, not just employees of the Exchange. Finally, the Exchange proposes to provide in Interpretation .05 of Rule 17.2 that references to ''Regulatory staff'' in Chapter XVII means the Exchange's employees in the Regulatory Division and ''as applicable, may also mean employees of the Financial Industry Regulatory Authority, Inc. (''FINRA'') who are performing regulatory services to the Exchange in accordance with the regulatory services agreement entered into between the Exchange and FINRA.'' The Exchange believes the proposed clarifications maintain clarity in the rules and alleviate confusion. The Exchange notes that these are clarifying, non-substantive changes.

2. Statutory Basis

The Exchange believes the proposed rule changes are consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule changes are consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

[3] The Commission notes that while the Exchange has entered into an RSA with FINRA to provide regulatory services, the Exchange retains ultimate legal responsibility for, and control of, its self-regulatory responsibilities. *See, e.g.,* CBOE Rule 15.9(b) (''The Exchange may enter into one or more agreements with another self-regulatory organization to provide regulatory services to the Exchange to assist the Exchange in discharging its obligations under Section 6 and Section 19(g) of the Securities Exchange Act of 1934. Any action taken by another self-regulatory organization, or its employees or authorized agents, acting on behalf of the Exchange pursuant to a regulatory services agreement shall be deemed to be an action taken by the Exchange; provided, however, that nothing in this provision shall affect the oversight of such other self-regulatory organization by the Securities and Exchange Commission. Notwithstanding the fact that the Exchange may enter into one or more regulatory services agreements, the Exchange shall retain ultimate legal responsibility for, and control of, its self-regulatory responsibilities, and any such regulatory services agreement shall so provide.'').

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

In particular, the Exchange believes that removing the obsolete term ''Office of Enforcement'' from the rules, conforming references relating to Regulatory staff and expressly stating that references to ''Regulatory staff'' may refer to staff at FINRA who are performing regulatory services to the Exchange in accordance with the RSA, maintains clarity in the rules and eliminates potential confusion. The alleviation of potential confusion will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to conform Exchange rules and alleviate confusion are not intended for competitive reasons and only apply to CBOE. The Exchange also does not believe the proposed rule change effects intramarket or intermarket competition, and notes that no rights or obligations of Trading Permit Holders are affected by the change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [6] and paragraph (f) of Rule 19b–4 [7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–027 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–027. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–027, and should be submitted on or before July 10, 2015.

[8] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15044 Filed 6–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31669; 812–14440]

FFI Advisors, LLC, et al.; Notice of Application

June 15, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

APPLICANTS: FFI Advisors, LLC (''FFIA''), ETF Series Solutions (''Trust'') and Quasar Distributors, LLC (''Quasar'').

FILING DATES: The application was filed on April 2, 2015, and amended on May 20, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving

applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 10, 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, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: FFIA, 130 Murray Avenue, Port Washington, NY 11050; The Trust and Quasar, 615 East Michigan Street, 4th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust and is registered under the Act as an open-end management investment company with multiple series. Each series will operate as an exchange traded fund (''ETF'').

2. FFIA will be the investment adviser to the new series of the Trust (''Initial Fund''). Each Adviser (as defined below) will be registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors. Each distributor for a Fund will be a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (''Exchange Act'') and will act as distributor and principal underwriter (''Distributor'') for one or more of the Funds. No Distributor will be affiliated with any national securities exchange, as defined in Section 2(a)(26) of the Act (''Exchange''). The Distributor for each Fund will comply with the terms and conditions of the requested order. Quasar, a Delaware limited liability company and broker-dealer registered under the Exchange Act, will act as the initial Distributor of the Funds.

4. Applicants request that the order apply to the Initial Fund and any additional series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future (''Future Funds'' and together with the Initial Fund, ''Funds''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by FFIA or an entity controlling, controlled by, or under common control with FFIA (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.[1]

5. Each Fund will hold certain securities, currencies, other assets, and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities and Depositary Receipts[3] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. Each Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index[4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[5] The information provided on the Web

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T + 1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[6] A ''Self-Indexing Fund'' is a Fund for which an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[7] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of a Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

11. Applicants propose that each Self-Indexing Fund will post on its Web site, on each day the Fund is open, including any day when it satisfies redemption requests as required by Section 22(e) of the Act (a ''Business Day''), before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will also provide an additional mechanism for addressing any such potential conflicts of interest.

12. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[8]

13. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)-7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, FFIA will adopt policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the ETS Securities or an associated person (''Inside Information Policy''). Any other Adviser or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [9] and Inside Information Policy of the Adviser and any Sub-Adviser, personnel of those entities with knowledge about the composition of the Portfolio Deposit [10] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider.[11] The Adviser will also include under Item 10.C of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

14. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (as defined below), or in case of a sub-licensing agreement, the Adviser, must provide the use of the Affiliated Indexes (as defined below) and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[8] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[9] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j-1 (''Code of Ethics'').

[10] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing are referred to as the ''Portfolio Deposit.''

[11] In the event that an Adviser or Sub-Adviser serves as the Affiliated Index Provider for a Self-Indexing Fund, the terms ''Affiliated Index Provider'' or ''Index Provider,'' with respect to that Self-Indexing Fund, will be limited to the employees of the applicable Adviser or Sub-Adviser that are responsible for creating, compiling and maintaining the relevant Underlying Index.

transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission. Applications for prior orders granted to Self-Indexing Funds have received relief to operate such funds on the basis discussed above.[12]

15. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[13] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[14] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[15] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[16] will be excluded from the Deposit Instruments and the Redemption Instruments;[17](d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[18] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

16. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[19] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[20]

17. Creation Units will consist of specified large aggregations of Shares (*e.g.,* 25,000 Shares) as determined by the Adviser, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a Broker or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the

[12] *See, e.g.,* Emerging Global Advisors, LLC, et al., Investment Company Act Release Nos. 30910 (February 10, 2014) (notice) and 30975 (March 7, 2014) (order); VTL Associates, LLC, et al., Investment Company Act Release Nos. 30815 (December 2, 2013) (notice) and 30849 (December 30, 2013) (order); Horizons ETFs Management (USA) LLC and Horizons ETF Trust, Investment Company Act Release Nos. 30803 (November 21, 2013) (notice) and 30833 (December 17, 2013) (order).

[13] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[14] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[15] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[16] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[17] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[18] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[19] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[20] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

18. Each Business Day, before the open of trading on the Exchange on which Shares are primarily listed (''Listing Exchange''), each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

19. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[21] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

20. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

21. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[22] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

22. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

23. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and

[21] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[22] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption.[23]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

[23] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds,

excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[24] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[25]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more

[24] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

[25] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[26] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[27] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for the Self-Indexing Fund through a transaction in which the Self-Indexing Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding

[26] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[27] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the applicable Trust will execute a FOF Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company

including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15045 Filed 6–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31670; 812–14275]

TCP Capital Corp., et al.; Notice of Application

June 15, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a) and 61(a) of the Act.

APPLICANTS: TCP Capital Corp. (the ''Holding Company''), Special Value Continuation Partners, LP (the ''Operating Company'' and, together with the Holding Company, the ''Company''), Tennenbaum Capital Partners, LLC (''TCPC Advisor''), TCPC SBIC, LP (''TCPC SBIC'') and TCPC SBIC GP, LLC (''General Partner'').

SUMMARY OF THE APPLICATION: The Company requests an order to permit it to adhere to a modified asset coverage requirement.

FILING DATES: The application was filed February 7, 2014, and amended on July 7, 2014, December 4, 2014, March 4, 2015, May 7, 2015, and June 5, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 10, 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: Howard M. Levkowitz, Chief Executive Officer, TCP Capital Corp., 2951 28th Street, Suite 1000, Santa Monica, California 90405.

FOR FURTHER INFORMATION CONTACT: Kieran G. Brown, Senior Counsel, at (202) 551–6773, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Holding Company is a Delaware corporation. The Operating Company is a Delaware limited partnership. Each is an externally managed, non-diversified, closed-end management investment company that has elected to be treated as a business development company (''BDC'') under the Act.[1] The Holding Company is a holding company with no direct operations, and currently its only business and sole asset is its ownership of all of the common limited partner interests in the Operating Company, which represents approximately 100% of the common equity and 86.1% of the combined common and preferred equity interests of the Operating Company as of December 31, 2014.[2] The Holding Company's ownership percentage of the Operating Company will not decrease from its current level.[3] The investment objective of the Company is to achieve high total returns through current income and capital appreciation, with an emphasis on principal protection.

2. TCPC SBIC, a Delaware limited partnership, is a small business investment company (''SBIC'') licensed by the Small Business Administration (''SBA'') to operate under the Small Business Investment Act of 1958 (''SBIA''). TCPC SBIC is excluded from the definition of investment company by section 3(c)(7) of the Act. The Operating Company is the sole limited partner of TCPC SBIC and owns more than 95% of the outstanding voting securities of TCPC SBIC consistent with the definition of ''wholly-owned subsidiary'' contained in section 2(a)(43) of the Act. The General Partner, a Delaware limited liability company, is the sole general partner of TCPC SBIC. The Operating Company is the sole member of the General Partner.

3. TCPC Advisor, a Delaware limited liability company, is the investment adviser to the Company. TCPC Advisor is registered under the Investment Advisers Act of 1940. Subject to the overall supervision of the General Partner, TCPC Advisor will also serve as the investment manager to TCPC SBIC and to any other SBIC Subsidiaries (as defined below).

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in section 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] In addition to common limited partnership interests, at December 31, 2014, the Operating Company had 6,700 Series A preferred limited partner interests (''Preferred Interests'') issued and outstanding with a liquidation preference of $20,000 per Preferred Interest. Per a conversation between the Holding Company's counsel and the staff of the Division of Investment Management on or about April 27, 2011, the Applicants are relying on New Mountain Finance Corporation, SEC No-Action Letter (April 27, 2011) for the Holding Company and the Operating Company to operate as BDCs under the two-tier structure described above.

[3] There are no significant ways compliance with the Act differs under this structure wherein the Holding Company owns 86.1% of the Operating Company, than a structure wherein the Operating Company were a wholly-owned subsidiary of the Holding Company. The Preferred Interests will be subject to mandatory redemption on July 31, 2016. Once the Preferred Interests are redeemed, the Operating Company will be a wholly-owned subsidiary of the Holding Company.

Applicants' Legal Analysis

1. The Company requests an exemption pursuant to section 6(c) of the Act from the provisions of sections 18(a) and 61(a) of the Act to permit it to adhere to a modified asset coverage requirement with respect to any direct or indirect wholly-owned subsidiary of the Operating Company or the Holding Company that is licensed by the SBA to operate under the SBIA as an SBIC and relies on section 3(c)(7) for an exemption from the definition of ''investment company'' under the Act (each, an ''SBIC Subsidiary'').[4] Applicants state that companies operating under the SBIA, such as an SBIC Subsidiary, are subject to the SBA's substantial regulation of permissible leverage in their capital structure.

2. Section 18(a) of the Act prohibits a registered closed-end investment company from issuing any class of senior security or selling any such security of which it is the issuer unless the company complies with the asset coverage requirements set forth in that section. Section 61(a) of the Act makes section 18 applicable to BDCs, with certain modifications. Section 18(k) exempts an investment company operating as an SBIC from the asset coverage requirements for senior securities representing indebtedness that are contained in section 18(a)(1)(A) and (B).

3. Applicants state that the Company may be required to comply with the asset coverage requirements of section 18(a) (as modified by section 61(a)) on a consolidated basis because the Company may be deemed to be an indirect issuer of any class of senior security issued by TCPC SBIC or another SBIC Subsidiary. Applicants state that applying section 18(a) (as modified by section 61(a)) on a consolidated basis generally would require that the Company treat as its own all assets and any liabilities held directly either by itself, by TCPC SBIC, or by another SBIC Subsidiary. Accordingly, the Company requests an order under section 6(c) of the Act exempting the Company from the provisions of section 18(a) (as modified by section 61(a)), such that senior securities issued by each SBIC Subsidiary that would be excluded from the SBIC Subsidiary's asset coverage ratio by section 18(k) if it were itself a BDC would also be excluded from the Company's consolidated asset coverage ratio.

4. Section 6(c) of the Act, in relevant part, permits the Commission to exempt any transaction or class of transactions from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief satisfies the section 6(c) standard. Applicants contend that, because the SBIC Subsidiary would be entitled to rely on section 18(k) if it were a BDC itself, there is no policy reason to deny the benefit of that exemption to the Company.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

The Company will not itself issue or sell any senior security and the Company will not cause or permit TCPC SBIC or any other SBIC Subsidiary to issue or sell any senior security of which the Company, TCPC SBIC or any other SBIC Subsidiary is the issuer except to the extent permitted by section 18 (as modified for BDCs by section 61); provided that, immediately after the issuance or sale of any such senior security by any of the Company, TCPC SBIC or any other SBIC Subsidiary, the Company, individually and on a consolidated basis, shall have the asset coverage required by section 18(a) (as modified by section 61(a)). In determining whether the Company, TCPC SBIC and any other SBIC Subsidiary on a consolidated basis have the asset coverage required by section 18(a) (as modified by section 61(a)), any senior securities representing indebtedness of an SBIC Subsidiary shall not be considered senior securities and, for purposes of the definition of ''asset coverage'' in section 18(h), shall be treated as indebtedness not represented by senior securities but only if that SBIC Subsidiary has issued indebtedness that is held or guaranteed by the SBA.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15046 Filed 6–18–15; 8:45 am]

BILLING CODE 8011–01–P

[4] All existing entities that currently intend to rely on the order are named as applicants. Any other existing or future entity that may rely on the order in the future will comply with the terms and condition of the order.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In The Matter of Revolutionary Concepts, Inc.; Order of Suspension of Trading

June 17, 2015.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Revolutionary Concepts, Inc. (''REVO'') because, among other things, of questions regarding the accuracy and completeness of REVO's representations to investors and prospective investors in REVO's public filings with the Commission and REVO's publicly-available press releases and other public statements.

In particular, there are questions regarding the accuracy and completeness of REVO's public assertions relating to, among other things: (1) REVO's license of certain patents to Eyetalk365, LLC (''Eyetalk''), including a $900,000 ''in consideration'' fee paid by Eyetalk to REVO and related net income received by REVO; (2) a line of credit of up to $10 million obtained by REVO's wholly-owned subsidiary, Greenwood Finance Group, LLC (''Greenwood''); (3) Greenwood's ownership of $7 million of promissory notes, and interest payments made to Greenwood in connection with such promissory notes with a projected possible cash value exceeding $1 million; and (4) REVO's possible plans to issue dividends and buy back shares of its common stock. In addition, REVO currently is delinquent in filing its Form 10–K annual report for its fiscal year ended December 31, 2014, and its Form 10–Q quarterly report for its first quarter ended March 31, 2015.

Based on REVO's most recent Form 10–K annual report filed for its fiscal year ended December 31, 2013, REVO is a Nevada corporation based in Charlotte, North Carolina. The company's common stock is quoted on OTC Link operated by OTC Markets Group, Inc. under the symbol ''REVO.'' As of June 5, 2015, the company's stock had 10 market makers and was eligible for the ''piggyback'' exception of Rule 15c2–11(f)(3).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of REVO.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of REVO is suspended for the

period from 9:30 a.m. EDT on June 17, 2015, through 11:59 p.m. EDT on June 30, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–15224 Filed 6–17–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75170; File No. SR–ICEEU–2015–011]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Natural Gas Spot Contracts Policies

June 15, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] notice is hereby given that on June 2, 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. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii) [4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe proposes amendments to its Policies and Procedures in order to implement a clearing relationship under which ICE Clear Europe will provide clearing services for certain natural gas spot contracts traded on ICE Endex Gas B.V. (''ICE Endex Continental'') and ICE Endex Gas Spot Ltd. (''ICE Endex UK'').

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. 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 such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ICE Clear Europe has agreed to act as the clearing organization for natural gas spot contracts traded on the ICE Endex Continental and ICE Endex UK markets (the ''Natural Gas Spot Contracts''). ICE Endex UK has been designated by the UK's Office of Gas and Electricity Markets and appointed by National Grid Gas plc (''National Grid'') to operate the independent market for balancing for natural gas in the U.K. (the ''on-the-day'' commodity market). ICE Endex Continental operates spot markets for trading of gas at relevant virtual delivery points at the gas transmission systems of the Netherlands and Belgium. Clearing of such contracts is currently conducted by APX Commodities Limited (''APX UK'') and APX Clearing B.V. (''APX Continental''), respectively, and will be moved to ICE Clear Europe. It is expected that ICE Clear Europe will commence clearing of the Natural Gas Spot Contracts, subject to the completion of all regulatory approvals and requirements, on or about July 14, 2015 (or such later date determined by ICE Clear Europe). ICE Clear Europe currently clears natural gas derivatives traded on the ICE Endex derivatives market, including some contracts with the same underlying products as the Natural Gas Spot Contracts.

The clearing of Natural Gas Spot Contracts will be supported by the F&O Guaranty Fund (and in particular the energy clearing segment of the F&O Guaranty Fund). ICE Clear Europe anticipates that the clearing of the Natural Gas Spot Contracts will initially require no more than a de minimis change in the size of the F&O Guaranty Fund or the energy segment thereof, if indeed any change is actually required. ICE Clear Europe similarly does not anticipate the need to designate a new Guaranty Fund period as a result of the transition. In making this determination, ICE Clear Europe has considered and will continue to review a number of factors, including the anticipated volume and open interest in Natural Gas Spot Contracts based on historical trading volume and open interest, expected market conditions in the relevant natural gas markets, the fact that clearing of Natural Gas Spot Contracts is expected to be conducted by existing ICE Clear Europe Clearing Members, the identity of such members, and the margin expected to be required in connection with the Natural Gas Spot Contracts. In particular, the Natural Gas Spot Contracts are spot contracts with a short settlement period and low original margin requirements compared to the total amount of original margin held by ICE Clear Europe for Energy Contracts. As a result, the impact on the total F&O Guaranty Fund and its breakdown among clearing members for the next scheduled Guaranty Fund period is expected to be minimal, in light of ICE Clear Europe's overall energy clearing activities and Guaranty Fund methodology.

ICE Clear Europe submits revised Parts 1, 2, 3, 4, 6, 19 and new Part 22 of its Rules (along with certain other conforming and clarifying Rule and Procedure amendments) and new Parts E and J to the Delivery Procedures to reflect the delivery arrangements in relation to the Natural Gas Spot Contracts (along with certain other conforming and clarifying Rule and Procedure amendments). The text of the proposed Rule and Procedure amendments were submitted in Exhibit 5 of ICE Clear Europe's filing, with additions underlined and deletions in strikethrough text.

In Part 1 of the Rules, Rule 101 is modified to add new defined terms and revise existing definitions in connection with the ICE Endex Continental and ICE Endex UK clearing relationships, including designation of ICE Endex Continental and ICE Endex UK as Markets for which ICE Clear Europe provides clearing services and the addition of defined terms and other revisions to integrate Natural Gas Spot Contracts into the existing ICE Clear Europe clearing framework for energy contracts in the F&O product category. In particular, definitions relating to ICE Endex Continental and ICE Endex UK, and related definitions for their respective contracts, matched contracts, transactions and rules have been added.

In addition, certain conforming changes and clarifications have been made to definitions relating to delivery. The definition of ''Delivery Facility'' has been revised to clarify that it also includes certain facilities and systems for gas and power transactions. The definition of ''Force Majeure Event'' has been expanded to include disruptions or blackouts of gas or electricity transmission systems and actions and omissions by Markets. Certain definitions related to gas transactions, such as ''National Grid,'' ''Network

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

Code'' and ''Trade Nomination'' have also been added. The definition of ''Non-DCM/Swap'' has been revised to clarify the distinction between spot and futures transactions for purposes of applicable CFTC requirements. Certain other general updates to definitions have been made, including addition of definitions for ''MiFID'' and ''MiFID II''.

In Rule 102(f), ICE Endex UK Rules and ICE Endex Continental Rules have been added to the list of priorities of relevant documents, and certain cross-references have been amended. Rule 102(r) has been revised to take into account ICE Clear Europe's status granted by a relevant Delivery Facility or Market. New Rule 102(y) has been added to provide that the provisions of the Rules relating to Repositories will not apply to Contracts that are not derivatives for purposes of MiFID or MiFID II (such as gas spot transactions). Rule 105 has been modified to provide for the cessation of relevant business following a loss of status from a Delivery Facility or Market. Additionally, the existing four month notice period provided by ICE Clear Europe in the case of certain service terminations has been shortened in the event that action by a Regulatory Authority, Delivery Facility or Market takes effect within a shorter period. Rule 106(a) has been modified to permit disclosures of information pursuant to requirements under the UK's Uniform Network Code (''Network Code''), Fluxys Belgium Rules, Huberator Terms or the GTS Rules for gas transactions. Rule 109(b)(v) has been revised to contemplate amendments to the Rules in order to maintain ICE Clear Europe's status granted by a Delivery Facility or Market. The limitations on ICE Clear Europe's liability in Rule 111 have been revised in Rule 111(c) to apply to certain actions, omissions or failures by a Market or a Delivery Facility.

In Part 2 of the Rules, Rule 201 has been revised to provide that in order to be a Clearing Member for Natural Gas Spot Contracts, the applicable nominated Transferor and Transferee for delivery under the transactions must be a member of the applicable market (or have arrangements in place to permit the Clearing Member to manage a default with respect to such an entity) and satisfy certain other requirements relevant to delivery under the relevant gas transactions. Rule 202 has been revised to add an explicit requirement that the Clearing Member comply with any applicable Market Rules and Delivery Facility rules and agreements, as applicable.

In Part 3 of the Rules, new Rule 305 addresses the interaction of the Rules and the Network Code for ICE Endex UK transactions, including prevention of double recoveries and treatment of certain payments in respect of cash calls under the Network Code.

Changes to Part 4 of the Rules incorporate Natural Gas Spot Contracts into the procedures for submission of contracts for clearing and establishment of cleared contracts. New Rule 404(a)(x) extends ICE Clear Europe's discretion to avoid a Contract or Transaction in circumstances where, solely in respect of Natural Gas Spot Transactions or Contracts, a trade nomination has been rejected by National Grid. Various other relevant clarifying and conforming changes concerning transactions resulting from errors have also been incorporated.

Rule 602 has been revised to provide expressly that ICE Clear Europe may request a Market to withdraw orders on that Market if a Clearing Member's positions exceed applicable position limits. Certain other corrections and updates to cross-references have been made in Part 6 of the Rules.

As provided in new Rule 1906, ICE Clear Europe's sponsored principal model for individual segregation will not be available for Natural Gas Spot Contracts.

New Part 22 of the Rules adopts certain transitional provisions relating to the launch of clearing for Natural Gas Spot Contracts. In particular, Rules 2203 and 2204 address the termination of the clearing of Natural Gas Spot Contracts by APX Continental and APX UK and the commencement of clearing in those contracts by ICE Clear Europe. Rule 2205 requires Clearing Members for such contracts to have deposited the requisite amounts in the F&O Guaranty Fund and satisfy the appropriate Original Margin requirements prior to the Launch Time. Rule 2206 also allocates responsibility for certain disciplinary matters as among ICE Clear Europe and APX Continental and APX UK.

ICE Clear Europe also proposes to amend its Delivery Procedures to add a new Part E for ICE Endex UK Natural Gas Spot Contracts and a new Part J for ICE Endex Continental Natural Gas Spot Contracts. (Other parts of the Delivery Procedures have been renumbered accordingly and various cross-references have been updated as necessary.) The Delivery Procedures amendments set forth specifications for delivery of natural gas under the Natural Gas Spot Contracts, including relevant definitions and a detailed delivery timetable. The amendments also address invoicing and payment for delivery. The amendments provide for calculation by ICE Clear Europe of buyer's and seller's security to cover delivery obligations and related liabilities, costs or charges, as well as procedures to address failed deliveries. The revised procedures also set out various documentation requirements for the relevant parties. A conforming change is also made in Paragraph 5 of the Delivery Procedures.

ICE Clear Europe also proposes various conforming and clarifying amendments to the Clearing Procedures, Membership Procedures and General Contract Terms. The Clearing Procedures have been amended to add a reference to ICE Clear Europe's Managed File Transfer Service, which is used for reporting and data file downloads. The Clearing Procedures have also been modified to clarify the cash settlement amount for F&O Contracts entered into on the last day of trading. The Membership Procedures have been amended to update references to relevant EU capital regulations, as well as to make conforming changes to various information and notice requirements and delete certain obsolete references. The General Contract Terms have been amended to incorporate conforming changes relating to the Natural Gas Spot Contracts.

2. Statutory Basis

ICE Clear Europe believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[5] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22,[6] and in particular is consistent with the prompt and accurate clearance 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] Specifically, the amendments will provide for clearing of Natural Gas Spot Contracts, consistent with ICE Clear Europe's existing clearing arrangements. The Natural Gas Spot Contracts are spot contracts in natural gas commodities that underlie natural gas futures and options contracts traded on the ICE Endex market and cleared by ICE Clear Europe. ICE Clear Europe believes that the Natural Gas Spot Contracts present a similar risk profile to other ICE Endex contracts currently cleared by ICE Clear Europe, and that ICE Clear Europe's existing financial safeguards and

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 240.17Ad–22.

[7] 15 U.S.C. 78q–1(b)(3)(F).

resources, risk management, systems and operational arrangements are sufficient to support clearing of such products (and address physical delivery under such products). The other changes set forth in the proposed amendments are generally intended to conform, clarify and update various other provisions of the Rules and Procedures, and are consistent with the prompt and accurate clearance and settlement of securities and derivative agreements, contracts and transactions.

Clearing of the Natural Gas Spot 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 energy contracts to the new Natural Gas Spot Contracts. ICE Clear Europe believes that this model will provide sufficient margin to cover the risks from clearing such contracts. In addition, ICE Clear Europe believes the F&O Guaranty Fund will provide sufficient financial resources to support the clearing of Natural Gas Spot Contracts consistent with the requirements of Rule 17Ad–22(b)(2)–(3).[9] ICE Clear Europe anticipates that clearing of the Natural Gas Spot Contracts will initially require at most a de minimis change in the size of the F&O Guaranty Fund or the energy clearing segment thereof, if indeed any change is actually required, and the impact on the total Guaranty Fund and its breakdown among clearing members for the next Guaranty Fund period is expected to be minimal. The proposed amendments do not affect ICE Clear Europe's financial resources devoted to its security-based swap related (*i.e.,* credit default swap) clearing business. ICE Clear Europe further does not propose to alter the segment of the F&O Guaranty Fund that primarily supports the Financials & Softs contracts cleared by ICE Clear Europe.

Operational Resources. ICE Clear Europe will have the operational and managerial capacity to clear the Natural Gas Spot Contracts as of the commencement of clearing, consistent with the requirements of Rule 17Ad–22(d)(4).[10] ICE Clear Europe believes that its existing systems are appropriately scalable to handle the Natural Gas Spot Contracts, which present a similar risk profile to other energy contracts currently cleared by ICE Clear Europe.

Participant Requirements. ICE Clear Europe believes that the rule amendments are consistent with the requirements of Rule 17Ad–22(d)(2)[11] to provide fair and open access through participation requirements that are objective and publicly disclosed. The amendments establish fair and objective criteria for the eligibility to clear Natural Gas Spot Contracts. ICE Clear Europe clearing membership is available to participants that meet such criteria. ICE Clear Europe clearing members that wish to clear Natural Gas Spot Contracts will have to satisfy the financial resources requirements to clear these products and continue to do so in order to preserve their eligibility to clear Natural Gas Spot Contracts. New requirements have been added to ensure that relevant designated transferors and transferees under Natural Gas Spot Contracts have appropriate access to the relevant market, or other appropriate arrangements for default management. Clearing member compliance with the requirements to clear Natural Gas Spot Contracts will be monitored by ICE Clear Europe.

Settlement. ICE Clear Europe believes that the rule change will be consistent with the requirements of Rule 17Ad–22(d)(5), (12) and (15)[12] as to the finality and accuracy of its daily settlement process and avoidance of the risk to ICE Clear Europe of settlement failures. ICE Clear Europe will use its existing settlement procedures, account structures and approved financial institutions as used in energy clearing for the Natural Gas Spot Contracts, with the additional modifications set forth in the proposed rule change addressing the interaction with delivery facilities for such contracts. ICE Clear Europe believes that its Rules and procedures related to settlements (including physical settlements), as amended, appropriately identify and manage the risks associated with settlements under Natural Gas Spot Contracts.

Default Procedures. ICE Clear Europe believes that the Rules and its relevant procedures, as proposed to be revised, allow 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 Natural Gas Spot Contracts, in accordance with Rule 17Ad–22(d)(11).[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule change would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the Act. ICE Endex Continental and ICE Endex UK are established markets for the Natural Gas Spot Contracts, and ICE Clear Europe does not anticipate that its becoming the clearing house for the Natural Gas Spot Contracts will adversely affect the trading market for those contracts on ICE Endex Continental or ICE Endex UK. ICE Clear Europe has established fair and objective criteria for eligibility to clear Natural Gas Spot Contracts that are appropriate to the characteristics and requirements of those markets. ICE Clear Europe does not believe that acceptance of the Natural Gas Spot Contracts for clearing would adversely affect access to clearing for clearing members or their customers or other market participants, or materially and adversely affect the cost of clearing for market participants. Similarly, ICE Clear Europe does not believe the proposed change would otherwise adversely affect competition among clearing members or for clearing services generally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments 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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[14] of the Act and Rule 19b–4(f)(4)(ii)[15] thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service.[16] At any

[8] 17 CFR 240.17Ad–22.

[9] 17 CFR 240.17Ad–22(b)(2)–(3)

[10] 17 CFR 240.17Ad–22(d)(4).

[11] 17 CFR 240.17Ad–22(d)(2).

[12] 17 CFR 240.17Ad–22(d)(5), (12) and (15).

[13] 17 CFR 240.17Ad–22(d)(11).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(4)(ii).

[16] ICE Clear Europe notes in its filing that the proposed rule change also contains certain conforming and clarifying changes, as well as updates to various definitions and provisions, as discussed herein. ICE Clear Europe believes that

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–ICEEU–2015–011 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–2015–011. 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 will also 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–2015–011 and should be submitted on or before July 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15043 Filed 6–18–15; 8:45 am]

BILLING CODE 8011–01–P

these changes do not significantly affect the substantive rights or obligations of ICE Clear Europe or its Clearing Members (or otherwise adversely affect the safeguarding of funds or securities in the custody or control of the Clearing House or for which it is responsible), and therefore would also qualify for immediate effectiveness under Rule 19b–4(f)(4)(i), 17 CFR 240.19b–4(f)(4)(i).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Neologic Animation Inc., Order of Suspension of Trading

June 17, 2015.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Neologic Animation Inc. (''NANI [1]'') (CIK No. 1371310), a revoked Nevada corporation whose principal place of business is listed as Zhejiang, China because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2013. As of June 10, 2015, NANI's common stock was quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group Inc. On May 7, 2015, the Commission's Division of Corporation Finance sent a delinquency letter to NANI at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which NANI failed to receive because the letter was undeliverable as addressed. NANI thus failed to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual). To date, NANI has failed to cure its delinquencies.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on June 17, 2015, through 11:59 p.m. EDT on June 30, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–15223 Filed 6–17–15; 11:15 am]

BILLING CODE 8011–01–P

[1] The short form of the issuer's name is also its ticker symbol.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Enterologics, Inc., Midas Medici Group Holdings, Inc., and SEFE, Inc., Order of Suspension of Trading

June 17, 2015.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Enterologics, Inc. (''ELGO [1]'') (CIK No. 1483731), a revoked Nevada corporation whose principal place of business is listed as St. Paul, Minnesota because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2013. As of June 10, 2015, ELGO's common shares were quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link''). On November 18, 2014, the Commission's Division of Corporation Finance sent a delinquency letter to ELGO at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which ELGO failed to receive because the letter was not deliverable as addressed. ELGO thus failed to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual). To date, ELGO has failed to cure its delinquencies.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the

[1] The short form of the issuer's name is also its ticker symbol.

securities of Midas Medici Group Holdings, Inc. (''MMED'') (CIK No. 1392448), a void Delaware corporation whose principal place of business is listed as New York, New York because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2012. As of June 10, 2015, MMED's common stock was quoted on OTC Link. On June 6, 2014, the Commission's Division of Corporation Finance sent a delinquency letter to MMED at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which MMED received on June 11, 2014. To date, MMED has failed to cure its delinquencies.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of SEFE, Inc. (''SEFE'') (CIK No. 1321573), a defaulted Nevada corporation whose principal place of business is listed as Phoenix, Arizona because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2012. As of June 10, 2015, SEFE's common stock was quoted on OTC Link. On September 16, 2014, the Commission's Division of Corporation Finance sent a delinquency letter to SEFE at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which SEFE received on September 19, 2014. To date, SEFE has failed to cure its delinquencies.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on June 17, 2015, through 11:59 p.m. EDT on June 30, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–15229 Filed 6–17–15; 11:30 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Oraco Resources, Inc., SaviCorp (a/k/a SaVi Media Group, Inc.), Smoky Market Foods, Inc., Soltera Mining Corp., and Wolverine Holding Corp. (a/k/a Mobility Plus Medical Equipment, Inc.); Order of Suspension of Trading

June 17, 2015.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Oraco Resources, Inc. (''ORAC [1]'') (CIK No. 1490711), a Nevada corporation whose principal place of business is listed as Rochester, New York because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2012. As of June 10, 2015, ORAC's common stock was quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link''). On June 6, 2014, the Commission's Division of Corporation Finance sent a delinquency letter to ORAC at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which ORAC received on June 9, 2014. To date, ORAC has failed to cure its delinquencies.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of SaviCorp (a/k/a SaVi Media Group, Inc.) (''SVMI'') (CIK No. 1096637), a Nevada corporation whose principal place of business is listed as Santa Ana, California because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–K for the period ended December 31, 2013. As of June 10, 2015, SVMI's common stock was quoted on OTC Link. On January 31, 2013, the Commission's Division of Corporation Finance sent a delinquency letter to SVMI at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which SVMI received on February 4, 2013. To date, SVMI has failed to cure its delinquencies.

[1] The short form of the issuer's name is also its ticker symbol.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Smoky Market Foods, Inc. (''SMKY'') (CIK No. 1370544), a Nevada corporation whose principal place of business is listed as Webster City, Iowa because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2014. As of June 10, 2015, SMKY's common stock was quoted on OTC Link. On September 16, 2014, the Commission's Division of Corporation Finance sent a delinquency letter to SMKY at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which SMKY received on September 19, 2014. To date, SMKY has failed to cure its delinquencies.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Soltera Mining Corp. (''SLTA'') (CIK No. 1348610), a defaulted Nevada corporation whose principal place of business is listed as Santa Ana, California because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–K for the period ended October 31, 2013. As of June 10, 2015, SLTA's common stock was quoted on OTC Link. On March 19, 2015, the Commission's Division of Corporation Finance sent a delinquency letter to SLTA at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which SLTA received on March 24, 2015. To date, SLTA has failed to cure its delinquencies.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Wolverine Holding Corp. (a/k/a Mobility Plus Medical Equipment, Inc.) (''WLVH'') (CIK No. 18886), a Delaware corporation whose principal place of business is listed as Smyrna, Georgia because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2012. As of June 10, 2015, WLVH's common stock was quoted on OTC Link. On March 23, 2015, the Commission's Division of Corporation Finance sent a delinquency letter to WLVH at the

address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which WLVH failed to receive because the package was undeliverable as addressed and no forwarding address was available. WLVH thus failed to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual). To date, WLVH has failed to cure its delinquencies.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on June 17, 2015, through 11:59 p.m. EDT on June 30, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–15221 Filed 6–17–15; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 14330 and # 14331]

Oklahoma Disaster Number OK–00092

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA—4222—DR), dated 05/26/2015.

Incident: Severe Storms, Tornadoes, Straight Line Winds, and Flooding

Incident Period: 05/05/2015 through 06/04/2015

Effective Date: 06/12/2015

Physical Loan Application Deadline Date: 07/27/2015

EIDL Loan Application Deadline Date: 02/26/2016

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Oklahoma, dated 05/26/2015 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Beckham, Caddo, Canadian, Marshall, Mcintosh, Seminole, Wagoner.

Contiguous Counties: (Economic Injury Loans Only):

Oklahoma: Blaine, Cherokee, Custer, Harmon, Love, Mayes, Muskogee, Okmulgee, Roger Mills, Rogers, Tulsa.

Texas: Collingsworth, Wheeler.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–15189 Filed 6–18–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 14344 and # 14345]

Oklahoma Disaster Number OK–00081

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA—4222—DR), dated 06/04/2015.

Incident: Severe Storms, Tornadoes, Straight Line Winds, and Flooding.

Incident Period: 05/05/2015 through 06/04/2015.

Effective Date: 06/11/2015.

Physical Loan Application Deadline Date: 08/03/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 03/04/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of OKLAHOMA, dated 06/04/2015, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Adair, Beckham, Caddo, Comanche, Creek, Garvin, Jackson, Logan, Marshall, McCurtain, McIntosh, Muskogee, Pushmataha, Sequoyah, Washita.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–15187 Filed 6–18–15; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2015–0033]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB); Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA); Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0029].

SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments,

we must receive them no later than July 20, 2015. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. *Statement of Care and Responsibility for Beneficiary—20 CFR 404.2020, 404.2025, 408.620, 408.625, 416.620, 416.625—0960–0109.* SSA uses the information from Form SSA–788 to verify payee applicants' statements of concern and to identify other potential payees. SSA is concerned with selecting the most qualified representative payee who will use Social Security benefits in the beneficiary's best interest. SSA considers factors such as the payee applicant's capacity to perform payee duties; awareness of the beneficiary's situation and needs; demonstration of past and current concern for the beneficiary's well-being; etc. If the payee applicant does not have custody of the beneficiary, SSA will obtain information from the custodian for evaluation against information provided by the applicant. Respondents are individuals who have custody of the beneficiary in cases where someone else filed to be the beneficiary's representative payee.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–788	130,000	1	10	21,667

2. *Representative Payee Report-Special Veterans Benefits—20 CFR 408.665—0960–0621.* Title VIII of the Social Security Act allows for payment of monthly Social Security benefits to qualified World War II veterans residing outside the United States. An SSA-appointed representative payee may receive and manage the monthly payment for the beneficiary's use and benefit. SSA uses the information on Form SSA–2001–F6 to determine whether the representative payee used the certified payments properly, and continues to demonstrate strong concern for the beneficiary's best interests. Representative payees who receive SVB on behalf of beneficiaries residing outside the United States must complete the SSA–2001–F6 annually. We also require these representative payees to complete the form any time we have reason to believe they could be misusing the benefit payments. The respondents are individuals or organizations serving as representative payees who receive SVB on behalf of beneficiaries living outside the United States.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2001–F6	50	1	10	8

3. *Social Security Number Verification Services—20 CFR 401.45—0960–0660.* Internal Revenue Service regulations require employers to provide wage and tax data to SSA using Form W–2 or its electronic equivalent. As part of this process, the employer must furnish the employee's name and Social Security number (SSN). In addition, the employee's name and SSN must match SSA's records for SSA to post earnings to the employee's earnings record, which SSA maintains. SSA offers the Social Security Number Verification Service (SSNVS), which allows employers to verify the reported names and SSNs of their employees match those in SSA's records. SSNVS is a cost-free method for employers to verify employee information either through the Internet or via telephone. The respondents are employers who need to verify SSN data using SSA's records.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	(Number of responses)	Average burden per response (minutes)	Estimated total annual burden (hours)
SSNVS Internet	44,975	60	(2,698,500)	5	224,875
SSNVS Telephone	1,750	2	(3,500)	10	583
Totals	46,725	.....	(2,702,000)	.....	225,458

Dated: June 16, 2015.

Faye I. Lipsky,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2015–15081 Filed 6–18–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, July 28 from 12:45 p.m. to 4:30 p.m., Wednesday, July 29, 2015 from

8:45 a.m. to 4:30 p.m., and Thursday, July 30, 2015 from 9:15 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at NASA Ames Research Center, Building N262, Room 100, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Hemdal, ATPAC Executive Director, 600 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, July 28 from 12:45 p.m. to 4:30 p.m., Wednesday, July 29, 2015 from 8:45 a.m. to 4:30 p.m., and Thursday, July 30, 2015 from 9:15 a.m. to 4:30 p.m.

The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures. It will also include:

1. Call for Safety Items.

2. Approval of minutes of the previous meeting.

3. Introduction of New Areas of Concern or Miscellaneous items.

4. Items of Interest.

5. Status updates to existing Areas of Concern.

6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify Ms. Heather Hemdal no later than July 20, 2015. Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC, on June 15, 2015.

Heather Hemdal,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 2015–14801 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0445]

Hours of Service of Drivers: California Farm Bureau Federation; Granting of Application for Exemption

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

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces the granting of an exemption from the 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for certain commercial motor vehicle (CMV) drivers transporting bees. FMCSA has analyzed both the exemption application submitted by the California Farm Bureau Federation (CFBF) on behalf of its members and other agricultural organizations and the public comments received in response to the Agency's January 8, 2015, **Federal Register** notice. The Agency has determined that it is appropriate to grant an exemption to ensure the well-being of Nation's bees during interstate transportation by CMV. The exemption is consistent with the goals and strategies to protect the health of honey bees and other pollinators as stated in the ''Presidential Memorandum Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators,'' issued on June 20, 2014. The exemption, subject to the terms and conditions imposed, will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. This exemption preempts inconsistent State and local requirements.

DATES: This exemption is effective June 19, 2015 and expires on June 19, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver, and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov*.

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 4007(a) of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107, 401, June 9, 1998) authorized exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or section 31136 of title 49 of the United States Code (49 U.S.C. 31136(e), 31315(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to 2 years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.87(e)(1) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to CMV programs and safety regulation.

Background Information

On December 27, 2011, FMCSA published a final rule amending its hours-of-service (HOS) regulations for drivers of property-carrying CMVs. The final rule included a new provision requiring drivers to take a rest break during the work day under certain circumstances. Drivers may drive a CMV only if a period of 8 hours or less has passed since the end of their last off-duty or sleeper-berth (S/B) period of at least 30 minutes. FMCSA did not specify when drivers must take the minimum 30-minute break, but the rule requires that they wait no longer than 8 hours after the last off-duty or S/B period of that length or longer to take the break if they want to drive a CMV. This requirement took effect on July 1, 2013.

On August 2, 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued its opinion on petitions for review of the 2011 HOS rule filed by the American Trucking Associations, Public Citizen, and others [*American Trucking Associations, Inc.,* v. *Federal Motor Carrier Safety Administration,* 724 F.3d 243 (D.C. Cir. 2013)]. The Court upheld the 2011 HOS regulations in all respects except for the 30-minute break provision as it applies to short-haul drivers.

The Court vacated the rest-break requirement of 49 CFR 395.3(a)(3)(ii) with respect to any driver qualified to operate under either of the ''short haul' '' exceptions outlined in 49 CFR 395.1(e)(1) or (2). Specifically, the following drivers are no longer subject to the 30-minute break requirement:

- All drivers (whether they hold a commercial driver's license (CDL) or not) who operate within 100 air-miles of their normal work reporting location and satisfy the time limitations and recordkeeping requirements of 49 CFR 395.1(e)(1), and

• All non-CDL drivers who operate within a 150 air-mile radius of the location where the driver reports for duty and satisfy the time limitations and recordkeeping requirements of 49 CFR 395.1(e)(2).

On October 28, 2013, the Agency published a final rule codifying the court decision (78 FR 64179).

Application for Exemption

On July 2, 2014, the California Farm Bureau Federation (CFBF) requested a 90-day waiver of the 30-minute rest-break requirement for drivers of CMVs engaged in the transportation of domesticated honey bees. CFBF is a trade organization representing various stakeholders in the beekeeping industry, including those who provide and utilize bee-pollination services. A copy of the request is included in the docket referenced at the beginning of this notice. The CFBF cited as a precedent for its request the 1-year exemption from the 30-minute break requirement granted the National Pork Producers Council on behalf of drivers transporting livestock. FMCSA regulations, however, do not recognize honey bees as livestock. CFBF subsequently requested a two-year exemption.

CFBF submitted its application on behalf of itself and the following organizations:

• American Beekeeping Federation;
• Blue Diamond Growers;
• California Beekeepers Association;
• California Association of Nurseries and Garden Centers;
• California Cherry Growers and Industry Foundation; and
• California Seed Association.

Because of the reduced number of colonies available, bees are transported long distances to provide crop pollination. CFBF said that honey bees require cool, fresh air to maintain healthful temperatures in the hives when being moved on trucks. CFBF stated that complying with the 30-minute rest break rule would jeopardize the health and welfare of the bees when excessive heat tends to build up during stops, especially during daytime stops in warm weather. They believe that every consideration should be given to provide the safest possible journey, as bees are transported to pollinate crops throughout the U.S., particularly in California which produces an abundance of fruits and vegetables for American consumers.

CFBF explained that there is no substitute for the pollination provided by bees, and cited a report concluding that in the absence of bee pollination, the U.S. could lose one third of its crops. CFBF stated that the number of bee colonies has been declining for several decades—from 5 million in the 1940's to only 2.5 million today. Furthermore, from late October to early February most migratory beekeepers ship their bees to the Central Valley of California to pollinate the more than 800,000 acres of almond trees which bloom in February through mid-March. California hosts 1,620,000 hives each year for the almond crop alone. Honey bees also pollinate apples, plums, cherries, and a large variety of other crops in California and across the nation.

CFBF maintained that if CMVs transporting hives were stopped for 30 minutes, particularly in warm weather, the risk of harm to the bees would be significant, and possibly fatal. Protecting and providing for the safe and healthy transportation of the bees is a priority for the agricultural community, which is heavily dependent upon the essential work of pollinating their crops. According to CFBF, there is simply no substitute or viable alternative to honey bees.

Presidential Memorandum

On June 20, 2014, President Obama issued a ''Presidential Memorandum Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators.'' The memorandum recognized that ''Honey bee pollination alone adds more than $15 billion in value to agricultural crops each year in the United States.'' The Memorandum referred to a serious loss of honey bees and other pollinators in recent years and stated that ''The problem is serious and requires immediate attention . . .''

A Pollinator Health Task Force was established by the President to create an action plan and perform other duties relative to protecting the health of pollinators. The Task Force, which is co-chaired by the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, includes representatives of other departments including the Department of Transportation.

This exemption complies with the goals and strategies to protect pollinator health, as stated in the Presidential Memorandum.

Population of Carriers Engaged in the Transportation of Bees

According to CFBF, in a subsequent email to the Agency, there are over 1,600 beekeepers that transport their hives all around the United States.

Public Comments in Response to the Exemption Application

On January 8, 2015, FMCSA published notice of the CFBF application for an exemption and requested public comment (80 FR 1069); 202 commenters responded, with 198 supporting the application (mainly through identical form letters) and four opposing it.

The comments in favor of the exemption were submitted both by individuals and by CFBF affiliates. These commenters essentially reaffirmed the arguments made by CFBF. In addition, the Owner-Operator Independent Drivers Association (OOIDA) filed a comment in support of exemption application, stating that the request would provide a level of safety equal to or greater than that achieved without the exemption. Granting the exemption, OOIDA said, would allow bees to be moved with the level of care which they deserve and to ensure that safety is the primary driver of decisions regarding these moves.

The Advocates for Highway and Auto Safety (Advocates) and three individuals opposed the exemption. Advocates stated that the CFBF application is deficient in that it provides no explanation of ''how [CFBF] would ensure that [the exempted operation] could achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.'' Advocates further added that aside from any concern about the bees being transported, the application fails to address the potential fatigue and deleterious conditions imposed on the driver of the vehicle transporting the bees. Some of the individuals opposing the application contended that an exemption for any one group should be available to all driver or company groups. Others suggested that CFBF companies should hire additional drivers so that a 30-minute break would not be necessary or wait until temperatures drop before transporting the bees.

FMCSA Response

FMCSA has evaluated CFBF's application for exemption and the public comments submitted. Stakeholders in this industry have outlined in detail the various risks associated with stopping a CMV transporting bees.

The Agency finds the arguments in favor of the exemption to be persuasive. Stopping a CMV with bees on board in severe weather conditions, even for relatively brief periods, can jeopardize

the health and welfare of the bees. FMCSA believes there would be no decrease in safety for the traveling public associated with an exemption from the 30-minute rest break requirement. These drivers take short breaks as necessary, but the breaks may not be long enough to qualify under the rest-break regulatory requirement, or the breaks may not occur during the time periods specified in the regulation. Also, drivers may not be in compliance with the definition of off duty, even though they may be resting, similar to other drivers who are allowed to ''attend'' the parked vehicle if they perform no on-duty activities.

The number of beekeepers who transport hives around the country to pollinate crops is small—1,600 according to the CFBF—and the number of CMVs and drivers required for these operations is correspondingly small. One of the commenters noted that local movements of hives often occur at night, when temperatures have fallen and traffic has declined. But when daytime movements are required, the risk of crashes remains modest because exposure, *i.e.,* the total miles traveled by CMVs serving this economic niche, is so limited.

FMCSA Determination

In consideration of the above, FMCSA has determined that it is appropriate to provide a two-year exemption from the 30-minute break requirement for interstate motor carriers transporting bees. Based on the terms and conditions imposed, the CFBF application for 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 Agency has decided to grant the exemption for a two-year period. As noted below, carriers utilizing the exemption will be required to report any accidents, as defined in 49 CFR 390.5, to FMCSA. The exemption would be eligible for renewal consideration at the end of the two-year period.

Terms and Conditions of the Exemption

Extent of the Exemption

This exemption is limited to drivers engaged in the interstate transportation of bees by CMV. The exemption from the 30-minute rest-break requirement is applicable during the transportation of bees and does not cover the operation of the CMVs after the bees are unloaded from the vehicle.

The exemption is further limited to motor carriers that have a ''satisfactory'' safety rating or are ''unrated;'' motor carriers with ''conditional'' or ''unsatisfactory'' safety ratings are prohibited from utilizing this exemption.

Safety Rating

Motor carriers that have received compliance reviews are required to have a ''satisfactory'' rating to qualify for this exemption. The compliance review is an on-site examination of a motor carrier's operations, including records on drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license (CDL) requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. The assignment of a ''satisfactory'' rating means the motor carrier has in place adequate safety management controls to comply with the Federal safety regulations, and that the safety management controls are appropriate for the size and type of operation of the motor carrier.

The FMCSA will also allow ''unrated'' carriers to use the exemption. Unrated motor carriers are those that have not received a compliance review. It would be unfair to exclude such carriers simply because they were not selected by for a compliance review, especially since carriers are prioritized for compliance reviews on the basis of known safety deficiencies.

The Agency is not allowing motor carriers with conditional or unsatisfactory ratings to participate because both of those ratings indicate that the carrier has safety management control problems. There is little reason to believe that carriers rated either unsatisfactory or conditional could be relied upon to comply with the terms and conditions of the exemption.

Drivers must have a copy of the exemption document in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.

Accident Reporting

Motor carriers must notify FMCSA by email addressed to *MCPSD@DOT.GOV* with 5 business days of any accident (as defined in 49 CFR 390.5) that occurs while its driver is operating under the terms of this exemption. The notification must include:

a. Identifier of the Exemption: ''BEES''
b. Name of operating carrier and USDOT number,
c. Date of the accident,
d. City or town, and State, in which the accident occurred, or closest to the accident scene,
e. Driver's name and license number,
f. Name of co-driver, if any, and license number
g. Vehicle number and state license number,
h. Number of individuals suffering physical injury,
i. Number of fatalities,
j. The police-reported cause of the accident,
k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
l. The total driving time and total on-duty time prior to the accident.

Period of the Exemption

FMCSA provides an exemption from the 30-minute break requirement [49 CFR 395.3(a)(3)(ii)] during the period of June 19, 2015 through June 19, 2017.

Safety Oversight of Carriers Operating Under the Exemption

FMCSA expects each motor carrier operating under the terms and conditions of this exemption to maintain its safety record. However, should safety deteriorate, FMCSA will, consistent with the statutory requirements of 49 U.S.C. 31315, take all steps necessary to protect the public interest. Authorization of the exemption is discretionary, and FMCSA will immediately revoke the exemption of any motor carrier or driver for failure to comply with the terms and conditions of the exemption.

Preemption

During the period the exemption is in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person or entity operating under the exemption [49 U.S.C. 31315(d)].

Issued on: June 8, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–15088 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–EX–P

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Part II

Department of Health and Human Services

Administration for Children and Families

45 CFR Chapter XIII, Subchapter B

Head Start Performance Standards; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Chapter XIII, Subchapter B

RIN 0970–AC63

Head Start Performance Standards

AGENCY: Office of Head Start, Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: This NPRM proposes to update Head Start program performance standards, last revised in 1998, to meet Congress's requirements and improve the quality of Head Start. In the Improving Head Start for School Readiness Act of 2007, Congress instructed the Office of Head Start to update its performance standards by regulation and ''ensure that any such revisions in the standards [do] not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services.'' The proposed performance standards incorporate extensive consultation with experts and findings from scientific research, reflect best practices, lessons from program input and innovation, integrate recommendations from the Secretary's Advisory Committee Final Report on Head Start Research and Evaluation, and reflect this Administration's deep commitment to improving the school readiness of young children. The proposed program performance standards will improve the quality of services, reduce bureaucratic burden on programs, and improve regulatory clarity and transparency. They provide a clear road map for current and prospective grantees to provide high quality Head Start services and to strengthen the outcomes of the children and families they serve.

DATES: Please submit comments on this NPRM by August 18, 2015.

ADDRESSES: Follow online instructions at *www.regulations.gov* to submit comments. This approach is our preferred method for receiving comments. Additionally, you may send comments via the United States Postal Service to: Office of Head Start, Attention: Director of Policy and Planning, 1250 Maryland Avenue SW., Washington, DC 20024.

To ensure we can effectively respond to your comment(s), clearly identify the issue(s) on which you are commenting. Provide the page number, identify the column, and cite the paragraph from the **Federal Register** document, (i.e, On page 10999, second column, § 1305.6(a)(1)(i) . . .). All comments received are a part of the public record and will be posted for public viewing on *www.regulations.gov*, without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information, or otherwise sensitive or protected information. We accept anonymous comments. If you wish to remain anonymous, enter ''N/A'' in the required fields.

FOR FURTHER INFORMATION CONTACT: Colleen Rathgeb, Office of Head Start Policy and Planning Division Director, (202) 358–3263, *OHS_NPRM@acf.hhs.gov*.

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I. Executive Summary

Head Start currently provides comprehensive early learning services to nearly 1 million children from birth to age five each year through nearly 50,000 classrooms, home-based programs, and family child care partners nationwide. Since its inception in 1965, Head Start has been a leader in helping children from low-income families reach kindergarten more prepared to succeed in school and in life. Head Start is a central part of this Administration's effort to ensure all children have access to high quality early learning opportunities and to eliminate the education achievement gap. This proposed regulation is needed to improve the quality of Head Start services so that programs have a stronger impact on children's learning and development. It also is necessary to streamline and reorganize the regulatory structure to improve regulatory clarity and transparency so that existing grantees can more easily run a high quality Head Start program and so that Head Start will be more approachable to prospective grantees. In addition, this regulation is necessary to reduce the bureaucratic burden on local programs that can interfere with high quality service delivery. Once realized, we believe these regulatory changes will help ensure every child and family in Head Start is receiving high quality services that will lead to greater success in school and in life.

In 2007, Congress mandated Head Start revise the program performance standards and update and raise the education standards.[1] Congress also

[1] *See http://beta.congress.gov/crec/2007/11/14/CREC-2007-11-14-pt1-PgS14375-2.pdf*

prohibited elimination of, or any reduction in, the quality, scope, or types of services in the revisions. Thus, these proposed regulatory revisions are additionally intended to meet the statutory requirements Congress put forth in the bipartisan reauthorization of Head Start in 2007.

Head Start program performance standards are the foundation on which programs design and deliver comprehensive, high quality individualized services to support the school readiness of children from low-income families. The first set of Head Start program performance standards were published in the 1970s. Since then, they have been revised following subsequent Congressional reauthorizations and were last revised in 1998. The program performance standards set forth the requirements local grantees must meet to support the cognitive, social, emotional, and healthy development of children from birth to age five. They encompass requirements to provide education, health, mental health, nutrition, and family and community engagement services, as well as rules for local program governance and aspects of federal administration of the program.

This NPRM builds upon extensive consultation with researchers, practitioners, recommendations from the Secretary's Advisory Committee Final Report on Head Start Research and Evaluation [2] and other experts, as well as internal analysis of program data and years of program input on the regulations. In addition, program monitoring has also provided invaluable experience regarding the strengths and weaknesses of the current regulations. Moreover, research and practice in the field of early childhood education has expanded exponentially in the 15 years since the regulations governing service delivery were last revised, providing a multitude of new insights on how to support improved child outcomes.

The Secretary's Advisory Committee, which consisted of expert researchers and practitioners chartered to ''provide recommendations for improving Head Start program effectiveness'' concluded early education programs, including Head Start, are capable of closing the achievement gap by 20–50%, but that Head Start is not reaching its potential. As part of their work, the Committee provided recommendations for interpreting the results of both the Head Start Impact Study (HSIS),[3] a randomized control trial study of children in Head Start in 2002–2003 through third grade, and the Early Head Start Research and Evaluation Project (EHSREP),[4] which was initiated in 1996 and followed children who were eligible to participate in Early Head Start. The Committee concluded that these findings should be interpreted in the context of the larger body of research that demonstrates that Head Start and Early Head Start ''are improving family well-being and improving school readiness of children at or below the poverty line in the U.S. today.'' The Committee agreed that the initial impact that both Head Start and Early Head Start have demonstrated ''are in line with the magnitude of findings from other scaled-up programs for infants and toddlers . . . [5] and center-based programs for preschoolers . . .'' [6] but also acknowledged that ''larger impacts may be possible, *e.g.,* by increasing dosage in EHS and Head Start or improving instructional factors in Head Start.'' The Committee also addressed the finding that these impacts do not seem to persist into elementary school, stating that the larger body of research on Head Start's impacts provides ''evidence of long-term positive outcomes for those who participated in Head Start in terms of high school completion, avoidance of problem behaviors, avoidance of entry into the criminal justice system, too-early family formation, avoidance of special education, and workforce attachment.'' Overall, the report determined that a key factor for Head Start to realize its potential is ''making quality and other improvements and optimizing dosage within Head Start [and Early Head Start].'' The proposed rule aims to capitalize on the advancements in research, available data, program input, and these recommendations in order to accomplish the critical goal of helping Head Start reach its full potential so that more children reach kindergarten ready to succeed.

This NPRM proposes numerous changes to strengthen program standards so that all children and families receive high quality services that will have a stronger impact on child development and outcomes and family well-being. We propose to significantly update and restructure the education and child development requirements to more effectively promote high quality teaching practices and stronger curriculum implementation to better support focus on the skill development and growth needed for success in kindergarten and beyond. As recommended by the Advisory Committee and mandated by statute, we propose to integrate the Head Start Child Outcomes Framework with instructional practices, curriculum, assessment, and research-based professional development. The Secretary's Advisory Committee and a growing body of research find that curriculum enhancements or curricula intensely focused on key areas of skill development have a greater impact on child outcomes. We neither propose nor prohibit specific curricula, but we do propose to enhance curricula standards as recommended by the Secretary's Advisory Committee and a growing body of research, and as required by the 2007 Head Start Act.

In addition, we propose to increase the positive impact of Head Start by increasing minimum hours and days of operation for most programs, which is aligned with recommendations from the Secretary's Advisory Committee. Our proposal is consistent with the higher dosage levels in many State pre-kindergarten programs that have shown strong effects, and it is supported by a strong body of research that demonstrates adequate exposure to learning opportunities is important for children at-risk for academic difficulties to make necessary gains. Research on the amount of time and type of activities needed to support effective teaching and curriculum practices for children who are behind also demonstrate the inadequacy of a half-day program. Children in Head Start programs operating under the current minimum requirements receive less than half the early learning services that many children receive in State pre-kindergarten and would receive at our new proposed minimums. Coupled with the proposed increases to education standards, we believe increasing the dosage minimums is essential to Head

[2] Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

[3] Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. U.S. Department of Health and Human Services Office of Planning, Research and Evaluation.

[4] Cohen, R. C., Vogel, C. A., Xue, Y., Moiduddin, E. M., Carlson, B. L., Twin Peaks Partners, L. L. C., & Kisker, E. E. (2010). Early Head Start Children in Grade 5: Long-Term Follow-Up of the Early Head Start Research and Evaluation Project Study Sample. Washington, DC: US Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, (6933).

[5] U.S. Department of Health and Human Services, Administration for Children and Families. (2010). Office of Head Start Program Information Report, 2009–2010. Washington, DC.

[6] Vogel, C. A., Boller, K. A., Xue, Y., Blair, R., Aikens, N., Burwick, A., . . . Stein, J. (2011). Learning as we go: A first snapshot of Early Head Start programs, staff, families and children. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

Start's effort to prepare children to succeed in school and beyond. This proposal is also consistent with the President's FY2016 Budget, which requests funding to ensure that children in Head Start are served in full-day, full-year programs without compromising access to the program.

We propose additional important changes to other areas of service delivery. We propose requirements to update the prioritization criteria for selection and recruitment, improve attendance, prohibit expulsion for challenging behaviors, and ensure critical supports for children and families experiencing homelessness and children in foster care. We propose to update services to children with disabilities and their families to ensure they receive the individualized services they need within inclusive settings to be successful. In addition, we retain family and community engagement as the foundations they have always been in Head Start, but propose to improve family services by integrating research-based practices, placing a stronger focus on services to improve parenting skills that support child learning, and providing greater local flexibility to help meet family needs. Moreover, we propose to require programs to collect, aggregate, and analyze data to achieve program performance goals and consistently work to improve quality, a key recommendation offered by the Secretary's Advisory Committee. Finally, we propose to address both Head Start and Early Head Start simultaneously throughout this NPRM, which represents a significant change from and improvement over the existing rule. The current rule addresses Early Head Start in a more piecemeal fashion, often making interpretation of the regulations unnecessarily complex.

This NPRM additionally proposes to entirely reorganize the body of existing regulations in order to improve clarity and transparency to make it easier for programs to implement and for the public to understand the broad range of program services in Head Start. The current program performance standards have over 1400 provisions organized in 11 different sections that have been amended in a partial or topical fashion over the past 40 years. This has resulted in a somewhat opaque set of requirements that can be unnecessarily challenging to interpret and that overburdens current grantees with process-laden rules. We propose four distinct sections: (1) *Program Governance,* which outlines the requirements imposed by the Act on Governing Bodies and Policy Councils to ensure well-governed Head Start programs; (2) *Program Operations,* which outlines all of the operational requirements for serving children and families, from the universe of eligible children and the services they must be provided in education, health, and family and community engagement, to the way programs must use data to improve the services they provide; and (3) *Financial and Administrative Requirements,* which lay out the federal requirements that Head Start programs must adhere to because of overarching federal requirements or specific provisions imposed in the Head Start Act; and (4) *Federal Administrative Procedures,* which govern the procedures the responsible HHS official takes when determining the results of competition for all grantees, determining any actions against a grantee, and determining whether a grantee needs to compete for renewed funding and other procedures required for transparency in the Act. Though some current grantees might find the changes to regulatory numbers and placement initially confusing, we believe this reorganization will greatly enhance the understanding and implementation of Head Start rules both for current and prospective grantees.

Within this large reorganization we also propose to reorganize specific sections and streamline provisions to make Head Start requirements easier to understand for all interested parties—grantees, potential grantees, other early education programs, and members of the general public. Subparts and their sections were reorganized to eliminate redundancy, and related requirements were grouped together instead of interspersed as they are in the existing rule. Additionally, we propose to systematically address the fact that many of our most critical provisions are buried in subparts of the existing regulation in a way that makes them difficult to find and interpret, and that does not reflect their centrality to the provision of high quality services. For example, the reorganization proposes to create new sections or subparts to highlight and expand, where necessary, upon these incredibly important requirements. These include the proposed subparts on education services, transition services, and services for enrolled pregnant women.

In addition, we propose revisions throughout the NPRM to streamline requirements and minimize administrative burden on local programs. In total, we significantly reduce the number of requirements without compromising quality. We propose to move away from requiring written plans and prescribing how specific requirements should be achieved in order to give greater flexibility to programs in determining the best way to achieve their goals, without reducing expectations. For example, we strengthen health and safety standards but eliminate unnecessarily prescriptive regulations that were burdensome. We anticipate these proposed changes will help move Head Start away from a compliance-oriented culture to an outcomes-focused one. Furthermore, we believe this will support better collaboration with other programs and funding streams. We recognize that grantees deliver services through a variety of modalities including child care and state pre-kindergarten programs that require the blending of funding streams and compliance with a host of regulations. Additionally, we propose to remove several overly prescriptive requirements related to policy groups, governing bodies, appeals, and audits.

We also propose to include several provisions to support additional local flexibility to meet local community needs and to promote innovation and research. We propose to give Head Start programs additional flexibility in the structural requirements of program models, such as class size and service duration if they can demonstrate a locally-designed model is better for the children they serve. Further, in order to support continued research and innovation into effective curriculum and professional development models, we propose to permit local variations, giving flexibility from some of these requirements if the Head Start program works with research experts and evaluates the effectiveness of their model. We also propose to support local innovation by proposing that local programs can apply for a waiver for individual eligibility verification. This can allow better coordination with local early education programs without reducing quality standards. Collectively, these proposed changes will allow for the development of innovative program models, alleviate paperwork burdens, and support mixed income settings.

We believe the benefits of these proposed changes will be significant for the children and families Head Start serves. Strengthening Head Start standards will improve child outcomes and promote greater success in school as well as produce higher returns on taxpayer investment. Reorganizing, streamlining, and reducing the regulations will make Head Start more approachable for potential grantees and less burdensome for existing grantees. These changes are central to the Administration's belief that every child

deserves an opportunity to succeed and that all children should graduate from high school college- and career-ready.

II. Tables

In this NPRM, we propose to rearrange and renumber Head Start program performance standards under subchapter B at 45 CFR Chapter XIII. We believe our efforts will provide current and prospective grantees an organized road map on how to provide high quality Head Start services.

We include redesignation and distribution tables to help the public readily locate current sections and provisions we propose to rearrange and renumber. Table A, the redesignation table, lists the current section and identifies the section we propose will replace it. Table B, the distribution table, lists current provisions and shows whether we removed, revised, or redesignated them.

TABLE A—REDESIGNATION TABLE

Current section	Proposed section
1301.1	1303.2
1301.20	1305
1301.10	1303.3
1301.11	1303.12
1301.20	1303.4
1301.21	1303.4
1301.30	1303.10
1301.31	1302.90, 1302.102
1301.32	1303.5
1301.33	1303.31
1301.34	1304.5, 1304.7
1302.1	1304.1
1302.2	1305
1302.5	1304.2, 1304.3, 1304.4
1302.10	1304.20
1302.11	1304.20
1302.30	1304.30
1302.31	1304.31
1302.32	1304.32
1303.1	1304.1, 1303.30
1303.2	1305
1303.10	1304.1
1303.11	1304.2
1303.12	1304.3
1303.14	1304.4
1303.21	1304.7
1303.22	1304.7
1304.1	1302.1
1304.3	1305
1304.20	1302.42, 1302.33, 1302.41, 1302.61, 1302.46, 1302.63
1304.21	1302.30, 1302.31, 1302, 1302.35, 1302.60, 1302.90, 1302.34, 1302.33, 1302.46, 1302.21
1304.22	1302.47, 1302.92, 1302.15, 1302.90, 1302.41, 1302.42, 1302.46
1304.23	1302.42, 1302.44, 1302.31, 1302.44, 1302.90, 1302.31, 1302.46
1304.24	1302.46, 1302.45
1304.40	1302.50, 1302.52, 1302.80, 1302.18, 1302.34, 1302.51, 1302.30, 1302.18, 1302.81, 1302.46, 1302.52, 1302.70, 1302.71, 1302.72, 1302.22, 1302.82
1304.41	1302.53, 1302.63, 1302.70, 1302.71
1304.50	1301.1, 1301.4, 1302.102, 1301.3, 1301.5
1304.51	1302.101, 1302.90, 1303.23, 1302.102, 1301.3, 1303.32
1304.52	1302.101, 1302.91, 1302.90, 1302.91, 1302.21, 1303.3, 1302.93, 1302.94, 1302.92, 1301.2
1304.53	1302.31, 1302.21, 1302.47, 1302.22, 1302.23
1304.60	1302.102, 1304.2
1305.1	1302.10
1305.2	1305
1305.3	1302.11, 1302.102, 1302.20
1305.4	1302.12
1305.5	1302.13, 1302.14,
1305.6	1302.14
1305.7	1302.12, 1302.15, 1302.70
1305.8	1302.16
1305.9	1302.18
1305.10	1304.4
1306.3	1305
1306.20	1302.101, 1302.21, 1302.90, 1302.23, 1302.20
1306.21	1302.91
1306.23	1302.92
1306.30	1302.20, 1302.21, 1302.22, 1302.23
1306.31	1302.20
1306.32	1302.21, 1302.24, 1302.17, 1302.102, 1302.34, 1302.18
1306.33	1302.22, 1302.101 , 1302.91, 1302.35, 1302.44, 1302.23, 1302.31, 1301.4, 1302.47, 1302.45, 1302.24
1307.1	1304.10
1307.2	13051305

TABLE A—REDESIGNATION TABLE—Continued

Current section	Proposed section
1307.3	1304.11
1307.4	1304.12
1307.5	1304.13
1307.6	1304.14
1307.7	1304.15
1307.8	1304.16
1308.1	1302.60
1308.3	1305
1308.4	1302.101, 1302.61, 1302.63, 1303.75
1308.5	1302.12, 1302.13
1308.6	1302.33, 1302.42, 1302.34, 1302.33
1308.18	1302.47
1308.21	1302.61, 1302.62, 1302.34
1309.1	1303.40
1309.2	1303.41
1309.3	1305
1309.4	1303.42, 1303.44, 1303.45, 1303.48, 1303.50
1309.21	1305, 1303.51, 1303.48, 1303.50, 1303.46, 1303.47, 1303.48, 1303.55, 1303.3
1309.22	1303.49, 1303.51
1309.31	1303.44, 1303.47
1309.33	1303.56
1309.40	1303.53
1309.41	1303.54
1309.43	1303.43
1309.52	1303.55
1309.53	1303.56
1310.2	1303.70
1310.3	1305
1310.10	1303.70, 1303.71, 1303.72
1310.14	1303.71
1310.15	1303.72
1310.16	1303.72
1310.17	1303.72
1310.20	1303.73
1310.21	1303.74
1310.22	1303.75
1310.23	1303.70

TABLE B DISTRIBUTION TABLE

Current section	Title	Proposed section	
1301.			
1301.1	Purpose and scope	1303.2	Redesignated.
1301.2	Definitions	1305.	
1301.10(a)	General	1303.3.	
1301.10(b)(1)			Removed.
1301.10(b)(2)			Removed.
1301.11(a)	Insurance and bonding	1303.12.	
1301.11(b)		1303.12.	
1301.12(a)	Annual Audit of Head Start programs		Removed.
1301.12(a)(1)			Removed.
1301.12(a)(2)			Removed.
1301.12(a)(3)			Removed.
1301.12(b)			Removed.
1301.12(c)			Removed.
1301.13(a)	Accounting system certification		Removed.
1301.13(b)			Removed.
1301.20(a)	Matching requirements	1303.4.	
1301.20(a)(1)			Removed.
1301.20(a)(2)			Removed.
1301.20(a)(3)			Removed.
1301.20(b)			Removed.
1301.20(c)			Removed.
1301.21	Criteria for increase in Federal financial assistance.	1303.4.	
1301.21(a)			Removed.
1301.21(b)			Removed.
1301.30	General requirements	1303.10.	
1301.31(a)	Personnel policies	1302.90(a).	
1301.31(a)(1)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1301.31(a)(2)			Removed.
1301.31(a)(3)			Removed.
1301.31(a)(4)			Removed.
1301.31(a)(5)			Removed.
1301.31(a)(6)			Removed.
1301.31(a)(7)			Removed.
1301.31(b)(1)(i)		1302.90(b)(1).	
1301.31(b)(1)(ii)		1302.90(b)(1).	
1301.31(b)(1)(iii)		1302.90(b)(1)(i)–(iv).	
1301.31(b)(2)			Removed.
1301.31(b)(2)(i)			Removed.
1301.31(b)(2)(ii)			Removed.
1301.31(b)(2)(iii)			Removed.
1301.31(b)(3)		1302.90(b)(2).	
1301.31(c)			Removed.
1301.31(c)(1)			Removed.
1301.31(c)(2)			Removed.
1301.31(c)(3)			Removed.
1301.31(c)(4)			Removed.
1301.31(d)			Removed.
1301.31(e)		1302.102(d)(2)(ii) 1302.102(d)(2)(iii)(A)–(B).	
1301.32(a)(1)	Limitations on costs of development and administration of a Head Start program.	1303.5(a)(1).	
1301.32(a)(2)		1303.5(a)(1).	
1301.32(b)(1)		1305.	
1301.32(b)(2)		1305.	
1301.32(b)(3)		1305.	
1301.32(b)(4)		1305.	
1301.32(b)(5)		1305.	
1301.32(c)(1)		1305.	
1301.32(c)(2)		1305.	
1301.32(c)(3)		1305.	
1301.32(c)(4)		1305.	
1301.32(d)(1)		1305.	
1301.32(d)(2)		1305.	
1301.32(d)(3)		1305.	
1301.32(e)(1)		1303.5(a)(2)(i).	
1301.32(e)(2)			Removed.
1301.32(f)(1)		1303.5(a)(2)(iv).	
1301.32(f)(2)		1303.5(a)(2)(iv).	
1301.32(f)(3)		1303.5(a)(2)(iii).	
1301.32(g)(1)		1303.5(b)(1).	
1301.32(g)(1)(i)		1303.5(b)(1).	
1301.32(g)(1)(ii)		1303.5(b)(1).	
1301.32(g)(2)		1303.5(b)(2).	
1301.32(g)(3)		1303.5(b)(2).	
1301.32(g)(4)			Removed.
1301.32(g)(5)			Removed.
1301.33	Delegation of program operations	1303.31(b).	
1301.34	Grantee appeals	1304.5 1304.7.	
1302	Selection, Initial Funding and Refunding of HS Grantees and Selection of Replacement Grantees.		
1302.1	Purpose and Scope	1304.1.	
1302.2	Definitions	1305.	
1302.3	Consultation with public officials and consumers.		Removed.
1302.4	Transfer of unexpended balances		Removed.
1302.5(a)	Notice for show cause and hearing	1304.2 1304.3.	
1302.5(b)		1304.4.	
1302.10(a)	Selection among applicants		Removed.
1302.10(b)		1304.20(a).	
1302.10(b)(1)			Removed.
1302.10(b)(2)			Removed.
1302.10(b)(3)			Removed.
1302.10(b)(4)			Removed.
1302.10(b)(5)			Removed.
1302.11(a)	Selection among applicants to replace grantee.	1304.20(b).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1302.11(b)		1304.20(b).	
1302.11(c)		1304.20(b).	
1302.20(a)	Grantee to show both legal status and financial viability.		Removed.
1302.20(b)			Removed.
1302.20(c)			Removed.
1302.21(a)	Grantee shows legal status but not financial viability.		Removed.
1302.21(a)(1)			Removed.
1302.21(a)(2)			Removed.
1302.21(b)			Removed.
1302.21(c)			Removed.
1302.22	Suspension or termination of grantee which shows financial viability but not legal status.		Removed.
1302.23	Suspension or termination of grantee which shows legal status but not financial viability.		
1302.23(a)			Removed.
1302.24	Denial of refunding of grantee.		
1302.24(a)			Removed.
1302.24(b)			Removed.
1302.24(c)			Removed.
1302.24(d)			Removed.
1302.25(a)	Control of funds of grantee scheduled for change.		Removed.
1302.25(b)			Removed.
1302.25(c)			Removed.
1302.30(a)	Procedure for identification of alternative agency.	1304.30(a).	
1302.30(1)		1304.30(a)(1).	
1302.30(2)		1304.30(a)(2).	
1302.30(b)(1)		1304.30(b)(1).	
1302.30(2)		1304.30(b)(2).	
1302.30(3)		1304.30(b)(3).	
1302.30(4)		1304.30(b)(4).	
1302.30(c)		1304.30(c).	
1302.30(d)		1304.30(d).	
1302.31	Requirements of alternative agency	1304.31.	
1302.32(a)	Alternative agency—prohibition	1304.32(a).	
1302.32(1)		1304.32(a)(1).	
1302.32(2)		1304.32(a)(2).	
1302.32(i)		1304.32(a)(2)(i).	
1302.32(II)		1304.32(a)(2)(ii).	
1302.32(b)		1304.32(b).	
1303	Selection, initial funding and refunding of HS grantees and selection of replacement grantees.		
Subpart A	General.		
1303.1	Purpose and application	1303.30 1304.1.	
1303.2	Definitions	1305.	
1303.3(a)	Right to attorney, attorney fees, and travel costs.		Removed.
1303.3(a)(1)			Removed.
1303.3(a)(2)			Removed.
1303.3(b)			Removed.
1303.3(c)			Removed.
1303.4	Remedies		Removed.
1303.5	Service of process.		Removed.
1303.6	Successor agencies and officials		Removed.
1303.7(a)	Effect of failure to file or serve documents in a timely manner.		Removed.
1303.7(b)			Removed.
1303.7(c)			Removed.
1303.7(d)			Removed.
1303.8(a)	Waiver of requirements.		Removed.
1303.8(b)			Removed.
1303.8(c)(1)			Removed.
1303.8(c)(2)			Removed.
1303.8(c)(3)			Removed.
1303.8(c)(4)			Removed.
1303.8(d)			Removed.
1303.8(e)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1303.8(f)			Removed.
1303.8(g)			Removed.
1303.10(a)	Purpose	1304.1.	
1303.10(b)		1304.1.	
1303.11(a)	Suspension on notice and opportunity to show cause.	1304.2(a).	
1303.11(b)		1304.2(b).	
1303.11(b)(1)		1304.2(b)(1)(i).	
1303.11(b)(2)		1304.2(b)(1)(ii).	
1303.11(b)(3)		1304.2(b)(1)(iii).	
1303.11(b)(4)		1304.2(b)(1)(iii).	
1303.11(b)(5)		1304.2(b)(1)(iv).	
1303.11(b)(6)		1304.2(b)(1)(v).	
1303.11(c)		1304.2(c).	
1303.11(d)		1304.2(d).	
1303.11(e)		1304.2(b)(3).	
1303.11(f)		1304.2(b)(4).	
1303.11(g)		1304.2(e)(1).	
1303.11(h)		1304.2(b)(2).	
1303.11(i)		1304.2(f).	
1303.11(j)		1304.2(e)(4).	
1303.11(k)		1304.2(g).	
1303.12(a)	Summary suspension and opportunity to show cause.	1304.3(a).	
1303.12(a)(1)		1304.3(a).	
1303.12(a)(2)		1304.3(a).	
1303.12(a)(3)		1304.3(a).	
1303.12(b)		1304.3(b).	
1303.12(c)		1304.3(b)(1).	
1303.12(c)(1)		1304.3(b)(1)(i).	
1303.12(c)(2)		1304.3(b)(1)(i).	
1303.12(c)(3)		1304.3(b)(1)(ii).	
1303.12(c)(4)		1304.3(b)(1)(iii).	
1303.12(c)(5)		1304.3(b)(1)(iv).	
1303.12(d)		1304.3(c).	
1303.12(e)		1304.3(b)(3–4).	
1303.12(f)		1304.3(d)(3).	
1303.12(f)(1)		1304.3(d)(3).	
1303.12(f)(2)		1304.3(d)(3).	
1303.12(f)(3)		1304.3(d)(3).	
1303.12(f)(4)		1304.3(d)(3).	
1303.12(g)			Removed.
1303.12(h)(1)			Removed.
1303.12(h)(2)			Removed.
1303.12(h)(3)			Removed.
1303.12(i)		1304.3(d)(1).	
1303.12(j)		1304.3(d)(1–2).	
1303.12(k)		1304.3(e).	
1303.12(l)		1304.3(d)(4).	
1303.12(m)		1304.3(e).	
1303.12(n)		1304.3(f).	
1303.13(a)	Appeal by a grantee of a suspension continuing for more than 30 days.		Removed.
1303.13(b)			Removed.
1303.13(c)(1)			Removed.
1303.13(c)(2)			Removed.
1303.13(c)(3)			Removed.
1303.13(d)			Removed.
1303.13(e)			Removed.
1303.13(f)			Removed.
1303.13(g)			Removed.
1303.13(h)			Removed.
1303.13(i)			Removed.
1303.14(a)	Appeal by a grantee from a termination of financial assistance.	1304.4(a)(1).	
1303.14(b)		1304.4(a)(2).	
1303.14(b)(1)		1304.4(a)(2)(i).	
1303.14(b)(2)		1304.4(a)(2)(ii).	
1303.14(b)(3)		1304.4(a)(2)(iii).	
1303.14(b)(4)		1304.4(a)(2)(iv).	
1303.14(b)(5)		1304.4(a)(2)(v).	
1303.14(b)(6)		1304.4(a)(2)(vii).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1303.14(b)(7)		1304.4(a)(2)(viii).	
1303.14(b)(8)		1304.4(a)(2)(ix).	
1303.14(b)(9)		1304.4(a)(2)(x).	
1303.14(c)		1304.4(b)(1).	
1303.14(c)(1)		1304.4(b)(1)(i–iii).	
1303.14(c)(2)		1304.4(b)(1)(iv).	
1303.14(c)(3)		1304.4(b)(1)(v).	
1303.14(c)(4)		1304.4(b)(1)(vi).	
1303.14(c)(5)		1304.4(b)(1)(vii).	
1303.14(c)(6)		1304.4(b)(1)(vii).	
1303.14(d)(1)			Removed.
1303.14(d)(2)			Removed.
1303.14(d)(3)			Removed.
1303.14(d)(4)			Removed.
1303.14(d)(5)			Removed.
1303.14(d)(6)			Removed.
1303.14(d)(7)			Removed.
1303.14(d)(8)		1304.4(c)(1).	
1303.14(e)(1)			Removed.
1303.14(e)(2)			Removed.
1303.14(e)(3)			Removed.
1303.14(f)(1)		1304.4(c)(2).	
1303.14(f)(2)		1304.4(e).	
1303.14(f)(3)		1304.4(f)(1).	
1303.14(f)(4)		1304.4(f)(2).	
1303.14(g)		1304.4(g)(1–2).	
1303.14(h)		1304.4(g)(3).	
1303.14(i)		1304.4(h).	
1303.14(j)		1304.4(g)(4–5).	
1303.14(k)		1304.4(g)(6).	
1303.15(a)	Appeal by a grantee from a denial of refunding.	1304.4(a)(1).	
1303.15(b)		1304.4(b)(2).	
1303.15(b)(1)		1304.4(b)(1)(iv).	
1303.15(b)(2)		1304.4(b)(1)(iv).	
1303.15(c)		1304.4(a)(2).	
1303.15(d)		1304.4(b)(1).	
1303.15(d)(1)		1304.4(b)(1)(i–iii).	
1303.15(d)(2)		1304.4(b)(1)(vi).	
1303.15(d)(3)		1304.4(g)(3).	
1303.15(d)(4)			Removed.
1303.15(e)		1304.4(b)(1)(v).	
1303.15(f)		1304.4(g)(3).	
1303.15(g)		1304.4(g)(4).	
1303.15(h)(1)			Removed.
1303.15(h)(2)			Removed.
1303.15(h)(3)			Removed.
1303.16(a)	Conduct of hearing		Removed.
1303.16(b)			Removed.
1303.16(c)			Removed.
1303.16(d)			Removed.
1303.16(e)			Removed.
1303.16(f)			Removed.
1303.16(g)			Removed.
1303.16(h)			Removed.
1303.17(a)	Time for hearing and decision		Removed.
1303.17(b)			Removed.
1303.17(c)(1)			Removed.
1303.17(c)(2)			Removed.
1303.17(c)(3)			Removed.
1303.20(a)	Appeals to grantees by current or prospective delegate agencies of rejection of an application, failure to act on an application or termination of a grant or contract.		Removed.
1303.20(b)			Removed.
1303.20(c)			Removed.
1303.20(d)			Removed.
1303.20(e)(1)			Removed.
1303.20(e)(2)			Removed.
1303.20(e)(3)			Removed.
1303.20(f)			Removed.
1303.20(g)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1303.21(a)	Procedures for appeal by current or prospective delegate agencies to the responsible HHS official from denials by grantees of an application or failure to act on an application.	1304.7(a)—first half 1304.7(b)—second half.	
1303.21(b)(1)			Removed.
1303.21(b)(2)			Removed.
1303.21(b)(3)			Removed.
1303.21(b)(4)			Removed.
1303.21(b)(5)			Removed.
1303.21(b)(6)			Removed.
1303.21(b)(7)			Removed.
1303.21(c)			Removed.
1303.21(d)		1304.7(c).	
1303.21(e)(1)			Removed.
1303.21(e)(2)			Removed.
1303.21(f)		1304.7(c).	
1303.21(g)			Removed.
1303.21(h)			Removed.
1303.21(i)(1)			Removed.
1303.21(i)(2)			Removed.
1303.21(i)(3)			Removed.
1303.21(i)(4)			Removed.
1303.22(a)	Decision on appeal in favor of grantee		Removed.
1303.22(b)		1304.7(d)(1).	
1303.22(c)			Removed.
1303.22(d)			Removed.
1303.23(a)	Decision on appeal in favor of the current or prospective delegate agency.		Removed.
1303.23(b)			Removed.
1303.23(c)			Removed.
1303.23(c)(1)			Removed.
1303.23(c)(2)			Removed.
1303.23(d)			Removed.
1303.23(e)			Removed.
1303.24	OMB control number		Removed.
1304	Program performance standards for operation.		
1304.1	Purpose and scope	1302.1	Revised.
1304.2	Effective date		Removed.
1304.3	Definitions	1305.	
1304.20(a)(1)(i)	Child health and developmental services	1302.42(a) 1302.17.	Revised.
1304.20(a)(1)(ii)		1302.42(b)(1)(i).	
1304.20(a)(1)(ii)(A)		1302.42(b)(1)(ii).	
1304.20(a)(1)(ii)(B)		1302.42(c)(1).	
1304.20(a)(1)(ii)(C)		1302.42(d)(1)(ii).	
1304.20(a)(1)(iii)		1302.42(d)(1)(i).	
1304.20(a)(1)(iv)		1302.42(d)(1).	
1304.20(a)(2)		1302.42(b)(3).	
1304.20(b)(1)		1302.33(a)(1). 1302.33(c)(1)(iii). 1302.41(a). 1302.42(b)(2).	
1304.20(b)(2)		1302.33(a)(2).	
1304.20(b)(3)		1302.33(a)(1).	
1304.20(c)(1)		1302.41(a).	
1304.20(c)(2)		1302.42(d)(2).	
1304.20(c)(3)(i)		1302.42(c)(3).	
1304.20(c)(3)(ii)		1302.42(c)(3).	
1304.20(c)(4)		1302.61(b)(2).	
1304.20(c)(5)		1302.42(e).	
1304.20(d)		1302.33(b). 1302.42(c)(2). 1302.42(d)(1)(ii).	
1304.20(e)(1)		1302.41(a).	
1304.20(e)(2)		1302.34(b)(5) 1302.46(b)(1)(iv) 1302.46(b)(2)(i).	
1304.20(e)(3)		1302.46(b)(2)(ii).	
1304.20(e)(4)		1302.41(a). 1302.46(b)(2)(iii).	
1304.20(e)(5)		1302.41(b).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.20(f)(1)		1302.33(b).	
1304.20(f)(2)(i)		1302.61(b)(2)(ii).	
1304.20(f)(2)(ii)		1302.63(a)–(c). 1302.62(a)(3).	
1304.20(f)(2)(iii)		1302.61(b)(3)(i).	
1304.20(f)(2)(iv)		1302.63(c).	
1304.21(a)(1)(i)	Education and early childhood development	1302.30. 1302.31(b)(1)(i). 1302.35(a).	
1304.21(a)(1)(ii)		1302.30. 1302.60.	
1304.21(a)(1)(iii)		1302.90(c)(1)(ii).	
1304.21(a)(1)(iv)		1302.31(c).	
1304.21(a)1)(v)			Removed.
1304.21(a)(2)(i)		1302.34(b)(3).	
1304.21(a)(2)(ii)		1302.33(b)(2).	
1304.21(a)(2)(iii)		1302.34(b)(2). 1302.34(b)(6).	
1304.21(a)(3)		Integrated throughout Subpart C.	
1304.21(a)(3)(i)			Removed.
1304.21(a)(3)(i)(A)			Removed.
1304.21(a)(3)(i)(B)			Removed.
1304.21(a)(3)(i)(C)			Removed.
1304.21(a)(3)(i)(D)			Removed.
1304.21(a)(3)(i)(E)		1302.30. 1302.35(d). 1302.90(c)(1)(ii).	
1304.21(a)(3)(ii)		1302.31(e)(3).	
1304.21(a)(4)		Integrated throughout Subpart C.	
1304.21(a)(4)(i)		1302.31(c).	
1304.21(a)(4)(ii)		1302.31(b)(1)(iv). 1302.35(a).	
1304.21(a)(4)(iii)		1302.31(b)(1)(ii). 1302.35(e)(3).	
1304.21(a)(4)(iv)		1302.31(b)(1)(i). 1302.31(b)(1)(iv). 1302.31(d).	
1304.21(a)(5)		Integrated throughout Subpart C.	
1304.21(a)(5)(i)		1302.31(c)–(d).	
1304.21(a)(5)(ii)		1302.31(c)–(d).	
1304.21(a)(5)(iii)		1302.30. 1302.60.	
1304.21(a)(6)		1302.35(a). 1302.46(b)(1)(i).	
1304.21(b)(1)(i)		1302.21(b)(2). 1302.31(b)(1)(ii). 1302.90(d)(1).	
1304.21(b)(1)(ii)		1302.31(b)(1)(ii).	
1304.21(b)(1)(iii)		1302.31(c).	
1304.21(b)(2).		Integrated throughout Subpart C.	
1304.21(b)(2)(i)			Removed.
1304.21(b)(2)(ii)		1302.31(b)(1)(ii)..	
1304.21(b)(3)		Integrated throughout Subpart C.	
1304.21(b)(3)(i)			Removed.
1304.21(b)(3)(ii)			Removed.
1304.21(c)(1)		1302.32.	
1304.21(c)(1)(i)		1302.32(a)(1)(ii).	
1304.21(c)(1)(ii)		1302.31(b)(1)(ii). 1302.32(a)(1)(ii)–(iii).	
1304.21(c)(1)(iii)			Removed.
1304.21(c)(1)(iv)			Removed.
1304.21(c)(1)(v)			Removed.
1304.21(c)(1)(vi)			Removed.
1304.21(c)(1)(vii)		1302.31(c)(1).	
1304.21(c)(2)		1302.33(b).	
1304.22(a)	Child health and safety	1302.47(b)(7).	
1304.22(a)(1)			Removed.
1304.22(a)(2)			Removed.
1304.22(a)(3)			Removed.
1304.22(a)(4)			Removed.
1304.22(a)(5)		1302.92(b)(1).	
1304.22(b)(1)		1302.47(b)(8)(iii).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.22(b)(2)		1302.14(b)(2). 1302.17(b).	
1304.22(b)(3)		Second sentence 1302.90(c)(1)(iii)	First sentence removed.
1304.22(c)		1302.47(b)(4)(iii). 1302.47(b)(8)(iv).	
1304.22(c)(1)			Removed.
1304.22(c)(2)			Removed.
1304.22(c)(3)			Removed.
1304.22(c)(4)			Removed.
1304.22(c)(5)		1302.41(a). 1302.42(d)(2).	
1304.22(c)(6)		1302.47(b)(4)(iii).	
1304.22(d)(1)		1302.47(b)(4)–(5).	
1304.22(d)(2)		1302.46(a).	
1304.22(e)(1)		1302.47(b)(7).	
1304.22(e)(1)(i)		1302.47(b)(7)(i).	
1304.22(e)(1)(ii)		1302.47(b)(7)(ii).	
1304.22(e)(1)(iii)		1302.47(b)(7)(iii).	
1304.22(e)(1)(iv)			Removed.
1304.22(e)(2)			Removed.
1304.22(e)(2)(i)			Removed.
1304.22(e)(2)(ii)			Removed.
1304.22(e)(2)(iii)			Removed.
1304.22(e)(3)			Removed.
1304.22(e)(4)		1302.47(b)(7)(iii).	
1304.22(e)(5)		1302.47(b)(7)(i).	
1304.22(e)(6)			Removed.
1304.22(e)(7)		1302.47(b)(4)(i)	Removed.
1304.22(f)(1)		1302.47(b)(1)(iv)(A).	
1304.22(f)(2)			Removed.
1304.23(a)(1)	Child nutrition	1302.42(b)(4).	
1304.23(a)(2)		1302.42(b)(4). 1302.44(a)(1).	
1304.23(a)(3)		1302.44(a)(2)(iv).	
1304.23(a)(4)		1302.42(b)(4).	
1304.23(b)(1)		1302.44(a)(1).	
1304.23(b)(1)(i)		1302.44(b).	
1304.23(b)(1)(ii)		1302.44(a)(2)(ii).	
1304.23(b)(1)(iii)		1302.44(a)(2)(vi).	
1304.23(b)(1)(iv)		1302.44(a)(2)(iv).	
1304.23(b)(1)(v)		1302.44(a)(2)(iii).	
1304.23(b)(1)(vi)		1302.44(a)(2)(iii).	
1304.23(b)(1)(vii)		First sentence removed. 1302.44(a)(2)(iv).	
1304.23(b)(2)		1302.44(a)(2)(vii).	
1304.23(b)(3)		1302.43.	
1304.23(b)(4)			Removed.
1304.23(c)		1302.31(e)(2).	
1304.23(c)(1)			Removed.
1304.23(c)(2)		1302.31(e)(2). 1302.90(c)(1)(i)(D).	
1304.23(c)(3)		1302.31(e)(2).	
1304.23(c)(4)		1302.31(e)(2).	
1304.23(c)(5)		1302.31(e)(2). 1302.44(a)(2)(v).	
1304.23(c)(6)		1302.44(a)(1).	
1304.23(c)(7)			Removed.
1304.23(d)		1302.46(b)(1)(ii).	
1304.23(e)(1)			Removed.
1304.23(e)(2)		1302.44(a)(2)(viii).	
1304.24	Child mental health	.	
1304.24(a)(1)		1302.41(a).	
1304.24(a)(1)(i)		1302.46(b)(1)(iv).	
1304.24(a)(1)(ii)		1302.46(b)(1)(iv).	
1304.24(a)(1)(iii)		1302.46(b)(1)(iv).	
1304.24(a)(1)(iv)		1302.45(a)(1).	
1304.24(a)(1)(v)		1302.46(b)(2)(i).	
1304.24(a)(1)(vi)			Removed.
1304.24(a)(2)		1302.45(b).	
1304.24(a)(3)(i)		1302.45(a)(1). 1302.45(b)(1).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.24(a)(3)(ii)		1302.45(a)(1)–(2).	
1304.24(a)(3)(iii)		1302.45(b)(2).	
1304.24(a)(3)(iv)		1302.45(a)(3).	
1304.40(a)(1)	Family partnerships	1302.50(b)(2). 1302.52(a)–(b).	
1304.40(a)(2)		1302.52(c).	
1304.40(a)(3)		1302.52(d).	
1304.40(a)(4)		1302.50(a).	
1304.40(a)(5)		1302.50(b)(2).	
1304.40(b)(1)		1302.52(c).	
1304.40(b)(1)(i)			Removed.
1304.40(b)(1)(ii)			Removed.
1304.40(b)(1)(iii)			Removed.
1304.40(b)(2)		1302.52(c)(3).	
1304.40(c)(1)		1302.80(c).	
1304.40(c)(1)(i)		1302.80(c).	
1304.40(c)(1)(ii)		1302.80(c).	
1304.40(c)(1)(iii)		1302.80(c).	
1304.40(c)(2)		1302.81(a).	
1304.40(c)(3)		1302.44(a)(2)(viii). 1302.81(a).	
1304.40(d)(1)		1302.50	Removed last sentence.
1304.40(d)(2)		1302.17(c). 1302.34(a). 1302.34(b)(1).	
1304.40(d)(3)		1302.34(b)(4).	
1304.40(e)(1)			Removed.
1304.40(e)(2)			Removed.
1304.40(e)(3)		1302.30. 1302.51.	
1304.40(e)(4)			Removed.
1304.40(e)(4)(i)			Removed.
1304.40(e)(4)(ii)			Removed.
1304.40(e)(5)		1302.34(b)(2).	
1304.40(f)(1)		1302.46(a).	
1304.40(f)(2)(i)		1302.46(b)(2)(iii).	
1304.40(f)(2)(ii)		1302.41(a).	
1304.40(f)(2)(iii)		1302.46(b)(1)(i). 1302.46(b)(2).	
1304.40(f)(3)(i)		1302.46(b)(1)(ii).	
1304.40(f)(3)(ii)		1302.46(b)(1)(ii).	
1304.40(f)(4)		1302.46(b)(1)(iv).	
1304.40(f)(4)(i)			Removed.
1304.40(f)(4)(ii)			Removed.
1304.40(f)(4)(iii)			Removed.
1304.40(g)(1)(i)			Removed.
1304.40(g)(1)(ii)		1302.52(c).	
1304.40(g)(2)			Removed.
1304.40(h)(1)		1302.70(b). 1302.71(b)(1).	
1304.40(h)(2)		1302.71(b)(2)(i) 1302.71(c).	
1304.40(h)(3)		1302.71(c) 1302.72(b)(1).	
1304.40(h)(3)(i)		1302.72(b)(2)(iii).	
1304.40(h)(3)(ii)		1302.72(b)(2)(iv).	
1304.40(h)(4)			Removed.
1304.40(i)(1)		1302.17(c)	Second sentence removed.
1304.40(i)(2)		1302.34(b)(6)	Second sentence removed.
1304.40(i)(3)			Removed.
1304.40(i)(4)		1302.34(b)(6). 1302.22(a).	
1304.40(i)(5)		1302.22(c)(1).	
1304.40(i)(6)		1302.82(b).	
1304.41(a)(1)	Community partnerships	1302.53(a)	Second sentence removed.
1304.41(a)(2)		1302.53(b)(1).	
1304.41(a)(2)(i)		1302.53(b)(2)(i).	
1304.41(a)(2)(ii)		1302.53(b)(2)(i).	
1304.41(a)(2)(iii)		1302.53(b)(2)(i).	
1304.41(a)(2)(iv)		1302.53(b)(2)(ii).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.41(a)(2)(v)		1302.53(b)(2)(iii).	
1304.41(a)(2)(vi)		1302.53(b)(2)(iii).	
1304.41(a)(2)(vii)		1302.53(b)(2)(iv).	
1304.41(a)(2)(viii)		1302.53(b)(2)(ii).	
1304.41(a)(2)(ix)		1302.53(b)(2)(viii).	
1304.41(a)(3)			Removed.
1304.41(a)(4)		1302.63(b).	
1304.41(b)		1302.53(c)	Removed second sentence.
1304.41(c)(1)		1302.70(a). 1302.71(a).	
1304.41(c)(1)(i)		1302.70(d)(2)(i) 1302.71(c)(2)(i).	
1304.41(c)(1)(ii)		1302.71(c)(2)(ii) 1302.70(d)(2)(ii).	
1304.41(c)(1)(iii)		1302.71(b)(2)(iv).	
1304.41(c)(1)(iv)		1302.71(c)(2)(iii).	
1304.41(c)(2)		1302.70(b).	
1304.41(c)(3)			Removed.
1304.50(a)(1)	Program Design and Management	1301.1.	
1304.50(a)(1)(i)		1301.4(a).	
1304.50(a)(1)(ii)		1301.4(a).	
1304.50(a)(1)(iii)			Removed.
1304.50(a)(2)			Removed.
1304.50(a)(3)		1301.4(b)—First sentence 1301.4(d)(4)—Second sentence.	
1304.50(a)(4)		1301.4(a).	
1304.50(a)(5)			Removed.
1304.50(b)(1)			Removed.
1304.50(b)(2)		1301.4(b).	
1304.50(b)(3)		1301.4(b).	
1304.50(b)(4)		1301.4(d)(2).	
1304.50(b)(5)		1301.4(d)(3).	
1304.50(b)(6)			Removed.
1304.50(b)(7)		1301.4(b).	
1304.50(c)		1301.4(c).	
1304.50(d)(1)		1301.4(c).	
1304.50(d)(1)(i)		1301.4(c).	
1304.50(d)(1)(ii)			Removed.
1304.50(d)(1)(iii)		1301.1.	
1304.50(d)(1)(iv)		1301.1. 1302.102(a).	
1304.50(d)(1)(v)		1301.4(c).	
1304.50(d)(1)(vi)			Removed.
1304.50(d)(1)(vii)		1301.4(c).	
1304.50(d)(1)(viii)		1301.4(c)(2). 1302.102(b)(2)(ii).	
1304.50(d)(1)((ix)		1301.4(c).	
1304.50(d)(1)(x)			Removed.
1304.50(d)(1)(xi)		1301.4(c).	
1304.50(d)(2)(i)			Removed.
1304.50(d)(2)(ii)			Removed.
1304.50(d)(2)(iii)			Removed.
1304.50(d)(2)(iv)			Removed.
1304.50(d)(2)(v)			Removed.
1304.50(e)			Removed.
1304.50(e)(1)			Removed.
1304.50(e)(2)			Removed.
1304.50(e)(3)			Removed.
1304.50(f)		1301.4(e).	
1304.50(g)(1)			Removed.
1304.50(g)(2)		1301.3(b)(1).	
1304.50(h)		1301.5(a).	
Appendix A			Removed.
1304.51(a)(1)	Management systems and procedures	1302.100.	
1304.51(a)(1)(i)		1302.102(a)(3).	
1304.51(a)(1)(ii)		1302.102(a). 1302.102(c)(iii).	
1304.51(a)(1)(iii)			Removed.
1304.51(a)(2)			Removed.
1304.51(b)			Removed.
1304.51(c)(1)		1302.50(b)(2).	
1304.51(c)(2)		1302.50(b)(2).	
1304.51(d)(1)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.51(d)(2)		1301.3(b)(2).	
1304.51(d)(3)		1301.3(b)(2).	
1304.51(d)(4)		1301.3(b)(2).	
1304.51(e)			Removed.
1304.51(f)			Removed.
1304.51(g)		1302.90(c)(1)(iii). 1302.101(a). 1303.23.	
1304.51(h)(1)		1302.102(d)(1)(i). 1301.3(b)(2).	
1304.51(h)(2)		1302.102(d)(1)(iii).	
1304.51(i)(1)		1302.102(b)(2)(i).	
1304.51(i)(2)		1302.102(b)(1).	
1304.51(i)(3)		1303.32(b).	
1304.52(a)(1)	Human resources management	1302.101(a)(2).	
1304.52(a)(2)		1302.101(a)(1).	
1304.52(a)(2)(i)			Removed.
1304.52(a)(2)(ii)			Removed.
1304.52(a)(2)(iii)			Removed.
1304.52(b)(1)		1302.91(a).	
1304.52(b)(2)			Removed.
1304.52(b)(3)		1302.90(b)(5).	
1304.52(b)(4)		1302.90(d)(1).	
1304.52(c)		1302.91(i).	
1304.52(d)		1302.91(a). 1302.101(a)(2).	
1304.52(d)(1)		1302.91(c)–(e).	
1304.52(d)(2)		1302.91(a).	
1304.52(d)(3)		1302.91(h)(1).	
1304.52(d)(4)		1302.91(h)(2).	
1304.52(d)(5)		1302.91(a).	
1304.52(d)(6)			Removed.
1304.52(d)(7)		1302.91(a).	
1304.52(d)(8)		1302.91(h)(3).	
1304.52(e)		1302.91(f).	
1304.52(f)		1302.91(b). 1302.92(b).	
1304.52(g)(1)			Removed.
1304.52(g)(2)		1302.90(d)(2).	
1304.52(g)(3)			Removed.
1304.52(g)(4)		1302.21(b)(1)–(3).	
1304.52(g)(5)		1302.90(c)(4)(i).	
1304.52(h)(1)		1302.91(g)(1).	
1304.52(h)(2)			Removed.
1304.52(h)(3)			Removed.
1304.52(h)(4)		1302.91(g)(2).	
1304.52(h)(5)		1302.91(g)(3).	
1304.52(h)(6)			Removed.
1304.52(i)(1)		1302.90(c)(1).	
1304.52(i)(1)(i)		1302.90(c)(1)(ii).	
1304.52(i)(1)(ii)		1302.90(c)(1)(iii).	
1304.52(i)(1)(iii)		1302.90(c)(1)(iv).	
1304.52(i)(1)(iv)		1302.90(c)(1)(i)(A). 1302.90(c)(1)(i)(C)–(I).	
1304.52(i)(2)		1303.3.	
1304.52(i)(3)		1302.90(c)(2).	
1304.52(j)			Removed.
1304.52(k)(1)		1302.93(a).	
1304.52(k)(2)		1302.94(a).	
1304.52(k)(3)		1302.93(b).	
1304.52(l)(1)		1302.92(a).	
1304.52(l)(2)		1302.92(b).	
1304.52(l)(3)		1302.92(b)(3).	
1304.52(l)(3)(i)		1302.92(b)(1).	
1304.52(l)(3)(ii)		1302.92(b)(3).	
1304.52(l)(4)		1301.2.	
1304.52(l)(5)(i)			Removed.
1304.52(l)(5)(ii)			Removed.
1304.52(l)(5))(iii)			Removed.
1304.52(l)(5)(iv)			Removed.
1304.52(l)(5)(v)			Removed.
1304.52(l)(5)(vi)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.52(l)(5)(vii)			Removed.
1304.52(l)(5)(viii)			Removed.
1304.53(a)(1)	Facilities, materials, and equipment		Removed.
1304.53(a)(2)			Removed.
1304.53(a)(3)		1302.31(d).	
1304.53(a)(4)			Removed.
1304.53(a)(5)		1302.21(d)(2).	
1304.53(a)(6)		1302.21(d)(1). 1302.22(d). 1302.23(d).	
1304.53(a)(7)		1302.47(b)(1).	
1304.53(a)(8)		1302.47(b)(1)(ii).	
1304.53(a)(9)		1302.47(b)(4)(ii). 1302.47(b)(5).	
1304.53(a)(10)		1302.102(b)(1).	
1304.53(a)(10)(i)		1302.47(b)(2).	
1304.53(a)(10)(ii)		1302.47(b)(2).	
1304.53(a)(10)(iii)		1302.47(b)(1)(iii).	
1304.53(a)(10)(iv)		1302.47(b)(1)(iv).	
1304.53(a)(10)(v)		1302.47(b)(1)(v)(B).	
1304.53(a)(10)(vi)		1302.47(b)(1)(v)(B).	
1304.53(a)(10)(vii)			Removed.
1304.53(a)(10)(viii)			Removed.
1304.53(a)(10)(ix)		1302.47(b)(1)(iii).	
1304.53(a)(10)(x)			Removed.
1304.53(a)(10)(xi)			Removed.
1304.53(a)(10)(xii)			Removed.
1304.53(a)(10)(xiii)			Removed.
1304.53(a)(10)(xiv)			Removed.
1304.53(a)(10)(xv)			Removed.
1304.53(a)(10)(xvi)			Removed.
1304.53(a)(10)(xvii)		1302.47(b)(2).	
1304.53(b)(1)		1302.31(d).	
1304.53(b)(1)(i)		1302.31(d).	
1304.53(b)(1)(ii)		1302.47(b)(2).	
1304.53(b)(1)(iii)		1302.31(d).	
1304.53(b)(1)(iv)			Removed.
1304.53(b)(1)(v)			Removed.
1304.53(b)(1)(vi)		1302.47(b)(2).	
1304.53(b)(1)(vii)			Removed.
1304.53(b)(2)		1302.47(b)(1)–(2).	
1304.53(b)(3)		1302.47(b)(1)–(2). 1302.47(b)(4).	
1304.60(a)	Deficiencies and quality improvement plans		Removed.
1304.60(b)		1304.2(b).	
1304.60(c)		1302.102(d)(3). 1304.2(c)(1).	
1304.60(d)			Removed.
1304.60(e)			Removed.
1304.60(f)		1304.2(c)(2).	
1304.61(a)	Noncompliance	1304.2(a).	
1304.61(b)		1304.2(b).	
1305	Eligibility, recruitment, selection, eligibility and attendance.		
1305.1	Purpose and scope	1302.10.	
1305.2	Definitions	1305.	
1305.3(a)	Determining community strengths and needs	1302.11(a)(1).	
1305.3(b)		1302.11(a)(2).	
1305.3(c)		1302.11(b)(1).	
1305.3(c)(1)		1302.11(b)(1)(i).	
1305.3(c)(2)		1302.11(b)(1)(iv).	
1305.3(c)(3)		1302.11(b)(1)(vi).	
1305.3(c)(4)			Removed.
1305.3(c)(5)		1302.11(b)(1)(vii).	
1305.3(c)(6)		1302.11(b)(1)(viii).	
1305.3(d)(1)		1302.102(a)(3).	
1305.3(d)(2)		1302.20(a)(1).	
1305.3(d)(3)			Removed.
1305.3(d)(4)			Removed.
1305.3(d)(5)			Removed.
1305.3(d)(6)			Removed.
1305.3(e)		1302.11(b)(2).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1305.3(f)			Removed.
1305.3(g)(1)			Removed.
1305.3(g)(2)(i)			Removed.
1305.3(g)(2)(ii)			Removed.
1305.4	Age of children and family income eligibility	1302.12	Redesignated.—Pending OMB approval of final eligibility rule.
1305.4(a)(1)(i)		1302.12(a)(1)(i).	
1305.4(a)(1)(ii)		1302.12(a)(1)(ii).	
1305.4(a)(1)(iii)		1302.12(a)(1)(iii).	
1305.4(a)(2)		1302.12(a)(2).	
1305.4(b)(1)		1302.12(b)(1).	
1305.4(b)(2)(i)		1302.12(b)(2)(i).	
1305.4(b)(2)(ii)		1302.12(b)(2)(i).	
1305.4(b)(2)(iii)		1302.12(b)(2)(ii).	
1305.4(b)(3)		1302.12(b)(3).	
1305.4(c)(1)(i)		1302.12(c)(1)(i).	
1305.4(c)(1)(ii)		1302.12(c)(1)(ii).	
1305.4(c)(2)		1302.12(c)(2).	
1305.4(d)(1)		1302.12(d)(1).	
1305.4(d)(1)(i)		1302.12(d)(1)(i).	
1305.4(d)(1)(ii)		1302.12(d)(1)(ii).	
1305.4(d)(2)		1302.12(d)(2).	
1305.4(d)(2)(i)		1302.12(d)(2)(i).	
1305.4(d)(2)(ii)		1302.12(d)(2)(ii).	
1305.4(d)(2)(iii)		1302.12(d)(2)(iii).	
1305.4(d)(2)(iv)		1302.12(d)(2)(iv).	
1305.4(d)(2)(v)		1302.12(d)(2)(v).	
1305.4(d)(2)(vi)		1302.12(d)(2)(vi).	
1305.4(d)(2)(vii)		1302.12(d)(2)(vii).	
1305.4(e)(1)(i)		1302.12(e)(1)(i).	
1305.4(e)(1)(ii)		1302.12(e)(1)(ii).	
1305.4(e)(1)(iii)		1302.12(e)(1)(iii).	
1305.4(e)(1)(iv)		1302.12(e)(1)(iv).	
1305.4(e)(2)		1302.12(e)(2).	
1305.4(e)(3)		1302.12(e)(3).	
1305.4(f)(1)(i)		1302.12(c)(1)(iii).	
1305.4(f)(1)(ii)		1302.12(c)(1)(iv).	
1305.4(f)(2)		1302.16(c)(1).	
1305.4(g)(1)		1302.12(f).	
1305.4(g)(2)		1302.12(f).	
1305.4(g)(3)		1302.12(f).	
1305.4(h)		1302.12(h).	
1305.4(i)(1)(i)		1302.12(i)(1).	
1305.4(i)(1)(ii)		1302.12(i)(1).	
1305.4(i)(1)(iii)		1302.12(i)(1).	
1305.4(i)(2)		1302.12(i)(2).	
1305.4(i)(3)(i)(A)		1302.12(i)(3)(i).	
1305.4(i)(3)(i)(B)		1302.12(i)(3)(i).	
1305.4(i)(3)(ii)		1302.12(i)(3)(ii).	
1305.4(i)(4)		1302.12(j)(3).	
1305.4(i)(5)		1302.12(i)(4).	
1305.4(j)(1)(i)		1302.12(i)(5)(i).	
1305.4(j)(1)(ii)		1302.12(i)(5)(ii).	
1305.4(j)(1)(iii)		1302.12(j)(5)(iii).	
1305.4(j)(2)(i)		1302.12(i)(6).	
1305.4(j)(2)(ii)		1302.12(i)(6).	
1305.4(j)(3)(i)		1302.12(i)(7)(i).	
1305.4(j)(3)(ii)		1302.12(i)(7)(ii).	
1305.4(j)(4)		1302.12(i)(8).	
1305.4(k)(1)		1302.12(j)(1).	
1305.4(k)(2)		1302.12(j)(4).	
1305.4(l)(1)		1302.12(k)(1).	
1305.4(l)(2)(i)		1302.12(k)(2)(i).	
1305.4(l)(2)(ii)(A)		1302.12(k)(2)(ii)(A).	
1305.4(l)(2)(ii)(B)		1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(ii)(C)(1)		1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(ii)(C)(2)		1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(ii)(C)(3)		1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(iii)(A)		1302.12(k)(2)(iii)(A).	
1305.4(l)(2)(iii)(B)		1302.12(k)(2)(iii)(B).	
1305.4(l)(2)(iii)(C)		1302.12(k)(2)(iii)(C).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1305.4(l)(2)(iii)(D)		1302.12(k)(2)(iii)(C).	
1305.4(l)(2)(iii)(E)		1302.12(k)(2)(iii)(D).	
1305.4(l)(2)(iii)(F)		1302.12(k)(2)(iii)(E).	
1305.4(l)(3)(i)		1302.12(k)(3).	
1305.4(l)(3)(ii)		1302.12(k)(3).	
1305.4(l)(3)(iii)		1302.12(k)(3).	
1305.4(m)		1302.12(l).	
1305.4(n)(1)		1302.12(m)(1).	
1305.4(n)(1)(i)		1302.12(m)(1)(i).	
1305.4(n)(1)(ii)		1302.12(m)(1)(ii).	
1305.4(n)(1)(iii)		1302.12(m)(1)(iii).	
1305.4(n)(2)		1302.12(m)(2).	
1305.4(n)(3)		1302.12(m)(3).	
1305.4(n)(4)		1302.12(m)(4).	
1305.5(a)	Recruitment of children	1302.13(a) first sentence	Second sentence removed.
1305.5(b)		1302.13(b)(1–2).	
1305.5(c)		1302.13(b)(1).	
1305.6(a)	Selection process	1302.14(a)(1).	
1305.6(b)		1302.14(a)(1)(i)(iv)& 1302.14(a)(2).	
1305.6(c)		1302.14(b)(1).	
1305.6(d)		1302.14(c).	
1305.7(a)	Enrollment and reenrollment	1302.12. 1302.15(b).	
1305.7(b)		1302.15(a) 1st sentence amended and combined with second sentence. Third sentence is removed.	
1305.7(c)		1302.12(j)(2). 1302.70(d)(1)–last sentence.	
1305.8(a)	Attendance	1302.16(b).	
1305.8(b)		1302.16(a)(2).	
1305.8(c)		1302.16(a)(3).	
1305.9	Policy on fees	1302.18. Second sentence removed.	
1305.10	Compliance	1304.4(a)(2)(iv).	
1306	Program staffing.		
1306.1	Purpose and scope		Removed.
1306.2	Effective dates		Removed.
1306.2(a)			Removed.
1306.2(b)			Removed.
1306.3	Definitions	1305.	
1306.20(a)	Program staffing patterns		Removed.
1306.20(b)		1302.101(a)(2).	
1306.20(c)		1302.21(b)	Last sentence removed.
1306.20(d)			Removed.
1306.20(e)			Removed.
1306.20(f)		1302.90(d)(1).	
1306.20(g)		1302.23(b)(1).	
1306.20(g)(1)		1302.23(b)(2).	
1306.20(g)(2)		1302.23(b)(3).	
1306.20(g)(3)			Removed.
1306.20(h)(1)		1302.23(e).	
1306.20(h)(2)		1302.23(e).	
1306.20(h)(3)		1302.23(e)(2)–(4).	
1306.20(i)		1302.20(b).	
1306.21	Staff qualification	1302.91(c)–(e).	
1306.22(a)	Volunteers		Removed.
1306.22(b)			Removed.
1306.23(a)	Training	1302.92.	
1306.23(b)		1302.92(a).	
1306.30(a)	Provision of comprehensive child development services.	1302.20(b).	
1306.30(b)			Removed.
1306.30(c)		1302.21(d)(1). 1302.22(d). 1302.23(d).	
1306.30(d)			Removed.
1306.31(a)	Choosing a Head Start program option	1302.20(a)(1).	
1306.31(b)		1302.20(a)(1).	
1306.31(c)			Removed.
1306.32(a)(1)	Center-based program option	1302.21(b).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1306.32(a)(2)		1302.21(b)(1).	
1306.32(a)(3)		1302.21(b)(5).	
1306.32(a)(4)		1302.24(c)(2)(ii).	
1306.32(a)(5)		1302.21(b)(4).	
1306.32(a)(6)		1302.24(c)(2)(i).	
1306.32(a)(7)			Removed.
1306.32(a)(8)			Removed.
1306.32(a)(9)			Removed.
1306.32(a)(10)		1302.21(b)(1)	Second sentence removed.
1306.32(a)(11)			Removed.
1306.32(a)(12)		1302.21(b).	
1306.32(b)(1)			Removed.
1306.32(b)(2)		1302.21(c)(2).	
1306.32(b)(3)		1302.21(c)(1). 1302.21(c)(1)(ii).	
1306.32(b)(4)		1302.21(c)(1)(i)	Last sentence removed.
1306.32(b)(5)		1302.16(a)(2)	First sentence removed.
1306.32(b)(6)		1302.21(c)(2).	
1306.32(b)(7)		1302.101(a)(3)	Last sentence removed.
1306.32(b)(8)		1302.17(c). 1302.34(b)(6).	
1306.32(b)(9)		1302.34(b)(2). 1302.34(b)(7).	
1306.32(c)(1)			Removed.
1306.32(c)(2)			Removed.
1306.32(c)(3)			Removed.
1306.32(d)(1)			Removed.
1306.32(d)(2)			Removed.
1306.32(d)(3)			Removed.
1306.32(e)			Removed.
1306.33(a)(1)	Home based program option	1302.22(c)(1). 1302.24(c)(3)(i).	
1306.33(a)(2)		1302.22(c)(2). 1302.24(c)(3)(ii).	
1306.33(a)(3)		1302.22(c)(3)–(4).	
1306.33(a)(4)		1302.101(a)(3).	
1306.33(a)(5)		1302.22(b).	
1306.33(b)		1302.35(b)(1). 1302.35(b)(3). 1302.91(f).	
1306.33(b)(1)		1302.35(a).	
1306.33(b)(2)			Removed.
1306.33(c)		1302.35(e)(1).	
1306.33(c)(1)		1302.35(e)(2)(i). 1302.35(e)(1)	Last sentence removed.
1306.33(c)(2)			Removed.
1306.33(c)(3)		1302.44(a)(2)(vii).	
1306.34(a)(1)	Combination program option		Removed.
1306.34(a)(2)			Removed.
1306.34(a)(3)			Removed.
1306.34(a)(4)			Removed.
1306.34(b)(1)			Removed.
1306.34(b)(2)			Removed.
1306.34(b)(3)			Removed.
1306.34(c)(1)			Removed.
1306.34(c)(2)			Removed.
1306.35(a)(1)	Family child care program option	1302.23(a)(1). 1302.23(c).	
1306.35(a)(2)(i)		1302.23(a)(2).	
1306.35(a)(2)(ii)		1302.23(a)(1).	
1306.35(a)(3)		1302.23(a). 1302.31(d).	
1306.35(a)(4)		1301.4(c)(1).	
1306.35(b)(1)		1302.47(a)	Second sentence removed.
1306.35(b)(2)(i)		1302.47(b)(1)(i)–(iii).	
1306.35(b)(2)(ii)		1302.47(b)(1)(v)(B).	
1306.35(b)(2)(iii)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1306.35(b)(2)(iv)		1302.47(4)(ii) 1302.47(b)(5).	
1306.35(b)(2)(v)		1302.47(b)(1) 1302.47(b)(5).	
1306.35(b)(2)(vi)			Removed.
1306.35(b)(2)(vii)		1302.47(b)(1).	
1306.35(b)(2)(viii)		1302.47(b)(4) 1302.47(b)(5).	
1306.35(b)(2)(ix)		1302.47(b)(1).	
1306.35(c)		1302.47(b)(7).	
1306.35(d)		1302.23(d).	
1306.36	Additional Head Start program option variations.	1302.24(a).	
1306.37	Compliance waiver	1302.24(c).	
1307	Policies and procedures for designation renewal of Head Start and Early Head Start grantees.	No changes made—only redesignated—will not consider comments.	
1307.1	Purpose and scope.	1304.10	Redesignated.
1307.2	Definitions	1305	Redesignated.
1307.3	Basis for determining whether a Head Start agency will be subject to an open competition.	1304.11	Redesignated.
1307.3(a)		1304.11(a)	Redesignated.
1307.3(b)		1304.11(b)	Redesignated.
1307.3(b)(1)		1304.11(b)(1)	Redesignated.
1307.3(b)(1)(i)		1304.11(b)(1)(i)	Redesignated.
1307.3(b)(1)(ii)		1304.11(b)(1)(ii)	Redesignated.
1307.3(b)(1)(iii)		1304.11(b)(1)(iii)	Redesignated.
1307.3(b)(2)		1304.11(b)(2)	Redesignated.
1307.3(b)(2)(i)		1304.11(b)(2)(i)	Redesignated.
1307.3(b)(2)(ii)		1304.11(b)(2)(ii)	Redesignated.
1307.3(c)		1304.11(c)	Redesignated.
1307.3(c)(1)		1304.11(c)(1)	Redesignated.
1307.3(c)(1)(i)		1304.11(c)(1)(i)	Redesignated.
1307.3(c)(1)(ii)		1304.11(c)(1)(ii)	Redesignated.
1307.3(c)(1)(iii)		1304.11(c)(1)(iii)	Redesignated.
1307.3(c)(2)		1304.11(c)(2)	Redesignated.
1307.3(d)		1304.11(d)	Redesignated.
1307.3(e)		1304.11(e)	Redesignated.
1307.3(f)		1304.11(f)	Redesignated.
1307.3(g)		1304.11(g)	Redesignated.
1307.4(a)	Grantee reporting requirements concerning certain conditions.	1304.12(a)	Redesignated.
1307.4(b)		1304.12(b)	Redesignated.
1307.4(b)(1)		1304.12(b)(1)	Redesignated.
1307.4(b)(2)		1304.12(b)(2)	Redesignated.
1307.4(b)(3)		1304.12(b)(3)	Redesignated.
1307.4(b)(4)		1304.12(b)(4)	Redesignated.
1307.5	Requirements to be considered for designation for a five-year period when the existing grantee in a community is not determined to be delivering a high quality and comprehensive Head Start program and is not automatically renewed.	1304.13	Redesignated.
1307.60(a)	Tribal government consultation under the Designation Renewal System for when an Indian Head Start grant is being considered for competition.	1304.14(a)	Redesignated.
1307.60(a)(1)		1304.14(a)(1)	Redesignated.
1307.60(a)(2)		1304.14(a)(2)	Redesignated.
1307.60(a)(3)		1304.14(a)(3)	Redesignated.
1307.60(b)		1304.1514(b)	Redesignated.
1307.60(c)		1304.14(c)	Redesignated.
1307.70(a)	Designation request, review and notification process.	1304.15(a)	Redesignated.
1307.70(a)(1)		1304.15(a)(1)	Redesignated.
1307.70(a)(2)		1304.15(a)(2)	Redesignated.
1307.70(b)		1304.15(b)	Redesignated.
1307.70(b)(1)		1304.15(b)(1)	Redesignated.
1307.70(b)(2)		1304.15(b)(2)	Redesignated.
1307.70(b)(3)		1304.15(b)(3)	Redesignated.
1307.70(c)		1304.15(c)	Redesignated.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1307.70(c)(1)		1304.15(c)(1)	Redesignated.
1307.70(c)(2)		1304.15(c)(2)	Redesignated.
1307.70(c)(2)(i)		1304.15(c)(2)(i)	Redesignated.
1307.70(c)(2)(i)		1304.15(c)(2)(i)	Redesignated.
1307.70(c)(3)			Redesignated.
1307.70(c(3)(i)			Redesignated.
1307.70(c)(3)ii)			Redesignated.
1307.80	Use of CLASS: Pre-K Instrument in the Designation Renewal System.		Redesignated.
1308	Service for children with disabilities		
1308.1	Purpose	1302.60.	
1308.2	Scope		Removed.
1308.3	Definitions	1305.	
1308.4(a)	Disabilities service plan	1302.101(b)(3).	
1308.4(a)(1)			Removed.
1308.4(a)(2)			Removed.
1308.4(b)		1302.101(b)(3).	
1308.4(c)		1302.60.	
1308.4(d)			Removed.
1308.4(e)			Removed.
1308.4(f)(1)		1302.63(a).	
1308.4(f)(2)		1302.63(a).	
1308.4(f)(3)			Removed.
1308.4(f)(4)			Removed.
1308.4(g)		1302.61(b)(3).	
1308.4(h)			Removed.
1308.4(h)(1)			Removed.
1308.4(h)(2)			Removed.
1308.4(h)(3)			Removed.
1308.4(h)(4)			Removed.
1308.4(h)(5)			Removed.
1308.4(h)(6)		1303.75.	
1308.4(h)(7)			Removed.
1308.4(i)			Removed.
1308.4(j)(1)			Removed.
1308.4(j)(2)			Removed.
1308.4(j)(3)			Removed.
1308.4(j)(4)			Removed.
1308.4(j)(5)			Removed.
1308.4(j)(5)(i)			Removed.
1308.4(j)(5)(ii)			Removed.
1308.4(j)(5)(iii)			Removed.
1308.4(k)			Removed.
1308.4(l)		1302.63(b).	
1308.4(l)(1)			Removed.
1308.4(l)(2)			Removed.
1308.4(l)(3)		1302.63(b).	
1308.4(l)(4)		1302.63(b).	
1308.4(l)(5)			Removed.
1308.4(l)(6)			Removed.
1308.4(l)(7)			Removed.
1308.4(m)			Removed.
1308.4(n)			Removed.
1308.4(o)			Removed.
1308.4(o)(1)			Removed.
1308.4(o)(2)			Removed.
1308.4(o)(3)			Removed.
1308.4(o)(4)			Removed.
1308.4(o)(5)			Removed.
1308.4(o)(6)			Removed.
1308.4(o)(7)			Removed.
1308.4(o)(7)(i)			Removed.
1308.4(o)(7)(ii)			Removed.
1308.4(o)(7)(iii)			Removed.
1308.5(a)	Recruitment and enrollment of children with disabilities.	1302.12(b)(3).	
1308.5(b)			Removed.
1308.5(c)(1)		1302.13(b)(2).	
1308.5(c)(2)		1302.13(b)(2).	
1308.5(c)(3)		1302.13(b)(2).	
1308.5(c)(4)		1302.13(b)(2).	
1308.5(d)(1)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1308.5(d)(2)			Removed.
1308.5(d)(3)			Removed.
1308.5(d)(4)			Removed.
1308.5(d)(5)			Removed.
1308.5(e)		1302.13(a)(1)(v).	
1308.5(e)(1)			Removed.
1308.5(e)(2)			Removed.
1308.5(e)(3)			Removed.
1308.5(f)			Removed.
1308.6(a)	Assessment of children		Removed.
1308.6(a)(1)		1302.33(a).	
1308.6(a)(2)		1302.33(b).	
1308.6(a)(3)			Removed.
1308.6(b)(1)		1302.33(a) 1302.42(b)(2).	
1308.6(b)(2)			Removed.
1308.6(b)(3)			Removed.
1308.6(c)		1302.34(b)(5).	
1308.6(d)			Removed.
1308.6(e)		1302.33(a)(2).	
1308.6(e)(1)		1302.33(a)(2).	
1308.6(e)(2)			Removed.
1308.6(e)(2)(i)			Removed.
1308.6(e)(2)(ii)			Removed.
1308.6(e)(2)(iii)			Removed.
1308.6(e)(2)(iv)			Removed.
1308.6(e)(2)(v)			Removed.
1308.6(e)(2)(vi)			Removed.
1308.6(e)(2)(vii)			Removed.
1308.6(e)(2)(viii)			Removed.
1308.6(e)(3)			Removed.
1306.6(e)(4)			Removed.
1306.6(e)(5)			Removed.
1308.7(a)	Eligibility criteria: Health impairment		Removed.
1308.7(b)			Removed.
1308.7(c)			Removed.
1308.7(d)			Removed.
1308.7(d)(1)			Removed.
1308.7(d)(2)			Removed.
1308.7(d)(2)(i)			Removed.
1308.7(d)(2)(ii)			Removed.
1308.7(d)(2)(iii)			Removed.
1308.7(d)(2)(iv)			Removed.
1308.7(d)(2)(v)			Removed.
1308.7(d)(3)			Removed.
1308.7(d)(4)			Removed.
1308.8(a)	Eligibility criteria: Emotional/behavioral disorders.		Removed.
1308.8(a)(1)			Removed.
1308.8(a)(2)			Removed.
1308.8(a)(3)			Removed.
1308.8(a)(4)			Removed.
1308.8(b)			Removed.
1308.8(c)			Removed.
1308.9(a)	Eligibility criteria: Speech or language impairments.		Removed.
1308.9(b)			Removed.
1308.9(c)			Removed.
1308.9(d)			Removed.
1308.9(e)			Removed.
1308.9(e)(1)			Removed.
1308.9(e)(2)			Removed.
1308.9(e)(3)			Removed.
1308.10(a)	Eligibility criteria: Mental retardation		Removed.
1308.10(b)			Removed.
1308.10(c)			Removed.
1308.11	Eligibility criteria: Hearing impairment including deafness.		Removed.
1308.11(a)			Removed.
1308.11(b)			Removed.
1308.11(c)			Removed.
1308.12(a)	Eligibility criteria: Orthopedic impairment		Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1308.12(b)			Removed.
1308.13(a)	Eligibility criteria: Visual impairment including blindness.		Removed.
1308.13(a)(1)			Removed.
1308.13(a)(2)			Removed.
1303.13(b)			Removed.
1308.14(a)	Eligibility criteria: Learning disabilities		Removed.
1308.14(b)			Removed.
1308.14(b)(1)			Removed.
1308.14(b)(2)			Removed.
1308.14(b)(3)			Removed.
1308.14(c)			Removed.
1308.15	Eligibility criteria: Autism		Removed.
1308.16	Eligibility criteria: Traumatic brain injury		Removed.
1308.17(a)	Eligibility criteria: Other impairments		Removed.
1308.17(a)(1)			Removed.
1308.17(a)(2)			Removed.
1308.17(a)(3)			Removed.
1308.17(b)			Removed.
1308.17(c)			Removed.
1308.17(d)			Removed.
1308.17(e)			Removed.
1308.18(a)	Disabilities/health services coordination		Removed.
1308.18(b)			Removed.
1308.18(c)			Removed.
1308.18(d)(1)		1302.47(b)(7)(v).	
1308.18(d)(2)			Removed.
1308.18(d)(3)			Removed.
1308.18(d)(4)			Removed.
1308.19(a)	Developing individualized education programs(IEPs).		Removed.
1308.19(b)			Removed.
1308.19(c)			Removed.
1308.19(d)			Removed.
1308.19(e)			Removed.
1308.19(e)(1)			Removed.
1308.19(e)(2)			Removed.
1308.19(e)(3)			Removed.
1308.19(e)(4)			Removed.
1308.19(e)(5)			Removed.
1308.19(e)(6)			Removed.
1308.19(e)(7)			Removed.
1308.19(e)(8)			Removed.
1308.19(f)			Removed.
1308.19(f)(1)			Removed.
1308.19(f)(2)			Removed.
1308.19(f)(3)			Removed.
1308.19(f)(4)			Removed.
1308.19(g)			Removed.
1308.19(h)			Removed.
1308.19(i)			Removed.
1308.19(j)			Removed.
1308.19(j)(1)			Removed.
1308.19(j)(2)			Removed.
1308.19(j)(3)			Removed.
1308.19(j)(4)			Removed.
1308.19(k)			Removed.
1308.20(a)	Nutrition services		Removed.
1308.20(b)			Removed.
1308.20(c)			Removed.
1308.20(d)			Removed.
1308.21(a)(1)	Parent participation and transition of children into Head Start and from Head Start to public school.	1302.61(b)(3).	
1308.21(a)(2)		1302.62(a)(1).	
1308.21(a)(3)		1302.34(b)(4).	
1308.21(a)(4)			Removed.
1308.21(a)(5)			Removed.
1308.21(a)(6)		1302.62(a)(2).	
1308.21(a)(7)		1302.62(b).	
1308.21(a)(8)			Removed.
1308.21(a)(9)			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1308.21(a)(10)		1302.62(a).	
1308.21(b)		1302.62(b)(3).	
1308.21(c)			Removed.
1309	Head Start facilities purchase, major renovation and construction.		
1309.1		1303.40.	
1309.2	Approval of the use of Head Start funds to continue purchase of facilities.	1303.41.	
1309.3	Definitions	1305.	
1309.4	Eligibility—Construction.		
1309.4(a)		1303.42(a)(1).	
1309.4(b)		1303.42(a)(3) 1303.42(b).	
1309.5	Eligibility—Major renovations.		
1309.5(a)		1303.42(a)(1).	
1309.5(b)		1303.42(a)(3) 1303.42(b).	
1309.10	Applications for the purchase, construction and major renovation of facilities.	1303.44(a).	
1309.10(a)		1303.44(a)(1) 1303.44(a)(2).	
1309.10(b)		1303.44(a)(3) 1303.44(a)(5) 1303.45(a)(1).	
1309.10(c)		1303.44(a)(8).	
1309.10(d)		1303.44(a)(3) 1303.45(c).	
1309.10(e)		1303.44(a)(4).	
1309.10(f)		1303.42(b).	
1309.10(g)		1303.44(a)(11).	
1309.10(h)		1303.44(a)(9).	
1309.10(i)		1303.44(a)(4).	
1309.10(j)			Removed.
1309.10(k)		1303.44(a)(6).	
1309.10(l)		1303.44(b) 1303.48(b) 1303.50(a).	
1309.10(m)		1303.44(a)(12).	
1309.10(n)			Removed.
1309.10(o)		1303.44(a)(9).	
1309.10(p)		1303.44(a)(10).	
1309.10(q)		1303.44(a)(13).	
1309.11(a)	Cost comparison for purchase, construction and major renovation of facilities.	1303.45(a)(1).	
1309.11(b)		1303.45(a)(2)(i).	
1309.11(c)(1)		1303.45(a)(1).	
1309.11(c)(2)			Removed.
1309.11(c)(3)		1303.45(a)(1).	
1309.11(d)(1)		1303.45(a)(2)(i).	
1309.11(d)(2)		1303.45(a)(2)(i).	
1309.11(e)		1303.45(a)(2)(ii).	
1309.11(f)		1303.45(c).	
1309.20	Title		Removed.
1309.21	Recording of federal interest and other protection of federal interest		
1309.21(a)		1305 First Sentence 1303.51 Second Sentence.	
1309.21(b)		1303.48(a).	
1309.21(c)		1303.48(b).	
1309.21(d)(1)		1303.50.	
1309.21(d)(2)		1303.46(b)(1) First sentence 1303.47(b)(1) Second sentence 1303.47(b)(1)(vi) Third sentence Fourth sentence removed 1303.47(b)(2) Last sentence.	
1309.21(d)(3)		.	
1309.21(d)(3)(i)		1303.47(b)(1)(i)–(iii).	
1309.21(d)(3)(ii)		1303.47(b)(1)(v).	
1309.21(d)(3)(iii)		1303.47(b)(1)(v).	
1309.21(d)(3)(iv)		1303.48(a).	
1309.21(d)(3)(v)			Removed.
1309.21(d)(3)(vi)		1303.47(a)(9).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1309.21(d)(4)		1303.47(b)(1).	
1309.21(d)(4)(i)		1303.47(b)(1)(i)(ii).	
1309.21(d)(4)(ii)		1303.47(b)(1)(v).	
1309.21(d)(4)(iii)		1303.47(b)(1)(v).	
1309.21(e)		1303.55(a): 1303.3.	
1309.21(f)(1)		1303.51.	
1309.21(f)(1)(i)			Removed.
1309.21(f)(1)(ii)			Removed.
1309.21(f)(1)(iii)			Removed.
1309.21(f)(2)		1303.47.	
1309.21(f)(2)(i)			Removed.
1309.21(f)(2)(ii)			Removed.
1309.21(f)(2)(iii)			Removed.
1309.21(f)(2)(iv)			Removed.
1309.21(f)(3)			Removed.
1309.22(a)	Rights and responsibilities in the event of grantee's default on mortgage, or withdrawal or termination.	1303.49(a)(1),(3),(6), & (7)	Removed last two sentences.
1309.22(b)		1303.49(b).	
1309.22(c)		1303.49(a)(5); 1303.51.	
1309.23(a)	Insurance, bonding and maintenance	1303.52(a).	
1309.23(a)(1)		1303.52(a) & 1303.52(b)(1).	
1309.23(a)(2)		1303.52(b)(1) & (2).	
1309.23(b)		1303.52(b)(3).	
1309.23(c)		1303.52(c).	
1309.30(a)	General		Removed.
1309.30(b)			Removed.
1309.31(a)	Site description	1303.44(b)(2).	
1309.31(b)		1303.47(c).	
1309.31(c)		1303.47(c)(7).	
1309.32(a)	Statement of procurement procedure for modular units.		Removed.
1309.32(b)			Removed.
1309.33	Inspection	1303.56.	
1309.34	Costs of installation of modular unit		Removed.
1309.40	Copies of documents	1303.53.	
1309.41	Record retention	1303.54.	
1309.42	Audit of mortgage		Removed.
1309.43	Use of grant funds to pay fees	1303.43.	
1309.44(a)	Independent analysis		Removed.
1309.44(b)			Removed.
1309.44(c)			Removed.
1309.51(a)	Submission of drawings and specifications		Removed.
1309.51(b)			Removed.
1309.52(a)	Procurement procedures	1303.55(a).	
1309.52(b)		1303.55(b).	
1309.52(c)		1303.55(c).	
1309.52(d)		1303.55(d).	
1309.53(a)	Inspection of work	1303.56.	
1309.53(b)		1303.56.	
1309.54	Davis-Bacon Act	1303.11.	
1310	Head Start transportation.		
1310.1	Purpose		Removed.
1310.2(a)	Applicability.	1303.70(a).	
1310.2(b)(1)			Removed.
1310.2(b)(2)			Removed.
1310.2(c)		1303.70(c)(1) and (c)(2).	
1310.3	Definitions	1305.	
1310.10	General	.	
1310.10(a)		1303.70(b)(1).	
1310.10(b)		1303.70(b)(1).	
1310.10(c)		1303.70(a).	
1310.10(d)(1)		1303.71(b).	
1310.10(d)(2)		1303.71(b).	
1310.10(d)(3)		1303.71(b).	
1310.10(d)(4)		1303.71(b).	
1310.10(e)		1303.71(c).	
1310.10(f)		1303.70(b)(3).	
1310.10(g)		1303.72(a)(3).	
1310.11(a)	Child restraint systems	1303.71(d).	
1310.11(b)			Removed.
1310.12(a)	Required use of school buses or allowable alternate vehicles.	1303.71(a).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1310.12(b)		1303.71(a).	
1310.12(b)(1)		1303.71(a).	
1310.12(b)(2)		1303.71(a).	
1310.12(c)		1303.71(a).	
1310.13	Maintenance of vehicles	1303.71(e)(1).	
1310.13(a)		1303.71(e)(2)(i).	
1310.13(b)		1303.71(e)(2)(ii).	
1310.13(c)		1303.71(e)(2)(iii).	
1310.14	Inspection of new vehicles at the time of delivery.	1303.71(f).	
1310.15(a)	Operation of vehicles	1303.72(a)(1).	
1310.15(b)		1303.72(a)(2).	
1310.15(c)		1303.72(b)(4).	
1310.15(d)			Removed.
1310.16(a)(1)	Driver qualifications	1303.72(b)(1).	
1310.16(b)		1303.72(c).	
1310.16(b)(1)		1303.72(c)(1).	
1310.16(b)(2)		1303.72(c)(2) and 1303.72(c)(3).	
1310.16(b)(3)		1303.72(c)(4).	
1310.16(c)		1303.72(c).	
1310.17(a)	Driver and bus monitor training	third sentence is 1303.72(d)(1)	First two sentences removed
1310.17(b)(1)		1303.72(d)(2)(i).	
1310.17(b)(2)		1303.72(d)(2)(i).	
1310.17(b)(3)		1303.72(d)(2)(i).	
1310.17(b)(4)		1303.72(d)(2)(i).	
1310.17(b)(5)		1303.72(d)(2)(i).	
1310.17(b)(6)		1303.72(d)(2)(i).	
1310.17(b)(7)		1303.72(d)(2)(i).	
1310.17(c)		1303.72(d)(2)(ii).	
1310.17(d)			Removed.
1310.17(e)			Removed.
1310.17(f)(1)		1303.72(d)(3).	
1310.17(f)(2)		1303.72(e).	
1310.20(a)	Trip routing	1303.73(a).	
1310.20(b)(1)		1303.73(b)(1).	
1310.20(b)(2)		1303.73(b)(2).	
1310.20(b)(3)		1303.73(b)(3).	
1310.20(b)(4)		1303.73(b)(4).	
1310.20(b)(5)		1303.73(b)(5).	
1310.20(b)(6)		1303.73(b)(6).	
1310.20(b)(7)		1303.73(b)(7).	
1310.21(a)	Safety education	1302.46(b)(1)(v)	First sentence redesignated and revised. Remaining removed.
1310.21(b)(1)		1303.74(b).	
1310.21(b)(2)		1303.74(b).	
1310.21(b)(3)		1303.74(b).	
1310.21(b)(4)		1303.74(b).	
1310.21(b)(5)		1303.74(b).	
1310.21(c)(1)			Removed.
1310.21(c)(2)			Removed.
1310.21(d)		1303.74(d).	
1310.21(e)			Removed.
1310.22	Children with disabilities		
1310.22(a)		1303.75(a).	
1310.22(b)			Removed.
1310.22(c)		1303.75(b).	
1310.22(c)(1)		1303.75(b).	
1310.22(c)(2)		1303.75(b).	
1310.22(c)(3)		1303.75(b).	
1310.22(c)(4)		1303.75(b).	
1310.22(c)(5)		1303.75(b).	
1310.23(a)	Coordinated transportation	1303.70(b)(2).	
1310.23(b)(1)			Removed.
1310.23(b)(2)			Removed.
1310.23(b)(3)			Removed.
1311	Head Start Fellows Program	1304.41.	

III. Background

Initiated in 1965, as part of President Lyndon Johnson's ''War on Poverty,'' Head Start was created out of concern for the well-being of children in low-income families based on evidence that they were less likely to succeed in school than their more advantaged peers. As its name implies, the Head Start program was developed to enhance the experiences of children in low-income families prior to school entry, with the goal of alleviating the negative effects of growing up in poverty. At its inception, Head Start was the only large-scale child development program in the United States. It was visionary then, and in many ways continues to lead the early education community. For example, Head Start has been and continues to be a leader in its focus on family engagement and comprehensive services, on children with disabilities, and on children from diverse cultural and linguistic backgrounds; in its commitments to accountability for program quality; in its investments in the professional development of the early childhood education workforce that led to the development of the Child Development Associate (CDA) credential; and in its commitment to and investment in research and evaluation to strengthen quality, improve child outcomes, and reduce the achievement gap.

When Project Head Start was first started in the summer of 1965, over 560,000 children and families across the United States were served in an 8-week program. As the program grew, it expanded opportunities for children to receive high quality services in a number of ways. Over time, Head Start grew to serving both 3- and 4-year-old children and was expanded to reach children in migrant and seasonal farm worker families, as well as American Indian and Alaska Native children. In 1972, the Economic Opportunity Act was amended to expand Head Start program opportunities for children with disabilities for the first time and ensured that 10 percent of the enrollment opportunities for children served nationally were reserved for children who had disabilities. In 1995, Head Start expanded to include pregnant women and children from birth to 3 years of age, through the Early Head Start program, a visionary approach which led the field toward a new emphasis on intervention in children's earliest years. At the same time as it was expanding to reach more families, the Head Start program was also building an infrastructure to support quality, an effort for which there was little precedent. The first major revisions to the Head Start program performance standards to further support high quality services were issued in 1996, and in 1998, the Head Start Reauthorization Act included a mandate to expand full-day, full-year services. The 2007 Head Start reauthorization placed an even greater emphasis on embedding research-based practices in Head Start and placing a stronger focus on the educational outcomes of Head Start children.

Head Start now serves more than one million children and their families each year. The combination of Head Start's size and scope, the experience and input gained, and the major developments in early childhood research suggest that the time is right to capitalize on this knowledge and experience by overhauling the regulations that form the backbone of the comprehensive, high quality services Head Start programs strive to deliver. This NPRM builds upon that knowledge and experience to codify best practices and ensure Head Start's place as a leader in the field of early childhood. Through this NPRM, we intend to carry Head Start forward into the 21st century to ensure all Head Start children receive sufficient exposure to high quality services that will promote school success and reinvigorate the promise of Head Start envisioned in 1965 as a means to help end the effects of poverty child by child, community by community.

Statutory Authority and Requirements

This NPRM is published under the authority granted to the Secretary of the Department of Health and Human Services under sections 641A, 644, 645, 645A, and 646 of the Head Start Act (Act) (42 U.S.C. 9801, 9836a, 9839(c), 9840, 9840a, and 9841), as amended by the Improving Head Start for School Readiness Act of 2007. In these sections, the Secretary is required to establish performance standards for Head Start and Early Head Start programs, as well as federal administrative procedures. Specifically, the Act requires the Secretary to ''. . . modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs . . .'' [7] and explicitly directs a number of modifications, including ''scientifically based and developmentally appropriate education performance standards related to school readiness that are based on the Head Start Child Outcomes Framework'' and to ''consult with experts in the fields of child development, early childhood education, child health care, family services . . ., administration, and financial management, and with persons with experience in the operation of Head Start programs.'' Not only did the Act mandate such significant revisions, there was also bipartisan and bicameral agreement in Congress that its central purpose was to update and raise the education standards and practices in Head Start programs.[8] As such, the revisions proposed in this NPRM substantially expand upon and improve the standards related to the education of children in Head Start programs. Additionally, in order to meet requirements mandated by the Act, incorporate findings from scientific research, reflect best practices from years of program input, and integrate recommendations from the Secretary's Advisory Committee Final Report on Head Start Research and Evaluation,[9] this NPRM proposes to reorganize and substantially amend the existing regulation.

Expert and Stakeholder Consultation

We sought extensive input to develop this NPRM. Beginning in 2008 and continuing through 2014, we convened consultations, listening sessions, and focus groups that involved child development experts, subject matter experts, early childhood education program administrators, representatives from Indian tribes, Head Start staff, parents, and other constituent groups. We heard from tribal leaders in our annual tribal consultations. We consulted with national organizations and agencies with particular expertise and longstanding interests in early childhood education. In addition, we analyzed the types of technical assistance requested by and provided to Head Start agencies and programs. We reviewed findings from monitoring reports and gathered information from programs and families about the circumstances of those populations served by Head Start programs. We considered advances in research-based practices with respect to early childhood education and development, and the projected needs of expanding Head Start services. We also drew upon the expertise of federal agencies and staff responsible for related programs in order to obtain advice on how to promote quality across all Head Start settings and program options. We reviewed the study on developmental

[7] *See* section 641A(a)(1) of the Act.

[8] *See http://beta.congress.gov/crec/2007/11/14/CREC-2007-11-14-pt1-PgS14375-2.pdf*

[9] Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

outcomes and assessments for young children by the National Academy of Sciences. We also reviewed the standards and performance criteria established by state Quality Rating and Improvement Systems, national organizations, and policy experts in early childhood development, health, safety, maternal health, and related fields.

From this multi-year consultation process, we collected many ideas about how best to revise the program performance standards. Those ideas that were regularly raised are included in this NPRM. They include:

- The organization of the standards should reflect the key elements of program operations.
- The standards should emphasize what high quality looks like in Head Start programs.
- The standards should clarify how data should be used for planning, individualizing, referral, follow-up, and service provision.
- The standards should enhance collaborative partnerships, while maintaining core Head Start principles.
- The standards should describe how they apply across age groups.
- The standards should reflect the importance of supporting children's home language development in order to support English language acquisition and overall child progress.
- The standards should reflect the centrality of parents and families in children's healthy development.
- The standards should be flexible so that Head Start programs can be more responsive to local settings, circumstances, and needs.
- The standards should be inclusive of Indian tribes, migrant and seasonal, and homeless populations as well as children with disabilities.
- The governance standards should be flexible where possible and responsive to difference among types of Head Start agencies, *i.e.,* multi-purpose, governmental, etc.
- The standards should reduce unnecessary administrative burden to free up time and resources for service delivery and quality improvement.

Overview of Major Proposed Revisions to Head Start Performance Standards

The changes proposed in this NPRM will strengthen Head Start quality, improve child and family outcomes, prepare children to succeed in school and in life, and create a system of accountability that ensures continuous improvement. Some proposals are necessary revisions of existing standards that now conflict with the 2007 Act. Other standards we propose implement new requirements that reflect current research and program experience.

The major changes in the NPRM focus on three over-arching goals. First, the NPRM proposes to raise standards for service delivery to improve program quality and ensure Head Start achieves stronger outcomes for children and families. We propose revisions to reflect research-based practices for teaching practices, curriculum, assessment, health, mental health, professional development, and parent engagement services. We also propose to increase the minimum amount of dosage to better support effective classroom practices, be more aligned with the dosage of effective early education programs, better support working families, and achieve stronger child outcomes.

We also propose a significant reorganization of program performance standards to improve their clarity, transparency, and ease of implementation. Forty years of partial or topical, regulatory changes created an organizational structure that made it difficult to understand the requirements of Head Start. Some key requirements were not adequately addressed in regulations and needed updating and restructuring. Current regulations are also unnecessarily long, a consequence of Head Start's long history and too much focus on micromanagement. We propose to significantly reduce the total number of regulations without reducing program quality. We believe these structural changes, updates, and reductions will make it easier for programs to understand and implement high quality services and more inviting for prospective grantees to apply for funding. We are requesting comment on whether there are additional specific requirements that should be eliminated because they are overly burdensome and interfere with good practice.

Finally, we propose to revise and reduce regulations that place bureaucratic burden on programs that interfere with program quality. For example, we reduce or eliminate requirements focused on written plans and instead emphasize programs implementing systems of continuous improvement to ensure local programs set goals, collect data, and use their data to improve their performance. We also shift the nature of hygiene and safety requirements to focus more squarely on keeping children safe so that programs attend to this important outcome instead of micromanaged prescriptions.

In sum, we propose to completely reorganize the regulatory structure to be more logical and easier to understand and implement; reduce bureaucratic burden on local programs by streamlining, simplifying, and reducing the total number of regulations; strengthen standards for program services to reflect research and best practice and improve quality; and, completely overhaul and update the education standards to improve classroom practices and child outcomes. Together, these proposed revisions will support an increase in intensity, focus, and effort on high quality service delivery. This NPRM represents our effort to provide a clear roadmap for current and prospective grantees to provide high quality Head Start services, regardless of setting. This NPRM will allow Head Start programs will improve the quality of Head Start services and bolster their impact on the children and families we serve.

IV. Discussion of Proposed Rule

The Administrative Procedures Act (APA) governs how federal agencies may propose regulations. Section 553(b)(3) of the APA allows a federal agency to organize an NPRM either by the terms or substance of the proposed rule or by a description of subjects and issues involved.

We choose to organize this NPRM by a description of subjects and issues involved. The primary reason being that we propose to delete subparts 1301 through 1311 in the current regulation and either completely rewrite or restructure them under subchapter B at 45 CFR Chapter XIII. The order we propose here removes parts 1306 through 1311 in the current regulation and redesignates parts 1301 through 1305. We include redesignation and distribution tables to help the public readily locate current sections and provisions we propose to revise, redesignate, or remove and renumber.

Program Governance; Part 1301 (Currently §§ 1304.50 and 1304.52)

This section describes program governance requirements for Head Start agencies. Program governance in Head Start refers to the formal structure in place ''for the oversight of quality services for Head Start children and families and for making decisions related to program design and implementation'' as outlined in section 642(c) of the Act. This structure must be comprised of a governing body and a policy council. The governing body is the entity legally and fiscally responsible for the program. The policy council is responsible for the direction of the program and must be made up primarily of parents of currently enrolled children. Parent involvement in program governance reflects the fundamental belief, present since the

inception of Project Head Start in 1965, that parents must be involved in decision-making about the nature and operation of the program for Head Start to be successful in bringing about substantial change.[10]

Section 642(c) of the Act specifies the requirements for program governance, and this section was extensively amended by the Improving Head Start for School Readiness Act of 2007. It emphasizes the critical role both the governing body and the policy council, or policy committee at the delegate level, have in oversight, design and implementation of Head Start and Early Head Start programs. We propose to revise current program governance requirements to conform to the amendments in the Act. To align with the Act, we focus on training, the governing body, policy groups, and impasse procedures. Below we describe these areas according to the structure we propose for part 1301.

Section 1301.1 In General

This section reiterates the requirement in section 642(c) of the Act that an ''agency [must] establish and maintain a formal structure for program governance, for the oversight of quality services for Head Start children and families and for making decisions related to program design and implementation.'' This structure includes a governing body, a policy council, and, for a delegate agency, a policy committee. It emphasizes that the governing body has legal and fiscal responsibility to administer and oversee the program, which is consistent with § 1304.50(a)(5) in the current regulation, and the policy council is responsible for the direction of the program including program design and operations and long- and short-term planning goals and objectives.

Section 1301.2 Training

Section 642(d)(3) of the Act requires governing body and policy council members to have appropriate training and technical assistance to ensure they understand the information they received and can oversee and participate in the agency's programs effectively. This requirement is very similar to and consistent with § 1304.52(l)(4) in the current regulation, which requires agencies to provide training or orientation to governing body, policy council, and policy committee members to enable them to carry out their program governance responsibilities effectively. To consolidate all requirements related to governance into one section, we propose to move the current requirement to § 1301.2. We also propose to add advisory committee members to the list and require orientation to include training on the program performance standards since familiarity with these regulations is critical to fulfilling governance responsibilities.

Section 1301.3 Governing Body

The Act affirms the current requirement at § 1304.50(a)(5) that the governing body has legal and fiscal responsibility to administer and oversee the program but provides significantly more detail on the composition and responsibilities of the governing body than the current regulation addresses. To conform to the Act, the first two paragraphs of this section refer grantees to the composition requirements at section 642(c)(1)(B) of the Act (including the exceptions to such composition requirements at section 642 (c)(1)(B)(v) for governing bodies, such as tribal governing bodies, whose members oversee a public entity and are selected to their positions with the public entity by public election or political appointment) and the responsibilities outlined in section 642(c)(1)(E) of the Act. In addition to the responsibilities noted in the Act, we propose to require that governing body members use ongoing monitoring results, school readiness goals, as well as the information specified in section 642(d)(2) of the Act, to conduct their responsibilities.

The third and final paragraphs of proposed § 1301.3 pertain to advisory committees, which act as sub-boards. Section 642(c)(1)(E)(iv)(XI) of the Act permits a governing body, at its own discretion, to establish advisory committees to oversee key responsibilities related to program governance. In response to questions and requests for clarification from the field, we elaborate on what must be included in written procedures should a governing body invoke its authority to establish an advisory committee. We propose the written procedures the governing body establishes include, for example, the advisory committee's duties, actions, and obligations, and the membership of advisory committees. These written procedures are required to specify how and with what frequency the advisory committee must keep the governing body apprised of decisions it makes related to program governance.

Current § 1304.50 has three provisions that relate to the governing body: §§ 1304.50(a)(5), 1304.50(g)(1) and 1304.50(g)(2). To conform to the Act, our proposed rule retains the part of § 1304.50 that establishes the governing body as legally and fiscally responsible for administering and overseeing the program, but removes language stating that the governing body, the policy council, or policy committee cannot have identical memberships and functions. This language is no longer needed since the Act has specific requirements for the composition and functions of the governing body and policy council. The second provision related to the governing body is § 1304.50(g)(1) of the current regulation, which requires agencies to have written policies that define the roles and responsibilities of the governing body and that inform them of the management procedures and functions necessary to implement a high quality program. We propose to remove this language because the Act outlines the responsibilities of the governing body. It would be inconsistent with the Act for individual grantees and delegate agencies to define the roles and responsibilities of the governing body.

The third provision, at § 1304.50(g)(2), relates to establishing internal controls and safeguarding federal funds, and these responsibilities are subsumed in the overarching requirements of the governing body found in section 642(c)(1)(E) of the Act.

Section 1301.4 Policy Councils and Policy Committees

In this section, we retain a number of current requirements and propose other requirements to conform to the Act. In paragraph (a), we retain the current requirement for agencies to establish and maintain a policy council at the agency level and a policy committee at the delegate level, consistent with section 642(c)(2) and (3) of the Act. We also propose to retain the following current requirements: parents of children currently enrolled in all program options must be proportionately represented on policy groups; delegates must establish a policy committee; and the policy council and policy committee can be the same entity when the agency delegates operational responsibility for the entire program to one delegate.

However, we no longer require agencies to have parent committees as required in current § 1304.5(a)(1)(iii) and (a)(2). Thus far, we have required agencies to establish parent committees at the program option level with the purpose of providing a formal venue for meaningful parent engagement and for input in decisions affecting the program. The broader goal of active and meaningful parent engagement in

[10] *See* **Federal Register**, 40 FR 27562, June 30, 1975.

program operations is critical and remains our expectation throughout this NPRM, but we are no longer prescribing parent committees, specifically, as a means to achieve that goal. We do not think there is strong rationale for a federal requirement prescribing how active and meaningful engagement occurs and that every program option must achieve that involvement through a formal structure like parent committees. Additionally, we propose to remove this requirement because the parent committee structure may not work in all models, such as the Early Head Start-Child Care Partnerships, when there may be a few Early Head Start slots in a particular setting. Additionally, there would still be representation of parents on policy councils. Therefore the current requirements at § 1304.50(a)(1)(iii), as well as other provisions related to parent committees at § 1304.50(d)(2)(i) through (iii) and § 1304.50(e)(1) through (3), are not included in this NPRM. This proposed change does not preclude grantees from establishing or maintaining parent committees, however it is no longer a requirement. This in no way diminishes the role for parents given the extensive requirements proposed in part 1302, subpart E *Family & Community Partnership Program Services* and the fact that section 642(c)(2)(D) of the Act is clear that policy councils are responsible for activities that support parents' involvement in program operations, including policies to ensure the Head Start agency is responsive to community and parent needs.

In paragraph (b), we refer grantees to the composition requirements at section 642(c)(2)(B) of the Act. We propose to remove current § 1304.50(b)(6), which excludes staff from serving on policy councils or policy committees, with some exceptions, because it is superseded by the Act.

In place of the current list of policy council or policy committee responsibilities at § 1304.50(d), we propose in paragraph (c) to refer grantees to the responsibilities outlined in section 642(c)(2)(D) and section 642(c)(3) of the Act. To conform to the Act, we are not requiring policy councils to take responsibility for everything listed in § 1304.50(d). We are removing those responsibilities that are not in the Act, including for example the requirement at § 1304.50(d)(1)(ii) for policy groups to establish procedures to implement shared decision-making and the requirement at § 1304.50(d)(1)(vi) that the policy council take responsibility for its composition and the procedures for choosing members. Also, for the purpose of conforming to the Act, we add responsibilities for the policy council, or policy committee, such as budget planning and developing bylaws, that are not currently required in § 1304.50(d). In addition to the responsibilities noted in the Act, our proposed rule requires policy councils or policy committees to use ongoing monitoring results, school readiness goals, and information specified in section 642(d)(2) to conduct their responsibilities.

Paragraph (d) pertains to the term of the policy groups. It retains existing requirements in current § 1304.50(b)(4) and (5), and § 1304.50(a)(3) that members serve for one year and must be reelected and that policy groups cannot dissolve until a successor council is seated. The one change we propose is to allow discretion to establish in their bylaws that members may serve a maximum of five one-year terms, up from the current maximum of three one-year terms.

Paragraph (e) of our proposed § 1301.4 retains the existing requirement in § 1304.50(f) related to reimbursement of policy group members for reasonable expenses incurred.

Section 1301.5 Impasse Procedures

This section begins with the current requirement at § 1304.50(h) for an agency's governing body and policy council to work together to establish written procedures to resolve internal disputes that include impasse procedures. In response to the requirement at section 642(d)(1) of the Act, we build on the current requirement at § 1304.50(h) and specify what must be included in the impasse procedures. We propose to require programs to establish and follow impasse procedures that (1) demonstrate the governing body considers recommendations from the policy council; (2) require the governing body to inform the policy council in writing why it does not accept a recommendation, (3) describe a process and timeline to resolve issues and reach decisions that are not arbitrary, capricious, or illegal; and (4) require the governing body to notify the policy council in writing of its decision. This final step is consistent with the role of the governing body as legally and fiscally responsible for the program.

We believe our efforts to align program governance requirements with the Act will eliminate confusion that results from contradictions between the Act and current regulation, provide clarification on our expectations for advisory committees, and retain the fundamental goals of accountable and high quality oversight and meaningful parental engagement in program operations.

Program Operations; Part 1302

This part, Program Operations, outlines all of the operational requirements for serving children and families in Early Head Start and Head Start. This includes eligibility, selection, and enrollment requirements. It also includes the comprehensive services requirements, including education, health, nutrition, mental health, and family and community engagement services, as well as additional services to children with disabilities, transition services, and services to enrolled pregnant women. Finally, it includes requirements for human resources and program management. This reflects a reorganized structure that places all program operations into one part so that programs may easily find and understand the services they must deliver. We believe this more logical organization will greatly improve clarity and transparency and will support more effective implementation of high quality comprehensive services.

Eligibility, Recruitment, Selection, Enrollment and Attendance; Subpart A (Currently Parts 1304, 1305, and 1306)

We do not propose to substantially change this subpart from current regulation. Although we propose to redesignate it into part 1302 as part of a full restructuring of the existing rule in this NPRM, many provisions of the regulation proposed in this subpart are no different from the current rule. Overall, we propose to simplify, restructure, and clarify the language in this subpart so that it is easier for grantees to understand their obligations. We also propose revisions, and in some cases we propose to add new provisions, in order to comply with the 2007 amendments to section 645 of the Act.

The revisions we propose to this subpart reflect requirements in the Act related to utilizing the community assessment to identify the children who are most in need of services and appropriately prioritizing special populations such as children experiencing homelessness, children in foster care, and children with disabilities. In addition, the proposed revisions to this subpart highlight the importance of regular attendance and continuity of enrollment for all children served in Head Start.

Further, the Act requires us to promulgate regulations to remove barriers to serve homeless children. As a result, in this section, we propose to

add several provisions that will increase opportunities for children experiencing homelessness to participate in Head Start. In addition we propose new provisions to clarify requirements for programs to continue to serve children who have persistent behavioral issues. We also propose revisions throughout this subpart to better support the ability of programs to serve children from diverse economic backgrounds, given research that suggests children's early learning is positively influenced by interactions with diverse peers [11] [12] We also require programs to prioritize serving younger children in communities where there is publicly funded high quality pre-kindergarten for four year olds. Consistent with other subparts in this NPRM, we propose to redesignate definitions related to this subpart to part 1305.

Section 1302.10 In General

In this section, we propose to provide a general overview of the content in this subpart.

Section 1302.11 Determining Community Strengths and Needs

In this section, we propose to simplify and clarify the process for determining community strengths and needs. We also propose to revise and redesignate language in existing rule § 1305.3 to clarify expectations for grantees and prospective grantees. For example, the proposed reorganization of this section is broken into two parts. Section 1302.11(a) describes how prospective grantees must define *service area,* which is the first logical step for prospective grantees. The current requirement at § 1305.3(b) that the service area must be approved is retained while removing the requirement that the services area does not overlap with other grantees in order to give flexibility to local programs. The next provisions under § 1302.11(b) require grantees to assess the service area to determine the needs of the community. In order to be consistent with the 5-year grant period required by the Act, we propose to extend the current requirement for grantees to conduct community assessments from every three years to every five years. In paragraph, (b)(2) we further require that program review and update the assessment annually to reflect any significant changes including increased availability of publicly-funded full-day pre-kindergarten, rates of family and child homelessness, and significant shifts in community demographics. This proposal will relieve undue burden on programs and increase efficiency of program operations and administration. Programs are still required to review their community assessment annually and update the assessment as changes occur in the community. We propose to retain this annual evaluation to ensure that programs continue to meet the needs of their community if anything changes.

We also propose to add several elements to the community assessment that grantees are currently required to perform to ensure that grantees collect all relevant information needed to design their program and services to best meet community needs. These new elements include the number of children experiencing homelessness and the number of children in foster care to enable grantees to prioritize the most at-risk children in their communities. We believe this reflects a stronger emphasis on serving these vulnerable populations in the Act. In addition, we propose to expand information collected as part of the community assessment about the availability of early childhood programs in the community, so grantees are aware of other options available to eligible children. This data collection will also help programs understand trends in early childhood programming in their communities, including the increasing availability of state and other publicly funded preschool programs [13] and recent fluctuations in such funding [14] so that programs are better able to target their Head Start and Early Head Start services appropriately. In addition, we propose to require programs to determine whether the characteristics of their communities would allow them to operate classrooms that include children from diverse economic backgrounds. Research suggests children's early learning is positively influenced by interactions with economically diverse peers.[15] [16]

Moreover, in this section and in § 1302.12, we propose language to clarify that we do not limit tribal Head Start programs to reservation areas.

Finally, we propose to remove the current requirements in § 1305.3(d) that prescribe particular processes for which programs must use the community needs assessment and replace them with a general requirement that programs use the assessment to design a program that meets community needs.

Section 1302.12 Determining, Verifying, and Documenting Eligibility

We propose to redesignate this section from § 1305.4 in the current regulation to § 1302.12 in this NPRM. Using the newly finalized § 1305.4 as a base, we propose to reorganize provisions to better mirror the style of this NPRM. As part of this reorganization we have made small changes to reduce confusion in the field resulting from the newly finalized provisions in 1305.4. Specifically, we propose to remove the separate paragraph (f) that describes categorical eligibility and incorporate this language into paragraph (c) so that all eligibility requirements are described under a single paragraph. We also propose to require verification of public assistance eligibility be based on documentation from a state or local public assistance office. This change is made in response to questions and confusion following the final rule on eligibility.

Additionally, for clarity and to better reflect best practices in the field, we propose to add a few provisions. Specifically, in paragraph (a), we propose a new provision that allows programs to use an alternate effective method to determine eligibility. In paragraph (e), we propose to include existing statutory authority for tribal programs that operate Head Start and Early Head Start to reallocate funds between the two programs. We also propose to include existing statutory authority under a new paragraph (g) that allows programs in communities with 1,000 or fewer individuals to establish their own eligibility criteria as long as they satisfy the criteria outlined in section 645(a)(2) of the Act.

We further propose to streamline provisions regarding multi-year eligibility and requirements to re-verify between Early Head Start and Head Start and for the unusual circumstance of a third year in Head Start to remove redundancy. We have also clarified that Early Head Start age eligibility ends at three unless the requirements at § 1302.70(b)(2) of the proposed rule apply.

Finally, we propose to remove ''pregnant women'' from age eligibility requirements and the separate definition

[11] Mashburn, A. J., Justice, L. M., Downer, J. T., & Pianta, R. C. (2009). Peer effects on children's language achievement during pre-kindergarten. *Child Development, 80(3),* 686–702.

[12] Henry, G. T., & Rickman, D. K. (2007). Do peers influence children's skill development in preschool? *Economics of Education Review, 26(1),* 100–112.

[13] Barnett, W.S., Carolan, M.E., Squires, J.H., Clarke Brown, K. (2013). *The state of preschool 2013: State preschool yearbook.* New Brunswick, NJ: National Institute for Early Education Research.

[14] *Ibid.*

[15] Mashburn, A. J., Justice, L. M., Downer, J. T., & Pianta, R. C. (2009). Peer effects on children's language achievement during pre-kindergarten. *Child Development, 80*(3), 686–702.

[16] Henry, G. T., & Rickman, D. K. (2007). Do peers influence children's skill development in preschool? *Economics of Education Review, 26*(1), 100–112.

of family as it relates to ''pregnant women'', as both of these provisions have caused unnecessary confusion and the eligibility rule did not change the requirements.

While the changes in this section do not reflect substantive changes from the final rule published in February of 2015, we explicitly solicit comment on any provisions within this section that have resulted in unnecessary complications in the eligibility process.

Section 1302.13 Recruitment of Children

We propose to restructure current provisions and to streamline language for clarity while maintaining requirements in the existing rule. In this proposed section, the goal of the recruitment process is to reach all of those in need of services by actively informing families with eligible children of the availability of program services and encouraging them to apply for admission to the program. If necessary, a program must assist the family in completing the application. We also include a provision in this section, redesignated from § 1308.5(a), that programs must make an effort to actively recruit children with disabilities.

Section 1302.14 Selection Process

We propose to restructure this section so that programs understand that they must develop a selection process by which they use specific criteria to weigh selection of participants who have been deemed eligible. Paragraph (a)(1) of this proposed section lists the criteria by which a program must prioritize selection of participants. The revisions we propose simplify this information by enumerating criteria in a list format, explicitly link these criteria to a program's annual update of their community needs assessment, and add children experiencing homelessness and children in foster care to the priority list. We also propose to require programs to prioritize younger children in their selection process if publicly funded high quality pre-kindergarten spaces are available for four year olds for a full school day in the Head Start program's service area.

We also propose to include provisions, which conform to the requirement in section 640(d) of the Act, that at least 10 percent of a program's total enrollment are children eligible for services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*), unless the responsible HHS official grants a waiver. The existing rule at § 1305.6(c) requires that 10 percent of enrollment opportunities consist of children with disabilities, and the revision conforms to changes in the Act. This requirement must, by definition, inform each grantee's selection process. In paragraph (c), we include existing provisions that delineate the requirements for developing and maintaining a waiting list of eligible participants.

Section 1302.15 Enrollment

We propose to redesignate provisions currently enumerated in § 1305.7 of the existing rule to this section and revise its title to remove the term re-enrollment, which is a concept we no longer use in this NPRM. The redesignated and revised provisions we propose to include in this section clarify program requirements with regard to maintaining its funded enrollment and ensuring continuity of enrollment, to the extent possible. Specifically, we propose to continue to require programs apply the eligibility of children enrolling in Early Head Start to the duration of participation in Early Head Start, with renewed income verification when the children transition to Head Start. These provisions are consistent with proposed § 1302.12, in which we maintain the provision from § 1305.7(c) that children in Head Start are automatically eligible for a second year. Further, in § 1302.15(c) we propose to clarify and simplify the provision in § 1305.7(a) of the existing rule, which allows for a third year of Head Start eligibility under exceptional circumstances as long as programs verify family income between the second and third year.

In order to support enrollment of homeless children, we add a provision that programs may reserve slots for children experiencing homelessness. Since homeless children do not have a stable residence, they may move and enter a program after the beginning of the program year. This is an important provision for removing barriers to serving homeless children as required in section 640(m) of the Act. Given the large waiting lists maintained by programs and to ensure that a large number of slots are not vacant, no more than three percent of a programs funded enrollment may be reserved for this purpose. If a reserved slot is not filled within 30 days it becomes a vacant slot and must be filled within 30 days. We also propose to include children in foster care in this provision, given their family instability and the importance of early intervention, like that provided by Head Start, on their school readiness and long-term outcomes.[17] Finally, we propose to add a provision in § 1302.15(d) to allow programs to enroll children who are funded through non-Head Start sources including private pay. Research shows children's early learning is positively influenced by interactions with economically diverse peers.[18] [19] Finally, in paragraph (e) we propose to add a provision to clarify current policy which requires programs to follow their state immunization enrollment and attendance requirements. This proposed provision is not a new requirement, rather it clarifies that programs are already subject to such state requirements.

Section 1302.16 Attendance

We propose to promote regular attendance since research demonstrates that consistent attendance is predictive of school success. While more research has been conducted on K–12 school attendance, studies indicate that regular preschool attendance is also essential for success in preschool and beyond. For example, one study conducted in the Chicago Public Schools shows that preschool attendance is important for several reasons: (1) It sets up patterns for long-term school attendance; (2) children who regularly attend preschool perform better on kindergarten entry assessments tests; and (3) regular attendance enhances social-emotional development.[20] Another study in Tulsa found that preschoolers who attended regularly showed more growth in literacy skills than their peers who were frequently absent.[21] In Baltimore, researchers found that 25 percent of children who were chronically absent in pre-kindergarten and kindergarten were retained in later grades, compared to nine percent of their peers who regularly attended in these early years.[22]

[17] Rankin, V. E., & Gonsoulin, S. (2014). *Early learning is essential: Addressing the needs of young children potentially at risk for system involvement.* Washington, DC: National Evaluation and Technical Assistance Center for Children and Youth Who Are Neglected, Delinquent, or At Risk (NDTAC).

[18] Mashburn, A. J., Justice, L. M., Downer, J. T., & Pianta, R. C. (2009). Peer effects on children's language achievement during pre-kindergarten. *Child Development, 80*(3), 686–702.

[19] Henry, G. T., & Rickman, D. K. (2007). Do peers influence children's skill development in preschool? *Economics of Education Review, 26*(1), 100–112.

[20] Ehrlich, S. B., Gwynne, J. A., Pareja, A. S., & Allensworth, E. M. (2013). Preschool Attendance in Chicago Public Schools. *Research Summary.* University of Chicago Consortium on Chicago School Research.

[21] Community Action Project Tulsa County. (2012). *Attendance Works Peer Learning Network Webinar.*

[22] Connolly, F., & Olson, L. S. (2012). Early Elementary Performance and Attendance in

Continued

Consistent with the research mentioned above, the central addition to this section is the requirement that attendance be tracked for each child. We also propose to require programs take actions including attempting to conduct additional home visits and provision of support services, as necessary, to increase child attendance when children have four or more consecutive unexcused absences or are frequently absent. We would like to invite public comment specifically on this proposed change and whether experts and practitioners would recommend setting a different threshold than four days. To ensure that a child is safe when they do not come to school, we propose a new requirement that programs contact a parent if the child has not come to school and the parent has not called within one hour of program start time. Automated systems, such as those used in public school systems to call and/or text parents of absent children would be considered appropriate contact. In this section, we also strengthen the current standards related to systemic attendance issues indicated by an average monthly attendance falling below 85 percent by requiring programs to analyze the causes of absenteeism and use this data to inform their efforts related to ongoing oversight and correction, as well as continuous program improvement. We also propose a new provision and redesignate a provision to clearly delineate requirements to support the attendance of homeless children. Specifically, we redesignate § 1305.4(f)(2) of the final eligibility rule to § 1302.16(c)(1) as this requirement logically fits under supporting attendance for homeless children rather than categorical eligibility. We also add a provision to encourage programs to work with community partners and families of children experiencing homelessness to meet their needs, including through the provision of transportation services. However, such transportation services are not explicitly required.

Section 1302.17 Suspension and Expulsion

In this section, we propose limitations on the use of suspension and propose to prohibit programs from expelling children because of a child's behavior. Recent data indicate that expulsions and suspensions occur at high rates in preschool settings.[23 24 25] This is particularly troubling given that research suggests that school expulsion and suspension practices are associated with negative educational and life outcomes.[26 27] Head Start has a long-standing and continuing practice of preventing the expulsion or suspension of children, and facilitating transitions to more appropriate placements in circumstances where the child exhibits serious behavioral issues. Several of the standards in the existing regulation support this. However we want to ensure through explicit requirements that all programs are aware of these limitations and prohibitions and consistently implement them using best practice.

In paragraph (a), we propose to clearly state that programs must either prohibit or severely limit the use of suspension and include requirements for programs to engage a mental health consultant, collaborate with parents, and utilize appropriate community resources should a temporary suspension be deemed necessary because a child's behavior represents a serious safety threat for themselves or other children. The determination of safety threats should be based only on actual risks and objective evidence, and not on stereotypes or generalizations.

In paragraph (b)(1) we explicitly prohibit unenrollment or expulsion based on a child's behavior to clarify that unenrolling a child because of their behavior is prohibited even if a program might not think it qualifies as expulsion. In paragraph (b)(2), we also specifically propose a new requirement that programs must take exhaustive steps to ensure that a child who exhibits persistent and serious challenging behaviors can participate safely in the program. Though we do not have evidence of significant expulsion issues in Head Start, we believe this sets forth an important policy for best practice and is added to address increasing numbers of children being expelled from child care and preschool settings due to challenging behaviors. One study of randomly sampled preschool teachers in Massachusetts indicated that the preschool expulsion rate was more than 34 times the K–12 expulsion rate in the state and more than 13 times the national K–12 expulsion rate.[28] Data also indicate that specific groups of children are being disproportionately expelled and suspended from their early learning settings; a trend that has remained virtually unchanged over the past decade.[29] Recent data out of the Department of Education indicate that African-American boys make up 18% of preschool enrollment, but 48% of preschoolers suspended more than once.[30] Other research indicates that while Hispanic and African-American boys combined represent 46% of all boys in preschool, these children represent 66% preschool boys suspended. Analyses of boys, compared to girls, indicate that they make up 79% of preschoolers suspended once, and 82% of preschoolers suspended multiple times.[31]

This section sets out procedures that a program must follow to address persistent behavior problems. Research has indicated that mental health consultation can reduce the risk of expulsion for children exhibiting challenging behaviors.[32] The process for addressing such behaviors must be guided by the program's mental health consultant and include consultation with parents and the child's physician at a minimum. The agency responsible for IDEA must be involved if a child has an Individualized Education Program (IEP) or Individual Family Service Plan (IFSP) and must be involved to determine the child's need for services if they do not have an IEP or IFSP. If it is determined that a child's continued participation in Head Start poses a continued serious safety threat to themselves or other children, the program must work with the family and other individuals described above to assist the family in finding an

Baltimore City Schools' Pre-Kindergarten and Kindergarten. *Baltimore Education Research Consortium.*

[23] Gilliam, W. S. (2005). Prekindergarteners left behind: Expulsion rates in state prekindergarten systems. New York, NY: Foundation for Child Development.

[24] Gilliam, W.S., & Shahar, G. (2006). Preschool and child care expulsion and suspension: Rates and predictors in one state. Infants & Young Children, 19, 228–245.

[25] Lamont, J. H., Devore, C. D., Allison, M., Ancona, R., Barnett, S. E., Gunther, R., & Young, T. (2013). Out-of-school suspension and expulsion. Pediatrics, 131(3), e1000–e1007.

[26] Petras, H., Masyn, K. E., Buckley, J. A., Ialongo, N. S., & Kellam, S. (2011). Who is most at risk for school removal? A multilevel discrete-time survival analysis of individual- and context-level influences. Journal of Educational Psychology, 103, 223.

[27] American Psychological Association, Zero Tolerance Task Force Report (2008). An evidentiary review and recommendations.

[28] Gilliam, W. S., & Shahar, G. (2006) Preschool and Child Care Expulsion and Suspension: Rates and Predictors in One State. *Infants and Young Children, 19*(3), 228–245.

[29] Gilliam, W. S. (2005). Prekindergarteners left behind: Expulsion rates in state prekindergarten systems. New York, NY: Foundation for Child Development.

[30] U.S Department of Education Office for Civil Rights (2014). Data Snapshot: Early Childhood Education.

[31] Raffaele Mendez, L. (2003). Predictors of suspension and negative school outcomes: A longitudinal investigation. New Directions for Youth Development, 99, 17–33.

[32] Perry, D. F., Dunne, M. C., McFadden, L., & Campbell, D. (2008). Reducing the risk for preschool expulsion: Mental health consultation for young children with challenging behaviors. Journal of Child and Family Studies, 17(1), 44–54.

appropriate placement and directly transition the child to that placement.

We also redesignate several provisions that appear throughout the existing rule. For instance, in proposed § 1302.17(c), we streamline the requirement that children cannot be excluded from participation because their parent(s) do not participate in parent activities, including parental consent for data sharing, and spells out that participation is voluntary. These requirements in (c) are redesignated from §§ 1304.40(d)(2), 1304.40(i)(1) and 1306.32(b)(8).

Section 1302.18 Fees

We propose to redesignate this section from §§ 1305.9 and 1306.32 and revise for purposes of clarification. We maintain the overarching policy that programs are prohibited from charging parents of eligible children a fee for their child's participation in a Head Start program. In other words, parents of children who are part of the Head Start program's funded enrollment must not, under any circumstances, be charged a fee for their child to participate in the Head Start funded day.

We propose in paragraph (b) to offer clarification on two allowable fees. First, we allow programs to accept a fee, including co-payments required by an alternate funding source such as the Child Care and Development Block Grant, from eligible families when programs extend services outside of program hours. For example, if a program is funded to serve children for eight hours a day but opts to extend the program day to ten hours, the program can charge a fee from all enrolled children for those additional two hours that are not supported with Head Start funds.

Second, we clarify that programs can charge a fee or a co-payment from families who are not part of the Head Start funded enrollment if they are serving children from diverse economic backgrounds or using multiple funding sources, including private pay. We encourage programs to be innovative in leveraging multiple funding sources in order to serve more children and serve children from diverse economic backgrounds because we believe it will better serve the community and improve impacts on child outcomes.

Program Structure; Subpart B (Currently §§ 1306.20, 1306.30, 1306.37, and 1304.52)

All Head Start and Early Head Start programs are given the option to deliver comprehensive services through different program models that are meant to meet the needs of the children, families, and the community these programs serve. In this subpart, we propose to revise and redesignate most of the current provisions from ''Head Start Program Options'' in current §§ 1306.30 through 1306.37, and we consolidate, revise, and redesignate program options and structural requirements for Early Head Start and family child care into this subpart that are in current § 1306.20(g) and (h) and § 1304.52 (g)(4). We propose to revise the different types of program models Head Start and Early Head Start grantees may operate, and propose the basic structural requirements, such as minimum hours of operation and teacher-child ratios, that programs must meet for each of these program models.

In this section, we propose three standard program options: center-based, family child care, and home-based, and a locally-designed variation of those options. We also propose the setting, ratio, class size, service duration, and hour per day requirements for these program options. We propose to remove combination options and double session options as standard options as well as home-based options for preschoolers. But, we propose to allow programs to apply for a locally-designed variation if it best meets the learning needs of the children and the needs of the community.

Furthermore, we propose to consolidate licensing and square footage requirements for center-based, family child care, and home visit group socializations into this subpart. We also make it clear that all programs must meet state, local, or tribal licensing requirements. Our structural reorganization and streamlined language of the program options and structural requirements will make the requirements simpler to read, understand, and implement. This improved clarity and transparency will reduce unnecessary burden and confusion for programs.

In addition to the proposed organizational changes described above, we propose several important policy changes to increase program quality. For example, we propose to increase the minimum hours and days of program operation, consistent with the President's FY2016 Budget, recommendations from the Head Start Advisory Committee, and research on high-quality early learning programs. As discussed at length below, a significant body of research suggests this is a necessary change to foster better child outcomes in Head Start. We also propose increasing accountability for locally-designed program models to better ensure they meet the educational needs of the children they serve. We believe our proposed revisions to structural characteristics will help improve program impact on children's education and development.

Furthermore, for purposes of clarity and improved ease of implementation, we propose to include only structural requirements for each of the program model options in this subpart. Therefore, we propose to revise and redesignate many of the requirements in the current ''Program Options'' sections that are not structural characteristics of program options to more appropriate sections within this NPRM. For example, we revise and redesignate § 1306.32(b)(7) in the existing rule, which addresses requirements about staff management, to the proposed part 1302 subpart J—Program Management. We also revise and redesignate part of § 1306.32(b)(8) in the existing rule, which prohibits programs from expelling children for lack of parent participation in home visits, to part 1302 subpart A, which includes the requirements about eligibility, enrollment, and attendance. To improve clarity and reduce redundancy, we also propose to remove § 1306.30(d), which requires programs to ''identify, secure and use community resources in the provision of services . . . prior to using Head Start funds for these services.'' We believe this provision is unnecessary because throughout our proposed NPRM, we are clear that Head Start should leverage community resources and specify when Head Start funds may be used as payer of last resort. Our proposal to remove this provision should not be interpreted to mean that Head Start should be paying for services for which other community program resources are available.

In addition, we propose to remove provisions that allow combination programs (§ 1306.34), double session variations (§ 1306.32(c)), and home-based (§ 1306.33) for Head Start age children as standard program options. We propose revisions to make these variations available to grantees only under certain conditions through the locally-designed program variation option in § 1302.24. The full day variation at § 1306.32(d) is assumed in the center-based option. We believe this will better ensure children in all programs receive sufficient exposure to high quality education services. We also believe these revisions will ensure that programs better meet the needs of families and the communities they serve, while still ensuring local flexibility in the structure of program design.

Section 1302.20 In General

In this section, we revise and redesignate parts of § 1306.31 in the existing rule to propose the following program model options: Center-based, family child care, home-based (for Early Head Start Programs), or a locally-designed variation of these options. In addition, to ensure programs continue to meet the needs of the children and families in their community, we propose to require programs to regularly reconsider the appropriateness of their program model and structure choices and specifically assess whether it would be appropriate to extend services or convert slots to serve younger children. We propose to remove the current overly prescriptive process at § 1306.31(c), which describes how a program must consider placement. We propose to require programs to consider ways to operate for a full calendar year.

In § 1302.20(b), we propose to revise for improved clarity but retain the requirement that all program options deliver the full range of comprehensive services as required in § 1306.30(a) and § 1306.20(i) in the existing rule. These services include the requirements proposed in subparts C through G of part 1302 (services for education and child development, health program services, family and community partnership program services, additional services for children with disabilities, and transition services). As in the existing rule, this requirement may not be waived for any program and remains central to Head Start's mission.

In § 1302.20(c), we specify the process and requirements for converting Head Start slots to Early Head Start slots. Under Sections 640(f)(2)(B) and 645(a)(5), Head Start grantees may request conversion of funded enrollment slots and a reallocation of funds from Head Start to Early Head Start. In this section, we propose to codify existing program guidance on conversion, including the process grantees must follow to convert Head Start slots to Early Head Start slots, whether through the traditional re-funding application or a separate grant amendment, and what information the conversion request must include. In addition, consistent with Section 645(d)(3) of the Act, we propose special provisions for American Indian and Alaska Native grantees that wish to convert slots.

We are seeking public comment on whether the conversion procedures included in this NPRM provide sufficient clarity to programs on how to accomplish conversions from Head Start slots to Early Head Start slots. We specifically seek comment on whether existing programs would benefit from additional clarity on Federal requirements or processes to which the Department and programs must adhere in order to convert slots to serve younger children in the course of their five-year grant, during grant renewal, or during re-competition.

Section 1302.21 Center-Based Option

In this section, we propose revisions to § 1306.32, including removal of current §§ 1306.32(a)(7) through (9) and § 1304.52(g)(4) in the existing rule and redesignate and revise all structural requirements for programs that operate a center-based option, including setting, teacher-child ratios, class size, service duration, licensing, and square footage. We propose to strengthen several structural requirements to improve program quality and child outcomes.

Specifically, in paragraph (b)(2), we propose children in infant and toddler classrooms be assigned a consistent, primary teacher to promote continuity of care. Research suggests continuity of care, in which infants and toddlers have a single primary teacher for an extended period of time, helps support healthy attachments and more supportive relationships, which better facilitate growth across different areas of child development.[33] [34] [35] [36] [37] We believe this provision better meets the needs and development of infants and toddlers. Mixed age group classrooms, which can be structured to better support continuity of care for individual children and stronger bonds with primary caregivers, are encouraged.

To improve child outcomes, we propose to increase the minimum service duration for preschoolers in § 1302.20(c) (as is discussed below, programs can apply for modifications to these requirements through a local program option). First, in paragraph (c)(1) we propose to increase the number of required service days per year for preschoolers from 128 to 180 days. In paragraph (c)(3) we propose to increase the minimum required hours per day from 3.5 to 6 hours. Together, these two proposals will afford a preschool aged child a minimum of 1,080 hours of education per year. Children in a program operating under the current minimums receive 448 hours of Head Start over the course of a calendar year, which is less than half of early learning services that many children receive in state pre-kindergarten and will receive at our proposed minimums. Most programs are operating below these new minimums so our proposal will significantly increase Head Start children's exposure to early learning experiences, which is consistent with the Secretary's Advisory Committee recommendation that Head Start ''optimize dosage.''

Though research on dosage does not identify a specific effective dosage level for early education, there is strong and mounting evidence that current minimums are too low to produce strong child outcomes. A recent analysis of the ECLS–K data finds that the highest risk kids are almost a full year behind the lowest risk children at kindergarten entry and ''to catch up, high-risk children would need to make almost twice as much progress during kindergarten as low-risk children.''[38] We do not believe our current operating minimums allow sufficient time for the growth and development in school readiness skills for Head Start children. We would like to invite comment specifically on whether six hours is the most appropriate new minimum.

Research on extended day with young children, full day kindergarten, and effective teaching and curricula practices all strongly point to the inadequacy of a 3.5 hour day in Head Start. For example, a randomized control study in which one group attended pre-kindergarten for 8 hours per day for 45 weeks and another group attended 2.5 to 3 hours per day for 41 weeks found that by the spring of kindergarten, the children who had attended full-day pre-kindergarten had improved almost twice as much on vocabulary and math skills compared to the children who attended half day.[39] Research with toddlers and preschool age children also finds that greater exposure to rich vocabulary enrichment

[33] Copple, C., & Bredekamp, S. (2009). *Developmentally appropriate practice in early childhood programs: Serving children from birth through age 8* (3rd ed.). Washington, DC: National Association for the Education of Young Children.

[34] Honig, A. (2002). *Secure relationships: Nurturing infant/toddler attachment in early care settings.* Washington, DC: National Association for the Education of Young Children.

[35] Post, J., Hohmann, M., & Epstein, A. (2011). *Tender care and early learning: Supporting infants and toddlers in child care settings* (2nd ed.). Ypsilanti, MI: HighScope Press.

[36] Riley, D., San Juan, R.R., Klinkner, J., & Ramminger, A. (2008). *Social & emotional development: Connecting science and practice in early childhood settings.* St. Paul, MN: Red Leaf Press.

[37] Zero to Three. (2008). *Caring for infants and toddlers in groups: Developmentally appropriate practice* (2nd ed.). Arlington, VA: Author.

[38] Bernstein, S., West, J., Newsham, R., & Reid, M. (2014). Kindergartners' Skills at School Entry: An Analysis of the ECLS–K. *Mathematica Report.*

[39] Robin, K.B., Frede, E.C., Barnett, W.S. (2006). Is More Better? The Effects of Full-Day vs. Half-Day Preschool on Early School Achievement. *NIEER Working Paper.*

allows for better scaffolding that can lead to improved language and literacy.[40 41] Numerous studies on kindergarten find children learn more in full-day kindergarten than half-day kindergarten.[42 43 44 45 46 47 48] This is not surprising since more instruction is delivered in full-day classrooms.[49] Experts also find that full-day kindergarten particularly helped narrow the achievement gap for dual language learners,[50] which is encouraging since a large and increasing portion of Head Start children are dual language learners.

Moreover, research on effective teaching and curriculum practices for children at risk of school difficulties also support the need for full-day operation. A meta-analysis of pre-kindergarten programs found that those that focused on intentional teaching and small group and one-to-one interactions had larger impacts on child outcomes.[51] It is very difficult for a half-day program to provide sufficient time for teachers to conduct learning activities and intentional instruction in small group and one-on-one interactions in the areas of skill development experts believe are important to later school success.

Researchers believe meaningful skill development in language, literacy, and math requires intentional, frequent, and specific methods of instruction and teacher-child interactions, and for many children in Head Start, need to be conducted in small groups to allow sufficient individualized scaffolding and skill development.[52] Targeted instruction and small group activities are teaching practices that are particularly important for supporting the learning of children who are behind.[53 54 55] For example, language and literacy experts believe teachers must take an active role in supporting language and literacy development for children at risk of reading difficulties. That requires systematic and explicit instruction to foster vocabulary breadth and depth. They recommend in addition to integration into group learning and free play, language and literacy instruction should be explicitly structured and sequenced in 15 to 20 minutes small group sessions at least three times per week.[56] Math experts recommend similar time frames to support development of broad and deep mathematical thinking and knowledge.[57 58] This is not to say that all activity should be in small groups nor imply intentional instruction means rote learning: Large groups, free play, dramatic play, and child-initiated activities are all essential components of high quality early learning programs. Three and a half hour days are not long enough to support these high quality learning experiences.

In addition, research on summer learning loss and attendance demonstrates the importance of extending the minimum days of operation in Head Start. Experts conclude the average student loses one month worth of skills and development over the summer break.[59] The amount of learning loss is even greater for children from low income families who may not have as much access to educational resources and experiences during the summer and who are already behind their more advantaged peers and need extra time to learn skills and strengthen development.[60 61 62 63 64 65] This pattern is also true for the youngest children in elementary school.[66] Experts believe the effects of summer learning loss for children from low-income families is cumulative and that the disparity in summer gains and losses over the first

[40] Harris, Golinkoff, & Hirsh-Pasell (2011). Lessons for the Crib for the Classroom: How Children Really Learn Vocabulary. In *Handbook of Early Literacy Research, Vol 3*. Ed by D. Dickinson and S. Neuman (NY: Guilford), 49–65.

[41] Dickinson, D.K., Flushman, T.R., & Freiberg, J.B. (2009). Learning, reading, and classroom supports: Where we are and where we need to be going. In B. Richards, M.H. Daller, D.D. Malvern, P. Meara, J. Milton, & Trefers-Daller (Eds.). *Vocabulary Studies in First and Second Language Acquisition: The Interface Between Theory and Application.* (pp. 23–38). Hampshire, England: Palgrave-McMillan.

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[45] *http://www.thecommunityguide.org/healthequity/education/he-AJPM-evrec-fdk.pd.*

[46] Schroeder, J. (2007). Full-day kindergarten offsets negative effects of poverty on state tests. *European Early Childhood Education Research Journal. 15(3),* 427–439.

[47] Hahn, R.A., Rammohan, V. et al. (2014). Effects of Full-Day Kindergarten on the Long-Term Health Prospects of Children in Low-Income and Racial/Ethnic-Minority Populations. *American Journal of Preventive Medicine, 46*(3), 312–323.

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[49] *Ibid*

[50] Chang, M. (2012). Academic performance of language-minority students and all-day kindergarten: a longitudinal study. *School Effectiveness and School Improvement: An International Journal of Research, Policy and Practice 23*(1), 21–48.

[51] Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *Teachers College Record, 112*(3), 579–620.

[52] Justice, L.M., Mcginty, A., Cabell, S.Q., Kilday, C.R., Knighton, K., & Huffman, G. (2010). Language and literacy curriculum supplement for preschoolers who are academically at risk: A feasibility study. *Language, Speech, and Hearing Services in Schools, 41,* 161–178.

[53] Buysse, V., Peisner-Feinber, E.S., Saikakou, E., & LaForett, D.R. (2014). Recognition & response: A model of response to Intervention to promote academic learning in early education. Chapter 5 in *Handbook of Response to Intervention in Early Childhood,* Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

[54] Justice, L.M., Mcginty, A., Cabell, S.Q., Kilday, C.R., Knighton, K., & Huffman, G. (2010). Language and literacy curriculum supplement for preschoolers who are academically at risk: A feasibility study. *Language, Speech, and Hearing Services in Schools, 41,* 161–178.

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[57] Ginsburg, H.P., Ertle, B., & Presser, A.L. (2014). Math curriculum and instruction for young children. Chapter 16 in *Handbook of Response to Intervention in Early Childhood,* Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

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[64] Downey, D.B., von Hippel, P.T. & Broh, B.A. (2004). Are Schools the Great Equalizer? Cognitive Inequality During the Summer Months and the School Year. American Sociological Review, 69(5), 613–635.

[65] Benson, J., & Borman, G.D. (2010). Family, Neighborhood, and School Settings Across Seasons: When Do Socioeconomic Context and Racial Composition Matter for the Reading Achievement Growth of Young Children? Teacher's College Record, 112(5), 1338–1390.

[66] Benson, J., & Borman, G.D. (2010). Family, Neighborhood, and School Settings Across Seasons: When Do Socioeconomic Context and Racial Composition Matter for the Reading Achievement Growth of Young Children? Teacher's College Record, 112(5), 1338–1390.

four summers of elementary school is greater than the differential between children from high and low income families at school entry and that summer learning loss in elementary school predicts poor academic achievement in high school.[67]

Research on attendance also finds exposure to additional learning time is important for skill development.[68] [69] [70] [71] A recent study of preschool attendance in Chicago found that even when accounting for children's skill level at the beginning of preschool, attendance predicted better academic outcomes at the end of preschool and beyond and that attendance was most beneficial for children starting preschool with the lowest skills.[72]

Furthermore, our dosage proposal is more aligned with state pre-kindergarten programs that have shown strong effects.[73] [74] For example, children who attend North Carolina pre-kindergarten, make gains in language, literacy, math, general knowledge, and social skills. At the end of third grade, children from low-income families who had attended state pre-kindergarten scored higher on math assessments than children from low-income families who did not attend, and dual language learners made gains at even faster rates than other children.[75] Children who attend New Jersey's state pre-kindergarten, show improvements in language arts, literacy, math, and science at 4th and 5th grade as well as significantly lower rates of grade retention and special education placement.[76] Georgia pre-kindergarten finds medium to large effects on children's language, literacy, and math skills at kindergarten entry.[77] And Tulsa pre-kindergarten, which is mainly a full-day program for children from low-income families, also shows strong affects for children in language and math skills.[78]

Evidence demonstrates current operating minimums (3.5 hours/day and 128 days/year) do not provide Head Start children the necessary breadth and depth of high quality learning experiences they need to succeed in school and beyond. The day is too short for children to receive needed targeted instruction, and the majority of Head Start programs operate with a 4 month break between program years, which we believe undermines the progress Head Start children make during the year and lessens the overall impact of the program. Our proposal will allow children to receive more instructional time and learning activities that support development of skills important to school success. Therefore, we believe these proposed increases, combined with proposals to raise the education standards, are central to achieving the impact Head Start programs should have for children's school readiness and success.

It is imperative that these proposals are understood as minimums and not interpreted to mean center-based programs that currently operate above these minimums should decrease their current service delivery duration. Rather, we believe our proposed changes to increase service duration in many programs are essential to increasing the impact of Head Start on child skill growth and later success in school. Our proposed revisions also allow programs that wish to serve children for a shorter period of time to request to operate a locally-designed variation that meets minimum requirements in § 1302.24, including evidence of adequate child outcomes.

Paragraph (c)(1) of this proposed section also improves clarity about the service duration requirement for Early Head Start programs by proposing to include a long-standing interpretation of statute. From Congress' initial enactment of Early Head Start in 1994, the law has stated that Early Head Start programs must provide ''continuous'' services. Since its inception, we have consistently interpreted ''continuous'' to mean ''full-day and full-year'' in our grant process for Early Head Start. Therefore, we propose to clarify that Early Head Start programs operate no less than 230 days per year and no less than 6 hours per day. We believe these proposals reflect our long-standing administrative interpretation of law, and, while the majority of programs currently either meet these or are very close to meeting these, there are programs for which this will be a substantive change.

We are specifically seeking public comment about the proposed dosage changes for both Head Start and Early Head Start in center-based programs, including transition strategies and timeframes for programs that do not currently meet these new duration requirements as well as the benefits and potential tradeoffs of this approach to deepening children's early learning experiences. We note that the President's FY2016 Budget proposes significant increased funding for Head Start to support the change to full-day and full-year programs. We have requested these funds because we recognize that for programs that now provide fewer total program hours or operate double sessions, there will be a cost impact of deepening the dosage. But, we are also aware that the research points to the importance of increasing program day and year above current minimums to achieve the positive outcomes for children the program is designed to deliver. We are seeking comment on the intersection of this research basis and available resources.

We propose to retain other structural requirements for center-based options. In paragraph (b)(3) the requirements we propose for ratios and class size for all children remain the same as in our current regulation: no more than 8 children and two teachers in any class serving children under 36 months of age; no more than 17 children with at least one teacher and one teaching assistant in any class of majority 3 year

[67] Alexander, K. L., Entwisle D. R., & Olson L. S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review, 72,* 167–180.

[68] Logan, J.A.R., Piasta, S.B., Justice, L.M., Schatschneider, C., Petrill, S. (2011). Children's attendance rates and quality of teacher-child interactions in at-risk preschool classrooms: Contribution to children's expressive language growth. *Child & Youth Care Forum, 40*(6), 457–477.

[69] Hubbs-Tait, L., McDonald Culp, A., Huey E., Culp, R., Starost, H., and Hare, C. (2002). Relation of Head Start attendance to children's cognitive and social outcomes: moderation by family risk. *Early Childhood Research Quarterly, 17,* 539–558.

[70] *Taking Attendance Seriously: How School Absences Undermine Student and School Performance in New York City.* (2011). Report by The Campaign for Fiscal Equity.

[71] Lamdin, D.J. (1996). Evidence of student attendance as an independent variable in education production functions. *Journal of Educational Research, 89*(3), 155–162.

[72] Ehrlich, S.B., Gwynne, J.A. . . . . Sorice, E. (2014). *Preschool Attendance in Chicago Public Schools: Relationships with Learning Outcomes and Reasons for Absences.* University of Chicago Consortium on Chicago School Research. Research Report.

[73] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84,* 2112–2130.

[74] Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up.* National Institute for Early Education Research Rutgers—The State University of New Jersey.

[75] Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study.* Chapel Hill: The University of North Carolina, FPG Child Development Institute.

[76] Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up.* National Institute for Early Education Research Rutgers—The State University of New Jersey.

[77] Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study.* Chapel Hill: The University of North Carolina, FPG Child Development Institute.

[78] Gormley, G.T., Gayer, T., Phillips, D., & Dawson, B. (2005). The effects of universal pre-k on cognitive development. *Developmental Psychology, 4*(6), 872–884.

olds; and no more than 20 children and at least one teacher and one teaching assistant in any class of majority 4 and 5 year olds. Our current regulation encourages programs to have a third person in the classroom. While we still believe this is best practice and encourage programs to do so, because the current regulation does not require programs to have a third person in the classroom, we do not include it in this NPRM. We do propose to simplify how programs determine the classroom's age categorization and provide additional local flexibility to enable programs to make adjustments to improve service quality as needed during the program year. We propose to retain the exemption for Migrant and Seasonal programs due to the unique services these programs provide.

We propose to remove current § 1306.32(a)(10), which requires programs to determine the predominant age of each child in the classroom at the start of the year because the current requirement regarding the timing of this determination is overly prescriptive.

Section 1302.22 Home-Based Option.

In this section, we revise and redesignate most provisions in § 1306.33 in the existing rule and propose the structural requirements for programs that operate a home-based (home-visiting) option, including setting, caseload, service duration, and licensing requirements for group socializations. We also propose to strengthen several structural requirements for the home-based option to improve the quality of services. Our proposal retains a number of the current structural requirements for home-based options. In paragraph (a), we propose to retain language that describes the home-based option. However, we propose to limit this as a standard program option to Early Head Start programs. Currently, only 2% of Head Start programs serving preschoolers provide services through a home-based option. As previously discussed, we believe more intensive educational experiences than can be delivered through a home-based option are required to promote strong early learning outcomes in preschoolers in Head Start. Thus, we believe it is a more appropriate use of taxpayer dollars to eliminate this as a standard option for preschoolers. Programs serving preschoolers who believe a home-based option best meets the needs of their communities may apply for a locally-designed variation as described in 1302.24. In paragraph (b), we propose to retain the maximum caseload and the minimum length of home visit requirements.

Our proposed revisions in paragraph (c)(1) clarify there must be a minimum of 46 visits per year, which codifies long-standing administrative interpretation of the Act. The minimum number of group socializations is also clarified to require a minimum of 22 group socializations in paragraph (c)(2). This codifies existing service duration requirements for infants and toddlers. We believe these important changes will increase the amount of early learning experiences provided by the home-based option and will facilitate improved learning and child outcomes.

In addition, in paragraphs (c)(3) and (c)(4) we propose to maintain provisions that require programs to make up planned home visits and group socializations when cancelled by the program as necessary to meet required minimums, and our proposal maintains provisions that prohibit grantees from replacing home visits or group socializations for medical or social service appointments. Proposed paragraph (d) retains the licensing requirements from current regulation.

To improve clarity and implementation of program requirements for home-based options, we reorganize current provisions from § 1306.33 that do not specifically relate to structural elements of setting, caseload, and service duration for home-based options. For example, we revise and redesignate parts of §§ 1306.33(b) and 1306.33(b)(1) in the current rule to § 1302.91(f) in the Human Resources subpart, and §§ 1302.35(a) and 1302.35(b) in the Education and Child Development subpart, respectively. These provisions describe who conducts the home visit, the design of the home visit, and the purpose of the home visit experiences, and we believe the redesignation supports greater clarity and transparency.

Section 1302.23 Family Child Care Option.

To streamline and simplify the regulations and make them easier to implement, in this section, we propose to revise and redesignate § 1306.20(g) and (h) and some of the provisions in § 1306.35(a) and (d) in the current rule to consolidate all structural requirements for family child care providers into the same subpart as other program models. In this section, we propose the structural requirements for setting, ratios and group size, service duration, licensing, and child development specialists for family child care providers.

We propose several structural changes to improve the quality of services in family child care options. In paragraph (d), we propose that family child care providers must be licensed by the state. This increases the accountability and safety for such programs. In addition, in paragraph (a)(1), we propose a new provision to require programs be the employer of the family child care provider or have a legally binding agreement. This reflects one of the recommendations [79] from the Early Head Start for Family Child Care project, and we believe it better reflects best practice. In paragraph (b), we propose to retain ratio and class size requirements from our current regulation.

In paragraph (c), to create consistency across program models, we propose all family child care programs provide planned class operations a minimum of six hours per day of Head Start services for at least 230 days per year for infants and toddlers in Early Head Start and a minimum of six hours per day for at least 180 days for preschool age children in the Head Start program. Most family child care providers operate full year and full day. We believe this is one of the many benefits of offering the family child care option in Early Head Start and Head Start so programs should not interpret these new proposed minimums to indicate we believe family child care providers providing higher service duration should decrease their current duration of operations. Therefore, we also propose to retain the current rule in § 1306.35(a)(1) that requires family child care options to operate sufficient hours to meet the child care needs of families.

As with the proposed dosage changes for center-based programs, we are also specifically seeking public comment about the proposed dosage changes for family child care programs, including transition strategies and timeframes for programs that do not currently meet these new duration requirements as well as the benefits and potential tradeoffs of this approach to deepening children's early learning experiences.

We retain many family child care requirements in the current rule with slight revisions to improve clarity. To ensure programs meet the strongest requirements, we also propose in paragraph (d) to retain the requirement that family child care providers meet state and local, or tribal, licensing requirements and that when such requirements vary from Head Start requirements, the most stringent provisions apply. Finally, we propose in

[79] Del Grosso, P., Akers, L., & Heinkel, L. (2011). *Building Partnerships Between Early Head Start Grantees and Family Child Care Providers: Lessons from the Early Head Start for Family Child Care Project.* Final Report.

paragraph (e), to redesignate and revise the requirement in current § 1306.20(h) that a family child care option provide a child development specialist to support providers and ensure quality services. Consistent with center-based and home-based options, we propose to amend and redesignate requirements for family child care options unrelated to structural requirements to more appropriate sections in this NPRM. For example, we propose to revise and redesignate current provisions in § 1306.35(a)(3) on having appropriate indoor and outdoor space needed to foster cognitive, social, emotional, and physical development to part 1302, subpart C—Education and Child Development Program Services. In addition, we propose to revise and redesignate current § 1306.35(b) and (c), which address safety, to § 1302.47 in this NPRM to align all safety requirements across program models.

Section 1302.24 Locally-Designed Program Option Variations.

In this section, we propose to remove § 1306.34 and to revise and redesignate §§ 1306.36, 1306.37, and 1306.32(a)(6) in the existing rule, to include new requirements for additional program option variations for locally-designed program models. We propose changes to retain the flexibility center-based, home-based, and family child care programs currently have to implement locally-designed variations for teacher-child ratios, group size, caseload, and service duration, but also propose to increase accountability by requiring programs to demonstrate the locally-designed model appropriately meets the needs of the children and families in their community. Specifically, in paragraph (a), we support local innovation and flexibility by proposing to allow programs the option to request approval from the responsible HHS official to operate a locally-designed program variation that waives one or more of the structural requirements proposed for the center-based, home-based, and family child care options. Under our proposal, no waivers would be permitted for licensing and square footage requirements, ratios for children younger than 2 years old or the specific requirements for the delivery of the full range of comprehensive services as described in subparts C, D, E, F, and G of part 1302 of this NPRM.

Together, the availability of this waiver, as well as the accountability provisions we propose set a high but attainable bar for programs who wish to provide services through a non-standard program option. We anticipate that programs that choose to align their program schedules to that of their school districts, for example, in order to utilize transportation services for the children they serve; programs that serve teen parents and therefore choose to operate center-based services during the school year and home-based services during the summer; or programs with other innovative approaches to meeting community needs, would be able to demonstrate that children are making progress and would receive this waiver.

Ratios and class size requirements for Early Head Start programs are currently specified in 1304.52(g), separate from the program option requirements for Head Start and Family Child Care (currently in part 1306). This disconnect is the result of part 1306 not being holistically revised since the implementation of Early Head Start in 1996. This disconnect has also led to the current waiver authority for ratios, class size, and other structural program features not applying to Early Head Start. We think the proposed reorganization which brings Early Head Start under the umbrella of this waiver authority, with one important exception, will support implementation of birth to five models, and additional flexibility and innovation among Early Head Start programs. The waiver authority will not apply to ratios for children under 24 months old, which has been made clear in the proposed revision of the regulatory language given the critical importance of low ratios for infants and young toddlers.

Our proposed revisions increase accountability in locally-designed models in several ways. First, we would still allow programs to implement combination or double session program models or home-based models for preschoolers, but only as locally-designed variations approved by the appropriate HHS official. If the responsible HHS official approves a double session, we propose to require those programs to retain current requirements on ratio and length of the day. In paragraph (c)(3) we propose specifications for the required number of home visits and group socializations if the responsible HHS official approves home-based services for preschoolers. Second, to be approved for such a waiver, in paragraph (c)(1) we propose to require a program demonstrate their option effectively supports appropriate child skill development and progress in the goals described in the Head Start Early Learning Outcomes Framework (Birth-5) and either better meets the needs of the community or better supports the continuity of care for individual children than the standard program options and structures proposed for center-based, home-based, and family child care providers described in this subpart. In § 1302.24(b), we propose to require approval be given every two years to ensure that children and families are receiving effective services, and give the responsible HHS official clear authority to revoke approval for the locally-designed variations if ongoing assessment and monitoring shows that children's educational needs are not being met as described in subpart J.

Education and Child Development Program Services, Subpart C (Currently §§ 1304.20 Through 1304.23, 1304.40, 1304.52, 1306.32, 1306.33, 1306.35, 1308.6, and 1308.21)

This subpart proposes a significant overhaul of the education and child development requirements for Early Head Start and Head Start, which are primarily located in § 1304.21 of the existing rule but are also found within §§ 1304.20, 1304.23, 1304.40, 1304.52, 1306.32, 1306.33, 1306.35, 1308.6, and 1308.21. Section 1304.21 was last updated in 1998, and many of its provisions precede that revision. Though the existing regulations on education and child development services reflect some key child development principles, the knowledge base on early education has grown considerably after more than 15 years of research on child development, brain development, and program implementation and significant expansion of publicly funded early learning programs. In this subpart, we propose to update, consolidate, and restructure education and child development requirements to reflect best practices in teaching and learning, integrate curriculum and assessment research, support effective use of the Head Start Early Learning Outcomes Framework (Birth-5), and integrate new requirements from the Act. Unlike the current rule that unevenly addresses education services for Early Head Start and Head Start, we propose to apply these provisions to both programs, except where specifically noted. We believe these revisions will provide significantly better information to programs on the elements of high quality early education, strengthen program practices and quality, and improve child outcomes.

There is a large evidence base that demonstrates that early learning opportunities can improve children's cognitive, social, and emotional development so that they enter kindergarten better prepared to succeed in school and

beyond.[80 81 82 83 84 85 86 87 88 89] Providing effective early learning programs is particularly important for supporting the success of children from low-income families. Research finds the well-documented achievement gaps we see in elementary and secondary education begin long before children enter kindergarten.[90 91 92 93] Brain development is at its most rapid during the first five years of life, and neuroscience and other research suggests intervention at this time is particularly important.[94] Head Start and Early Head Start have long led the effort to help prepare disadvantaged children to succeed in school and in life. For example, one large study of Head Start children found significant gains over the program year in literacy, math, and social and emotional behavior.[95] Another study found Head Start children made additional gains after kindergarten.[96 97]

However, Early Head Start and Head Start can and must do more to provide high quality education and child development services in every program. While, the Head Start Impact Study found modest to moderate positive impacts of Head Start participation across most child outcomes, we believe with improvements in quality, Head Start can have an even greater impact.[98] Research shows considerable variance in Head Start quality.[99 thnsp;100] Data from standardized classroom observations also find some elements of teaching practices score very low, on average.[101] For example, Instructional Support scores from Head Start monitoring in 2013 were approximately 3 points lower on a 7 point scale, on average, than either Emotional Support or Classroom Organization scores.[102] This finding is consistent with other types of pre-kindergarten programs but reflects a clear need for improvement.[103] We intend for the implementation of our proposed revision of the education and child development provisions to improve teaching practices and education service delivery across our programs and help ensure every child in Early Head Start and Head Start receives high quality early learning experiences.

In this subpart, we outline four central elements for delivering high-quality education and child development services: teaching practices and the learning environment; curriculum; screening and assessment; and parent involvement. We propose to raise program quality and child education outcomes by updating the existing education provisions so that each of these four central elements reflects research and best practice in order to better promote skill growth in areas needed for later success in school. Many of these revisions integrate the recommendations offered by our Secretary's Advisory Committee on Head Start Research and Evaluation.[104] The report issued by the Advisory Committee was the culmination of multiple meetings and discussions held with many of the most prominent experts in the field of early education and child development.

In addition, we propose to integrate the Head Start Early Learning Outcomes Framework (Birth-5) into teaching, curriculum, and assessment. Head Start published the first Head Start Child Outcomes Framework in 2000. There have been enormous advances in the development and use of early learning standards since the education requirements were last revised in 1998 and the Framework was first released. Today all States have adopted early learning and development standards for preschool-age children, and many have standards for children beginning at birth. The 2007 Act required the Secretary to update the Framework and incorporate it throughout the program by specifically integrating it into instructional strategies, curriculum, and assessment.[105] In 2010, the Office of Head Start released a revised Framework to reflect a decade of new research and understanding about child learning and development for children ages 3 to 5. An updated version of this

[80] Aikens, N., Kopack Klein, A., Tarullo, L. & West, J. (2013). Getting Ready for Kindergarten: Children's Progress During Head Start. *FACES 2009 Report.* OPRE Report 2013–21a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

[81] Barnett, W.S., & Hustedt, J. T. (2005). Head start's lasting benefits. *Infants & Young Children, 18(1),* 16–24.

[82] Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., * * *Zaslow, M. (2013). *Investing in our future: The evidence base on preschool education. Foundation for Child Development.*

[83] Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *The Teachers College Record, 112,* 579–620.

[84] Wong, V.C., Cook, T.D., Barnett, W.S., & Jung, K. (2008). An effectiveness-based evaluation of five state prekindergarten programs. *Journal of Policy Analysis and Management, 27,* 122–154.

[85] Reynolds, A.J. (2000). *Success in early intervention: The Chicago Child-Parent Centers.* Lincoln, Nebraska: University of Nebraska Press.

[86] Schweinhart, L.J., Montie, J., Xiang, Z., Barnett, W.S., Belfield, C.R., & Nores, M. (2005). *Lifetime effects: The HighScope Perry Preschool study through age 40.* Ypsilanti, MI: HighScope Press.

[87] Gormley, W., Gayer, T., Phillips, D.A., & Dawson, B. (2005). The effects of universal Pre-K on cognitive development. *Developmental Psychology, 41,* 872–884.

[88] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84,* 2112–2130.

[89] Campbell, F.A., Ramey, C.T., Pungello, E., Sparling, J., & Miller-Johnson, S. (2002). Early childhood education: Young adult outcomes from the Abecedarian project. *Applied Developmental Science, 6,* 42–57.

[90] Hart, B. & Risley, T. (1995). *Meaningful differences in the everyday experiences of young American children.* Baltimore: Brookes.

[91] Magnuson, K.A. & Waldfogel, J. (2005). Early childhood care and education: Effects on ethnic and racial gaps in school readiness. *The Future of Children, 15*(1), 169–196.

[92] U.S. Department of Education. (2008). Preschool: First findings from the third follow-up of the early childhood longitudinal study, birth cohort (ECLS-b). (NCES No. 2008–025).

[93] Promoting Effective Early Learning: What Every Policymaker and Educator Should Know. (2007). New York: NY: National Center for Children in Poverty.

[94] Harvard Center on the Developing Child (2007). *The science of early childhood development: Closing the gap between what we know and what we do.* Cambridge, MA: Author.

[95] Aikens, N., Kopack Klein, A., Tarullo, L. & West, J. (2013). Getting Ready for Kindergarten: Children's Progress During Head Start. *FACES 2009 Report.* OPRE Report 2013–21a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

[96] Malone. L., Hulsey, L, Aikens, N., West, J., Tarullo, L. (2010). *ACF–OPRE Report: Data Tables for FACES 2006 Head Start Children Go to Kindergarten Report.* Washington, DC. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation.

[97] *http://www.acf.hhs.gov/sites/default/files/opre/transition_study.pdf*

[98] Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. *US Department of Health and Human Services Office of Planning, Research and Evaluation.*

[99] Moiduddin, E., Aikens, N., Tarullo, L., West, J., Xue, Y. (2012). *Child Outcomes and Classroom Quality in FACES 2009.* OPRE Report 2012–37a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

[100] Office of Head Start (2014). *A National Overview of Grantee CLASS(TM) Scores in 2013.* Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services.

[101] Office of Head Start (2013). *A National Overview of Grantee CLASS(TM) Scores in 2012.* Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services.

[102] Office of Head Start (2014). *A National Overview of Grantee CLASS(TM) Scores in 2013.* Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services.

[103] Pianta, R., LaParo, K., & Hamre, B. (2008). *The Classroom Assessment Scoring System Pre- K Manual.* Charlottesville, VA: University of Virginia.

[104] Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

[105] Scott-Little, C., Kagan, S.L., & Frelow, V.S. (2003). *Standards for preschool children's learning and development: who has standards, how were they developed, and how are they used?* Regional Educational Laboratory at SERVE. Greensboro, NC.

Framework is being developed to better reflect an emerging body of research on practice and skill development and to make the Framework inclusive of all ages of children birth to five.

The current revision of the Framework will encompass children from birth to age 5 and focus on the key areas of development and skills important for later success in school. The Advisory Committee noted the most effective early learning models are ''focused, intensive, and systematic.'' [106] This proposed integration of teaching practices, curriculum, assessment, and the updated Head Start Early Learning Outcomes Framework (Birth-5) will better support the type of program delivery recommended by the Advisory Committee. It will strengthen teachers' intentional focus on developing key skills and their use of effective teaching practices. This NPRM achieves this increase in focus and intensity without narrowing the breadth of learning experiences children should have as part of a well-rounded education and as required by the Act.

Though we embed core concepts from § 1304.21 in the existing rule throughout this proposed subpart, the need to significantly update the education requirements to capitalize on decades of science and practice leads us to address many of these core concepts in a markedly different way. We believe these revisions are necessary to improve the quality of education services. For example, the current rule includes some specific requirements that programs support children's social and emotional, cognitive, and physical development in current §§ 1304.21(a)(3), 1304.21(b)(2), 1304.21(a)(4), 1304.21(a)(5), 1304.21(b)(3). Since the previous regulation was drafted, the use of curriculum and early learning standards has changed considerably in early childhood education. Practice and research supports including these types of requirements as part of early learning standards and curriculum. This reflects significant advancement and growth in the field of early childhood education. Therefore, we propose to reflect these advancements, which still retain the centrality of programs supporting social and emotional, cognitive, and physical development throughout the education requirements, but in a more purposeful and appropriate manner. Specifically, we integrate provisions to these developmental areas into the proposed sections on general purpose, teaching and the learning environment, curriculum, and screening and assessment.

Finally, we propose significant revisions to the home-based education provisions, which are currently spread across multiple sections of the existing rule and provide few specific requirements about high quality learning experiences. Because of the inadequate regulations, delivery of the home-based model has been steered by the guidance, technical assistance, and dissemination of best practices from the Office of Head Start. In 2009, the U.S. Department of Health and Human Services launched the Home Visiting Evidence of Effectiveness review to conduct a thorough and transparent review of the home visiting research literature and provide an assessment of the evidence of effectiveness for home visiting program models that target families with pregnant women and children from birth to age five.[107] This review concluded the Early Head Start home-based model was an effective research-based model.[108] Therefore, we propose to codify these research-based practices in a new section that clearly describes the education and development services that home-based models must implement. We believe this will help ensure that all home-based models have the information they need to provide high quality learning experiences.

Section 1302.30 In General

This section proposes an overarching statement of the general purpose and goals for education services in center-based and family child care settings of Early Head Start and Head Start programs. This incorporates the education related purposes stated in the Act as well as our belief about the educational services our programs must deliver. It also includes some of the core philosophies of Head Start enumerated in the existing rule in § 1304.21, such as the need to deliver developmentally, culturally, and linguistically appropriate services, and a clear emphasis on the full inclusion of children with disabilities. This section proposes to set forth the expectation that programs deliver high quality education and child development services that promote children's cognitive, social, and emotional growth, and the key areas—teaching and the learning environment, curriculum, screening and assessment, and parent involvement—programs must address to ensure each child's school readiness and long-term outcomes. A unique general statement of purpose is proposed for home-based education services in § 1302.35 because of the differences in service delivery. Current requirements in this section that were more indicative of early learning standards were removed because they describe what children should know and be able to do rather than what programs and teachers must provide to scaffold their learning.

Section 1302.31 Teaching and the Learning Environment

In this section, we propose the key elements of teaching practices and the learning environment that programs must deliver to support children's skill growth and development. These provisions are central to providing high quality education and learning experiences that will prepare our children to succeed in school. They reflect research on best practices and recommendations offered in the final report issued by our Secretary's Advisory Committee on Head Start Research and Evaluation.[109] Together with the other requirements in this subpart, this proposal will provide more intentional and focused education experiences that will better promote skill growth and stronger child outcomes without micromanaging local decision-making and creating undue burden.

In paragraph (a), we propose that programs must support effective teaching and a high quality learning environment through regular and ongoing supervision and a system of individualized professional development. Research suggests integration of professional development into guiding effective teaching practices can be central to providing high quality teacher-child interactions.[110] [111] [112] [113] [114]

[106] Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

[107] *http://homvee.acf.hhs.gov/default.aspx*

[108] *Ibid.*

[109] Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

[110] Mashburn, A.J., Pianta, R.C., Hamre, B.K., Downer, J.T., Barbarin, O.A., Bryant, D., ... & Howes, C. (2008). Measures of classroom quality in prekindergarten and children's development of academic, language, and social skills. *Child Development, 79*(3), 732–749.

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In paragraph (b)(1), we focus on the elements of effective teaching practices. The four provisions in this paragraph revise and redesignate parts of §§ 1304.21(a)(1) and (a)(4) and 1302.21(b)(1) and (b)(2) in the existing rule, but update the language to promote more intentional teaching strategies and better instructional practices. These requirements reflect what research and practice demonstrate are central to implementing effective teacher-child relationships and learning experiences that promote children's growth and later school success,[115 116 117 118 119] and retain long-held Head Start philosophies that research continues to support.

First, in paragraph (b)(1)(i), we propose to focus effective teaching practices that promote growth in the skill development areas outlined in the Head Start Early Learning Outcomes Framework (Birth-5), including domains such as language and literacy, mathematics, social and emotional development, and physical development. We propose to require programs to integrate these efforts into their curriculum implementation, schedules, and lesson plans, which is central to a more intentional focus on development of skills important for later school success. Second, in paragraph (b)(1)(ii), we propose to require programs to emphasize nurturing and responsive interactions that foster trust and emotional security and support children's engagement in learning. We also require programs ensure teaching practices and teacher-child interactions are communication- and language- rich and promote language development, critical thinking, and problem-solving. Research is clear that these elements are important for effective high quality early learning experiences.[120 121 122 123 124 125 126]

In paragraph (b)(1)(iii), we propose that teaching practices must integrate child assessment data in individual and group planning. For example, additional literacy supports should be added to classroom activities if child progress monitoring finds significant delays in emerging literacy skills. Ongoing child assessment is essential to individualizing teaching and making classroom adjustments.[127] Learning experiences will be more targeted and more effective, if valid and reliable assessments that are not too burdensome for teachers, yield usable information, are conducted at appropriate intervals throughout the program year, and are integrated into teaching strategies and lesson plans. Many Head Start programs already effectively use child assessment information to improve classroom practices, but by explicitly requiring these proposed changes we intend for all programs implement this important best practice. This provision aims to support quality improvement.

Finally, in paragraph (b)(1)(iv) we propose that teachers provide learning experiences in language, literacy, social and emotional development, math, science, social studies, creative arts, and physical development that are focused on achieving the goals outlined in the Head Start Early Learning Outcomes Framework (Birth-5). This important proposal aims to accomplish two goals. First, it is important that we continue to expose children to a broad range of learning experiences, including all of the areas noted in the provision. In addition, based on advice from researchers and practitioners and our Secretary's Advisory Committee on Head Start Evaluation and Research, we propose to require these broad learning experiences be delivered with the intent of promoting the skills outlined in the Head Start Early Learning Outcomes Framework (Birth-5).[128 129] Given the more targeted approach of the new Framework, this proposed requirement will ensure children will continue to have learning experiences in areas such as creative arts and social studies but with greater intentionality for improving key child outcomes.

In paragraphs (b)(2) and (3), we propose a new research-based approach for teachers to better support bilingualism among dual language learners, as well as their overall development. Over the past decade, much has been learned about how to best support the educational needs of dual language learners.[130 131 132 133] Research with young dual language learners,[134 135 136] clearly reflects that children's bilingual skill development promotes overall language development and should be encouraged.

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[128] Meeting on Birth—5 Early Learning Standards/Guidelines—Implementation Considerations. Convened by the Office of Head Start, November 13, 2013.

[129] *Ibid.*

[130] Bialystok, E. (2001). *Bilingualism in development: Language, Literacy, & Cognition.* Cambridge: Cambridge University Press.

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Continued

The approach we propose for effective teaching practices with dual language learners differs based on the child's age and the teacher's ability to speak the child's language. For infant and toddler dual language learners, we propose programs ensure teaching practices and teacher-child interactions focus on the development of the home language and also provide experiences in English. For preschool age dual language learners, we propose that teaching practices a focus on both English language acquisition and continued development of the home language. We believe this approach will best support the language and overall development of dual language learners and promote the goal of fluent English language acquisition.

A program should use this approach only if it has a teacher who can capably provide rich language experiences in the child's home language. Monolingual English-speaking teachers should take other steps to support the home language, such as ensuring the availability of books in the home language, displaying words or pictures representative of the home language, and encouraging the involvement of parents or volunteers who speak the home language.

In paragraphs (c) and (d), we redesignate and propose slight revisions to update and streamline provisions from current § 1304.21(a)(1)(iv), (a)(4)(i), (a)(5)(i), (b)(1), and (b)(2)(ii), that require programs provide specific types of learning experiences. Specifically, we redesignate and revise requirements that programs provide well-organized classrooms with developmentally appropriate schedules, opportunities for indoor and outdoor learning experiences, adequate opportunities for choice, play, exploration, and experimentation, and teacher-directed and child-initiated activities in different group sizes.

In paragraph (d) we retain portions of current § 1304.53(b) to require programs change materials intentionally and periodically to support children's interests, continued development, and learning. We continue to believe all of these provisions are integral to high quality education services.

In paragraph (e), we propose requirements for programs to use approaches to rest, meals, and routines that will support children's learning. We believe these provisions will increase the opportunities for development and skill growth throughout the program day without creating unnecessary burdens on programs. In paragraph (e)(1), we newly propose programs implement an intentional age appropriate approach to accommodate children's need to nap or rest. This includes providing a regular time every day for preschool age children in a full-day program, which is defined as 6 or more hours, to rest or nap. Though maximizing learning time is important, research shows a clear link between adequate sleep and learning, health, and well-being.[137] [138] [139] Naps or rest time are developmentally appropriate for many young children, and we believe our proposal will increase the learning children can gain from other portions of the day. Quiet learning activities are proposed for children unwilling or unable to nap or rest so programs can implement learning experiences when that is more developmentally appropriate.

In paragraph (e)(2), we propose to revise and redesignate meal time provisions in current § 1304.23(c)(2) through (5) to place a stronger focus on learning and reduce unnecessary burden on programs. Family style meals, as we require in the current rule, are designed to support development and socialization. However, we believe it is less important that we micromanage how food is served and more important that programs approach snack and meal times as learning opportunities that contribute to a child's education and socialization. As a result, we propose programs implement an approach to mealtime that retains key elements to support learning, such as supporting staff-child interactions, without specifically using the term ''family style meals,'' which carries with it unwanted connotations of the requirement, such as type of serving dish. We propose to remove current requirements in § 1304.23, such as a variety of food be served, which is covered under USDA regulations, and that food related activities involve children because this is unnecessarily prescriptive for federal education requirements. In addition, in paragraph (e)(3), we propose to require programs also approach routines and transitions between activities as opportunities for learning and development. This reflects best practice and will help optimize the frequency of opportunities for skill growth.

Section 1302.32 Curriculum

In paragraph (a), we propose significant changes to the curriculum requirements in current in §§ 1304.21(c) and 1304.3(a)(5) to reflect new requirements in section 642(f)(3) of the Act, the current role and use of curricula in the early education field, and a deeper understanding among practitioners about what qualities of curriculum are needed to improve child outcomes. This section does not apply to home-based programs because of inherent differences in the delivery of education services in home-based programs, as compared to center-based services. The current requirements for curricula define it in § 1304.3 as a written plan that includes goals, materials, experiences, and activities. In current § 1304.21(c)(1), programs for preschoolers must implement a curriculum that supports some areas of development and individual learning. Though researchers agree that much is yet to be learned about effectively using curricula, there have been many advances in early childhood curricula since the existing rule on curriculum was written. We believe significant revisions to curricula requirements are necessary to ensure programs deliver high quality early education. In this NPRM, we propose to extend our curriculum requirements to Early Head Start, which § 1304.21(b)(1) in the existing rule does not specifically require. Most Early Head Start programs use a curriculum, but we believe codifying this practice better reflects best practice and will foster better and more developmentally appropriate planning, activities, and emphasis on developmental skill growth among infants and toddlers in Early Head Start programs.

Provisions in paragraph (a) propose requirements that outline the necessary qualities of curricula, as well as the critical characteristics of its use to ensure effective implementation. These requirements will increase the use and effective implementation of curricula that will have greater impacts on child development, learning, and outcomes. Specifically, our new requirements propose that curricula must be based on scientifically valid research, be aligned

outcomes for English Language Learners. Early Childhood Research Quarterly. 27(2), 188–197.

[138] Infant and Toddler Early Learning Guidelines/Standards Expert Workgroup. Convened October 22, 2013 by the Office of Head Start. Washington, DC.

[139] Meeting on Early Learning Standards in Head Start: Considering Children who are Dual Language Learners Content and and Implementation. Convened January 13, 2014 by the Office of Head Start. Washington, DC.

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[139] Kurdziel, L., Duclos, K., & Spencer, R.M. (2013). Sleep spindles in midday naps enhance learning in preschool children. *Proceedings of the National Academy of Sciences, 110*(43), 17267–17272.

with the Head Start Early Learning Outcomes Framework (Birth-5) and state early learning standards as appropriate, as required by the Head Start Act, and have standardized training procedures and curriculum materials to support implementation. Programs should assess their curriculum as necessary to ensure alignment with the Head Start Early Learning Outcomes Framework and, as appropriate, State Early Learning Standards. Programs should consider updating their curriculum or using curricular enhancements to improve alignment and to reflect program data on child progress. In addition, we require curricula include an organized developmental scope and sequence and be sufficiently content rich to promote measurable progress toward the goals outlined in the Head Start Early Learning Outcomes Framework (Birth-5) because research suggests these qualities are key to promoting child outcomes.[140] [141] [142] [143] [144] [145] [146] [147] [148] We also propose to integrate professional development, supervision, and regular monitoring into curriculum use to ensure effective curriculum implementation.[149] [150] We anticipate that programs may need to use curricular enhancements in order to meet the requirements of this paragraph and that using such enhancements would not trigger the additional requirements for local variation. Many programs currently supplement their base curriculum with curricular enhancements to enrich the content of their curriculum. Programs are encouraged to use curricula with the best available evidence of effectiveness with their population of children.

In paragraph (b), we propose requirements that allow local flexibility for programs that need to develop or significantly adapt a curriculum to better meet the needs of one or more specific populations. These requirements would not be triggered by the use of enhancements as long as the curriculum with these added enhancements meets the requirements in (a)(1)(i)–(ii). Rather, these proposed requirements would allow programs to use enhancements or other significant adaptations, where standardized training and materials may still be in development and a research-base is being built. However, because quality and implementation of curriculum are important for child outcomes,[151] we propose additional requirements for these variations to ensure program quality is not lowered. Specifically, in paragraph (b), we propose that programs work with experts from a college, university, or research organization to develop and evaluate the effectiveness of the curriculum variation. We believe this proposal provides critical flexibility for local programs and researchers to partner in order to drive innovation and growth in the curriculum field, while also ensuring important safeguards for quality and accountability.

Section 1302.33 Child Screenings and Assessment

This section applies to all program options and proposes significant revisions to the existing requirements on screening in § 1304.20(b) and assessment in § 1304.21(c)(2) to integrate advances from research, reflect best practice, and implement new requirements from section 641A(b) of the Act. We include proposals for appropriate use of developmental screening and ongoing child assessment, characteristics such tools must have to ensure their quality, and prohibitions in paragraph (d) on the use of assessment data as required by section 641A(b)(4)(B) of the Act. These requirements will improve the collection and use of important screening information that can identify developmental concerns and ongoing assessment information that can improve teacher practices throughout the program year. The integration of these requirements into the education services section of this proposed rule will improve the quality of such services and strengthen child outcomes.

Paragraph (a) proposes requirements for developmental screening and how programs must use the results to appropriately meet the needs of children. In paragraph (a)(1) and (2), we propose to retain the current 45-day requirement for programs to conduct or obtain screenings to identify concerns regarding a child's developmental, behavioral, motor, language, social, cognitive, and emotional, skills. We revise and redesignate this provision from the current child health and development services in § 1304.20(b), to reflect its appropriate integration into education services. However, because one of the purposes of the developmental screening is to determine if a child requires referral for a formal evaluation for IDEA eligibility, we include a new proposal to reduce unnecessary screening of children and burdens on programs in paragraph (a)(3) by removing this requirement for children who already have a current IFSP or IEP. For all other children, paragraphs (a)(2) and (a)(4) revise the current rule to clarify how screening results must be used and to ensure children who require formal evaluations for IDEA eligibility are promptly referred for such services. This proposed change implements section 640(d)(3) of the Act and will reduce current confusion among programs about when and how screenings, assessments, and formal evaluations should be used and will lead to improved services for children when properly implemented.

In paragraph (a)(5), we propose a new requirement to help ensure all children receive the services they need. In some cases, children experiencing delays in development do not meet a State's

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[147] Wasik, B.A., Bond, M.A., & Hindman, A.H. (2006). The effects of a language and literacy intervention on Head Start children and teachers. *Journal of Educational Psychology, 98,* 63–74.

[148] Riggs, N.R., Greenberg, M.T., Kusché, C.A., & Pentz, M.A. (2006). The mediational role of neurocognition in the behavioral outcomes of a social-emotional prevention program in elementary school students: Effects of the PATHS curriculum. *Prevention Science, 7,* 91–102.

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[150] Landry, S.H., Anthony, J.L., Swank, P.R., & Monseque-Bailey, P. (2009). Effectiveness of comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology, 101*(2), 448.

[151] Frede, E., & Barnett, W.S. (1992). Developmentally appropriate public school preschool: A study of implementation of the High/Scope curriculum and its effects on disadvantaged children's skills at first grade. *Early Childhood Research Quarterly, 7*(4), 483–499.

eligibility criteria for an infant, toddler, or child with a disability but still exhibit delays that can be mitigated through specific services that target the child's needs, such as speech therapy. We believe it is critically important for programs to work to meet the additional individual needs of these children who may be at risk for experiencing a more substantial delay in development if additional supports are not provided. Therefore, we propose that if, after a formal evaluation, a child is determined not to be eligible for IDEA services, but the evaluation demonstrates delays likely to impact children's school readiness, the program must work with parents to access needed services and supports. We propose to allow program funds to be used if other resources are unavailable. This proposal should not be interpreted to create a separate IFSP- or IEP-like process within Head Start.

In addition, we redesignate and revise the existing rule for developmental assessments in current § 1304.21(c)(2) to propose significant improvements for the use of child assessment data in paragraphs (b)(1) and (2). The current rule only requires staff use ongoing assessment of each child as one strategy to promote and support children's learning and progress. We propose to revise this requirement to ensure programs use appropriate and high-quality assessments and use the data in an effective manner. Some of our proposal reflects requirements in section 641A(b) of the Act to increase the quality of assessments.

Effective integration of ongoing child assessment data can lead to improved individualization of services within the program year. Such integration allows teachers to make necessary instructional adjustments to meet the needs of individual children and the classroom as a whole.[152] Therefore, we propose to require programs conduct structured and standardized assessments for each child that provide ongoing feedback on their development level and progress in outcomes aligned with the goals described in the Head Start Early Learning Outcomes Framework (Birth-5). We also propose to require such assessments be designed to result in useable information and be conducted with sufficient frequency to allow for individualization within the program year, characteristics which are critical to improving practices.[153] It is important to note that our proposal on the frequency of assessments is not intended to lead to unnecessarily frequent formal evaluations of children. Over-testing young children is burdensome to the teacher, unnecessary to support individualization, and does not reflect good practice.

In paragraph (b)(3), we propose a new requirement that we also intend to increase the effective use of assessment data. Though the initial screenings within 45 days of child enrollment is critical for catching initial concerns about a child's developmental status, information from formal child assessments conducted throughout the year can also reveal concerns sufficient to refer a child for a formal evaluation by the entity that implements IDEA. Therefore, we propose to require programs use assessment data to appropriately identify and address concerns that arise throughout the year, consistent with current § 1304.20(d).

In paragraph (c), we propose the necessary characteristics of screenings and assessments to ensure programs use valid and reliable screening and assessments in an appropriate manner. This revision includes requirements from section 641A(b) of the Act. In paragraph (c)(2), we also propose new requirements about how programs must approach and implement screening and assessment practices for children who are dual language learners, in order to address the unique aspects of dual language development in young children, and to ensure that screening and assessment data are appropriately gathered and used for these children. Specifically, this provision would require programs to assess dual language learners in the language or languages that best capture their skill level and to assess their language development in both their home language and English, utilizing an interpreter as needed. This proposal reflects best practice already used by many Head Start programs and research that demonstrates that children who are dual language learners have different learning experiences across their two languages. For example, a child may learn how to count and to perform simple number operations in Spanish but not in English. At the same time, the child may learn to identify animals in English rather than in Spanish. Unlike monolingual children, young dual language learners may have knowledge, skills and abilities in one of their languages but not the other.[154] Therefore, for children who are dual language learners, screening and assessment may need to be conducted in both languages in order to gain a complete understanding of these children's knowledge, skills and abilities.[155]

In paragraph (d), we propose to prohibit the use of assessments for ranking, comparing, or evaluating children, providing rewards or sanctions or excluding children from programs consistent with section 641A(b)(3)(B) and section 641A(b)(4)(B) of the Act.

Section 1302.34 Parent Involvement

Parents are children's primary and most influential teachers, and engaging parents in their child's educational services in Head Start is one of several fundamental philosophies long held by Head Start. Parent involvement and engagement is addressed throughout the many subparts of the NPRM. This section specifically includes provisions to ensure that center-based and family child care programs structure their education services to encourage parents to engage in their child's education. This section is consistent with the current regulation and does not include any new requirements. Research shows parent involvement this is critical to children's success in school.[156] [157] [158] We redesignate and revise the requirements so they are easier to read, find, and implement by reorganizing them from the many sections they exist (current §§ 1304.21(a)(2)(i)–(ii); 1304.40(d)(2); 1304.40(e)(1); 1304(e)(5); 1306.22(e); and 1306.32(b)(9)) into this section.

Section 1302.35 Education in Home-Based Programs

Our proposal recognizes the approach to education in home-based programs is equally critical to that in center-based and family child care programs, but necessarily quite different in its

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[153] *Ibid.*

[154] Paradis, J., Genesee, F., & Crago, M. B. (2011). *Dual language development and disorders: A handbook on bilingualism and second language learning.* (Second edition). Baltimore: Paul H. Brookes.

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[157] Fantuzzo, J., McWayne, C., Perry, M. A., & Childs, S. (2004). Multiple dimensions of family involvement and their relations to behavioral and learning competencies for urban, low-income children. *School Psychology Review, 33*(4), 467–480.

[158] McWayne, C., Fantuzzo, J., Cohen, H. L., & Sekino, Y. (2004). A multivariate examination of parent involvement and the social and academic competencies of urban kindergarten children. *Psychology in the Schools, 41*(3), 363–377.

delivery. The Act requires structured child-focused home visiting that promotes parents ability to support the child's cognitive, social, emotional, and physical development in section 645A(i)(2)(A). Therefore, we include a new section within this subpart to focus solely on the educational content and structure of home visits and group socializations for the home-based program option. This section redesignates and revises the requirements of § 1306.33(b) and (c)(1) and (2) in the existing rule. However, this section is significantly more comprehensive and better reflects the need for home visits and other home-based services to focus on improving children's outcomes by enabling parents to facilitate their progress in domains critical to school readiness. This section mainly proposes to codify the guidance and technical assistance we have provided to home-based programs for many years. Paragraph (b) clearly describes the requirements for the structure of home visits and retains the requirements in current § 1306.33(b) while aligning these requirements with the assessment and individualization requirements of other program models. Specifically, we propose revisions to the existing rule to require home visitors use ongoing assessment data to individualize home-visit learning experiences. We propose to remove current § 1306.33(b)(2) because we clarify in proposed § 1302.20(b) that regardless of program option, all programs must provide a full range services. We remove the requirement that all program elements be provided monthly because it is overly prescriptive and does not allow programs flexibility to meet individual family needs.

Paragraph (c) proposes new requirements for home-based curricula, including requirements that curricula be aligned to and be sufficiently content-rich within the Head Start Early Learning Outcomes Framework (Birth-5), and include an organized developmental scope and sequence. We also propose to require programs provide appropriate staff supervision and high quality professional development to ensure the curriculum is implemented effectively, in accordance with 645A(i). As with the center-based and family child care options, we propose to allow programs to implement local variations of curricula to better meet the needs of their families provided they continue to meet the requirements described in paragraph (c)(1)(i)–(ii) and (c)(2) to ensure quality and accountability.

Paragraph (d) proposes to clarify and expand upon the purpose of home visit experiences, described in current § 1306.33(b)(1) and provides requirements about the content of visits to scaffold individual child and program progress towards school readiness goals through a home-based model. These requirements are also written to reflect proposed revisions to the education requirements for the other program models. For example, in proposed paragraph (4), just as we do for center-based programs, we propose that home visits focus on the development of the home language and provide additional experiences in English for infant and toddler dual language learners; and we propose requirements that home visits focus on both English language acquisition and continued development of the home language for preschool age dual language learners. In addition, we propose to redesignate and revise current § 1306.33(c)(1) through (2) in paragraph (e) to better describe the requirements for group socialization activities for all children, and for preschoolers in particular. Finally, in paragraph (f), we propose to clarify the requirement that home-based programs engage in screening and assessment as proposed for center-based and family child care options (§ 1302.33) to ensure these important services are also being delivered to children receiving the home-based option.

Health Program Services; Subpart D (Currently Part 1304, Subpart B, Portions of Part 1304, Subpart D; Part 1306 Subpart C, and § 1306.25)

This NPRM updates the existing Early Childhood Development and Health Services subpart (part 1304, subpart B) by including provisions related only to health, nutrition, and mental health and by updating, reorganizing, and streamlining requirements in order to make the rules easier to find, follow, and implement. This includes redesignating the sections related to education, and developmental screening and assessment into a new proposed subpart C of part 1302, Education and Child Development Program Services; redesignating language regarding individualization of services into proposed subpart F of part 1302, Additional Services for Children with Disabilities as well as subpart C; and reorganizing the entire Health Program Services subpart for the sake of transparency, clarity, and improved implementation. The Early Childhood Development and Health Services subpart in the existing rule is organized in a confusing manner that does not clearly delineate the services, or outline the chronological steps programs are required to take to deliver those services. To remedy this confusion, we propose to restructure the existing Early Childhood Development and Health Services subpart to clearly delineate the steps that will ensure programs deliver services that promote the overall health of all children.

We propose to retain and streamline a majority of the policy requirements under the existing subpart. Specifically, we retain the core health services, including screening, ongoing care, and follow-up care as required by the Act (42 U.S.C. 9831). We propose to retain these requirements both because the Act clearly links health, mental health, and nutritional services to the purpose of Head Start, and because research has demonstrated a strong link between child health, school readiness, and long-term outcomes.[159] [160] [161]

We propose the most substantial changes in §§ 1302.42, 1302.45, 1302.46, and 1302.47. We also propose several important additions. Specifically, we propose to highlight oral health as well as the content of parent education in health more explicitly than in the existing rule by creating new sections that outline requirements in each of these areas. Finally, given the critical importance of mental health, we propose to strengthen the provisions of the existing rule to better reflect best practice in the proposed rule to ensure mental health services are used to improve classroom management and to effectively address challenging behaviors when they arise. In their totality, these proposed changes reflect the overarching goals of the NPRM to improve clarity so that both existing grantees and prospective grantees can easily determine expectations, reduce bureaucratic burden on programs, and improve service delivery.

Section 1302.40 In General

We propose to open the Health Program Services subpart D with a new 'in general' statement that explicitly states the goal of the subpart, which is to ensure that programs provide high quality health, mental health, and nutrition services, as well as the purpose of such services, which is to support each child's growth and school readiness.

[159] Currie, J. M. (2005). Health disparities and gaps in school readiness. *The Future of Children, 15*(1), 117–138.

[160] Janus, M., & Duku, E. (2007). The school entry gap: Socioeconomic, family, and health factors associated with children's school readiness to learn. *Early Education and Development, 18*(3), 375–403.

[161] Bruner, C. (2009). *Connecting child health and school readiness* (Issue Brief No. 9). Denver, CO: The Colorado Trust.

Section 1302.41 Collaboration and Communication With Parents

We believe communication and collaboration with Head Start parents is fundamental to the delivery of all Head Start health services. The placement of this section at the forefront of this subpart and the consolidation of its core elements better communicates its critical importance to programs and the public. In this NPRM, the requirements for programs to communicate and collaborate with parents with regard to their children's health is written to reflect the applicability and importance of parental communication, collaboration, permission, and input for the services described throughout the entire Health subpart. In this section, we propose to redesignate §§ 1304.20(e) and 1304.23(b)(4), and concepts from § 1304.24(a)(1). Some of these concepts are also represented, with regard to parent education services in § 1302.46 of the proposed rule, which are described below. Specifically, paragraph (b) proposes requirements for programs to obtain advance parent or guardian authorization for all health and developmental procedures, such as vision and auditory screenings and the administration of any medications, to assist parents in communicating with their children's physician effects of medication on a child's behavior, and to share policies for health emergencies that require rapid response or immediate medical attention.

Section 1302.42 Child Health Status and Care

In the existing rule, section § 1304.20, is organized in a confusing manner because it does not make the required services, or the chronological order of the steps within those services clear. The existing rule conflates requirements that are related to extended follow-up and care with those of initial screening and ongoing care. This proposed section clearly delineates the several explicit steps. In paragraph (a), within 30 calendar days, programs must determine whether each child has an appropriate source of ongoing care and health insurance coverage and, if not, assist the parents in accessing each. In paragraph (b), programs must determine whether children are up to date on schedules of immunizations and well-child care, within 90 calendar days, and, if not, assist parents in getting children up to date or if necessary, directly facilitate the provision of health services for children with parental consent. This direct facilitation could be accomplished by, for example, providing transportation to parents, bringing a health care provider to the program or organizing a field trip to the local health center. We believe the additional proposed requirement for program to directly facilitate health services, if necessary, is central to ensuring all children are up-to-date, especially with critically important vaccinations, with parental consent. Under paragraph (b)(2) programs must ensure children are screened for health problems, including visual and auditory concerns, and assist parents in accessing care for any identified issues. Finally, in paragraph (c)(2), programs must monitor the implementation of follow-up care and monitor children for new and/or recurring health problems. Each of these four steps is also required in the existing rule, but their individual roles, as well as their order, is difficult to decipher in the existing structure. The explicit inclusion of health insurance also codifies long standing practice since linking families with health insurance is a critical step in helping link them with a provider, but, given its critical importance and the increased availability of coverage, we think being explicit on this requirement is important. We maintain each of these steps because research has shown that children who participate in a consistent schedule of well child care and immunizations are more likely to stay healthy and engage in program activities, leading to improved school readiness.[162]

In addition to this general reorganization, we propose several language and policy changes to the existing rule in this section. Specifically, we propose to reduce the timeframe for determining whether a child has an appropriate source of health care to 30 days. As in the existing rule, we still propose to give programs 90 days to assist parents in accessing such a source of care and to ensure children are up to date with Early Periodic Screening, Diagnosis, and Treatment (EPSDT). We do, however, propose to add language to clarify that an appropriate source of ongoing care must maintain health records and cannot operate primarily as an emergency room or urgent care facility, because research has shown that families who have an ongoing source of continuous care that maintains their health records are more likely to attend well child visits, know what to do when their child is sick, and seek appropriate care for illnesses or health concerns.[163] In paragraphs (b)(3) and (b)(4), we also propose to reduce to 30 days the time frame programs have to determine whether a child is up to date with EPSDT for children in programs that operate less than 90 days.

Per the changes described in the overview of this subpart, we propose to redesignate the requirements in the existing rule that describe developmental and behavioral screenings and assessments into a new subpart C of part 1302 in the proposed rule, because those screenings and assessments are most directly related to educational services. We do propose to retain sensory screenings and other health related diagnostics tests, including those related to nutritional status, in this section because these screenings and tests must be included in high quality health service delivery. We also propose to redesignate the requirements in the existing rule that such screenings be sensitive to each child's background (§ 1304.20(b)(1)) to § 1302.23(c)) and revised them to reflect that this is a core characteristic of an appropriate screening or assessment in subpart C in this part. In paragraphs (d) and (e), we propose to redesignate and revise requirements related to ongoing care and extended follow up and treatment from §§ 1304.20 and 1304.22 in the current rule for clarity and transparency.

Finally, we propose to redesignate § 1304.20(f) and incorporate its key concepts—the importance of individualizing developmental services— to the proposed Additional Services for Children Eligible for IDEA subpart as well as the Education and Child Development Program Services subpart. Given this redesignation, it was determined that health services are individualized by design, and thus the current § 1304.20(f) was no longer relevant in this section or subpart.

Section 1302.43 Tooth Brushing

In this section, we describe the oral hygiene requirements during program hours. The requirements delineated within this section are not new. Rather, we redesignate and revise the current provisions in § 1304.23(b)(3), to more accurately reflect the expectations for hygiene practices upon which programs are monitored, namely ensuring children brush their teeth during program hours. Research has documented a link between oral health

[162] Bruner, C. (2009). *Connecting child health and school readiness* (Issue Brief No. 9). Denver, CO: The Colorado Trust.

[163] Herman, A., & Jackson P. (2011). Empowering low-income parents with skills to reduce excess pediatric emergency room and clinic visits through a tailored low literacy training intervention. *Journal of Health Communications, 15*(8), 895–910.

and specifically dental pain, and children's attendance in preschool programs, as well as their ability to effectively engage in classroom activities.[164 165 166 167] While the existing rule specifies that oral hygiene should be promoted in conjunction with meals, we propose to remove this concept to give programs greater flexibility to determine how best to meet this requirement. Throughout the NPRM, we also propose to revise 'dental' to 'oral health' to reflect current medical terminology.

Section 1302.44 Child Nutrition

Under section 641A(a)(1) of the Act, the Secretary must establish performance standards with respect to nutritional services. To implement this requirement, as with other sections of this subpart, we retain the majority of the requirements of the existing rule in this section through a reorganized structure. Specifically, in the proposed rule, we restructure the child nutrition section to solely reflect nutritional services programs provide directly to children, and as a result we propose to limit it to the provisions contained in § 1304.23(b), as well as § 1304.23(c)(5) and (6) in the existing rule. In this vein, we propose to redesignate and restructure current § 1304.23(a) and § 1304.23(b)(4) such that all nutritional assessments are incorporated into child health status, as nutritional status is an integral part of child health status. In addition, we propose to redesignate § 1304.23(c)(1) through (4) and § 1304.23(c)(7) in the proposed rule to the more appropriate placement in section § 1302.31(c) in the proposed Education subpart because the concepts captured by the existing requirements are meant to convey the importance of utilizing meal time as an opportunity for children to continue to learn. We also redesignate some provisions in the existing rule to proposed sections on safety practices in § 1302.47 (*e.g.* food sanitation) and standards of conduct in § 1302.90(c) (*e.g.* food may not be used as punishment or reward) as those sections are more appropriate, given the reorganization of the proposed rule.

In sum, in § 1302.44(a)(2) we propose to maintain the substantive policies contained within the Nutritional Services section at existing § 1304.23(b) and § 1304.23(c)(5) and (6) of the existing rule in this section of the proposed rule with minimal restructuring to improve clarity. We maintain these policies because research demonstrates that one in every five children in America is living in a household without access to adequate food [168] (that rate is likely much higher among the low-income families Head Start serves) and that children who are well nourished are better able to grow and learn.[169] Additionally, we also redesignate § 1304.40(c)(3) in the existing rule, which requires programs to make accommodations for mothers who wish to breastfeed in a center, to this section, as it is directly related to the nutritional needs of infants and research has clearly established the benefits of breastfeeding.[170] In paragraph (b), we propose to redesignate § 1304.23(b)(i) from the current rule regarding payment sources for nutritional services.

Section 1302.45 Child Mental Health

In this section, we propose to redesignate and revise the existing section § 1304.24, which focuses on child mental health services, to be more explicit about program requirements while focusing on supporting positive teacher-child interactions and child emotional well-being. Consistent with the approach throughout this proposed subpart, we propose to redesignate and revise all parent education requirements for mental health into the proposed § 1302.46 Family Support Services for Health, Nutrition, and Mental Health.

To improve how programs use mental health consultants, we propose to specify that mental health consultants must be engaged in supporting teachers for effective classroom management, formulating and implementing strategies for supporting children with challenging behaviors, and facilitating community partnerships in mental health. We also propose to remove the requirement that mental health consultants be utilized on a schedule of 'sufficient frequency' (§ 1304.24(a)(2) in the existing rule). In fact, we do not propose to include any prescribed schedule of mental health consultation for every program because we believe this causes undue burden to programs without adequate evidence of the most effective timing of such services. Rather, in paragraph (b)(2) we propose to maintain some flexibility for programs to determine the best way to guarantee access to mental health consultants for the purposes we propose to explicitly delineate.

Early childhood mental health, or healthy emotional well-being, has been clearly linked to children's school readiness outcomes, and research estimates that between 9 percent and 14 percent of young children experience mental health, or social and emotional, issues that negatively impact their development.[171] As a result, in paragraph (b)(1), we propose to require mental health consultation to support teachers because warm and responsive teacher practices and effective classroom management are critical to helping young children maintain or achieve healthy emotional well-being and to creating a classroom environment conducive to learning.[172 173] Research has demonstrated the benefits of mental health consultation services for child behavior and staff job satisfaction and efficacy in early childhood programs.[174 175 176] This research suggests that in order to achieve its mission, the Office of Head Start must ensure that programs are addressing the mental health needs of enrolled children and that programs promote

[164] Abanto, J., Carvalho, T. S., Mendes, F. M., Wanderley, M. T., Bönecker, M. and Raggio, D. P. (2011), Impact of oral diseases and disorders on oral health-related quality of life of preschool children. *Community Dentistry and Oral Epidemiology, 39,* 105–114. doi: 10.1111/j.1600–0528.2010.00580.x

[165] U.S. General Accounting Office. (2000). *Oral Health: Dental Disease Is a Chronic Problem Among Low Income and Vulnerable Populations.* Washington, DC: General Accounting Office.

[166] Schechter N. 2000. The impact of acute and chronic dental pain on child development. *Journal of the Southeastern Society of Pediatric Dentistry 6*(2), 16.

[167] Altarum Institute. 2007. Issue Brief: *Oral Health Is Critical to the School Readiness of Children in Washington, DC.* Washington, DC: Altarum Institute.

[168] Share Our Strength. (2013). Childhood Hunger in America. Washington, DC: Author.

[169] California Childcare Health Program. (2006). *School readiness and health.* San Francisco, CA: University of California, San Francisco School of Nursing, Department of Family Health Care Nursing.

[170] National Women's Health Information Center. (n.d.) The Comprehensive Benefits of Breastfeeding. Washington, DC: Author.

[171] Brauner, C. B., & Stephen, B. C. (2006). Estimating the prevalence of early childhood serious emotional/behavioral disorder. *Public Health Reports, 121,* 303–310.

[172] Hair, E., Halle, T., Terry-Humen, E., Lavelle, B., & Calkins, J., (2006). Children's School Readiness in the ECLS–K: Predictions to Academic, Health, and Social Outcomes in First Grade, *Early Childhood Research Quarterly, 21*(4), 431–454.

[173] Raver, C.C., & Knitzer, J. (2002). *Ready to Enter: What Research Tells Policymakers about Strategies to Promote Social and Emotional School Readiness among Three- and Four-Year-Old Children.* National Center for Children in Poverty, New York, NY.

[174] Gilliam, W.S., & Golan, S. (2006). Preschool and child care expulsion and suspension: Rates and predictors in one state. *Infants and Young Children, 19*(3), 228–245.

[175] Perry, D. F., Dunne, M. C., McFadden, L., & Campbell, D. (2008). Reducing the risk for preschool expulsion: Mental health consultation for young children with challenging behaviors. *Journal of Child and Family Studies, 17*(1), 44–54.

[176] Brennan, E. M., Bradley, J. R., Allen, M. D., & Perry, D. F. (2008). The evidence base for mental health consultation in early childhood settings: Research synthesis addressing staff and program outcomes. *Early Education and Development, 19*(6), 982–1022.

healthy emotional well-being through all program services, especially through teachers.[177] The revisions we propose to the existing rule convey the critical importance of child mental health and emotional well-being and make the requirements for programs significantly clearer, without increasing bureaucratic burden.

Section 1302.46 Family Support Services for Health, Nutrition, and Mental Health

In this section, we propose to redesignate and consolidate all provisions from the existing rule that address health education and support services that must be delivered to families. The proposed redesignation of each of these provisions into paragraph (b) would provide greater clarity and transparency regarding these requirements. In paragraph (a), we propose to create a standalone section to enumerate program requirements for education and assistance to parents related to health needs in the proposed rule. By doing this, we highlight the critical importance of parental health literacy, defined as a parent's knowledge and understanding about basic health topics as well as their ability to navigate health systems,[178] which has been linked to health and long-term outcomes of young children.[179] In 2009, a systematic review of the literature revealed a link between low parental health literacy and child health outcomes and found evidence that interventions providing written materials and counseling can increase parental health knowledge and improve health behaviors.[180] This research, paired with research that documents a strong link between child health and later educational success,[181] [182] [183] suggests that improving parental health literacy has the potential to improve children's school readiness and long-term outcomes, and that Head Start can play a critical role in improving child health and school readiness by directly addressing parental health literacy.[184] In paragraph (b), we propose to redesignate and revise elements at § 1304.40(f) in the current rule.

The proposed redesignation of each of these provisions into this section would provide greater clarity and transparency regarding these requirements. We propose only two new requirements. The first is a requirement that programs provide opportunities for parents to learn about healthy pregnancy and postpartum care. This new requirement would reflect the importance of prenatal and postpartum care for healthy child development and a renewed focus on ensuring that programs reach as many pregnant women as possible, either directly by providing Early Head Start services to them, or through education when another child is enrolled. The second is a requirement that programs inform parents of opportunities to access health insurance. We propose this new requirement because parental health insurance is a significant predictor of child health insurance and that children will get timely health care.

Section 1302.47 Safety Practices

In this section, we propose to redesignate all provisions related to safety practices from §§ 1304.22, 1304.23(e), 1304.52, 1304.53, and 1306.25(b) and (c) of the existing rule. Maintaining basic health and safety practices is essential to ensuring high quality care so we propose strong safety practices and procedures that will ensure the health and safety of all children. In some instances, we move away from prescribing extensive detail when such level of regulation is unnecessary to maintain a high standard of safety and too inflexible to allow for growth in standard safety practices. This flexibility allows programs to adjust their policies and procedures according to the most up to date information about how to keep children safe.

In paragraph (a), we propose that programs establish, train staff on, implement, and enforce health and safety practices that ensure children are safe at all times. This places a greater emphasis on ongoing administrative oversight and staff training than current regulations and should lead to better systems and practice when implemented. To ensure programs are equipped with adequate instruction on how to keep all children safe at all times, we propose programs consult a new ACF resource in this section, *Caring for Our Children Basics,* available at *https://www.federalregister.gov/articles/2014/12/18/2014-29649/caring-for-our-children-basics-comment-request. Caring for Our Children Basics* is a set of recommendations, which is intended to create a common framework to align basic health and safety efforts across all early childhood settings. *Caring for Our Children Basics* is based on *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, Third Edition,*[185] a document produced with the expertise of researchers, physicians, and practitioners working with the American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education, and the Maternal and Child Health Bureau in the Department of Health and Human Services.

In paragraph (b), we propose health and safety requirements for facilities, equipment and materials, background checks, staff safety training, safety practices staff must follow, hygiene practices, administrative safety procedures, and disaster preparedness plans. The proposed requirements are informed by research and best practice.[186] [187] [188] [189] [190] [191] [192] [193] We

[177] Raver, C.C., & Knitzer, J., (2002). *Ready to Enter: What Research Tells Policymakers about Strategies to Promote Social and Emotional School Readiness among Three- and Four-Year-Old Children.* National Center for Children in Poverty, New York, NY.

[178] U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion. (2010) National Action Plan to Improve Health Literacy. Washington, DC.

[179] Herman, A., & Jackson P. (2011). Empowering low-income parents with skills to reduce excess pediatric emergency room and clinic visits through a tailored low literacy training intervention. *Journal of Health Communications, 15*(8), 895–910.

[180] Dewalt, D.A., & Hink, A., (2009). Health Literacy and Child Health Outcomes: A Systematic Review of the Literature. *Pediatrics, 124*(3), 265–274.

[181] Currie, J., (2009). Healthy, wealthy, and wise: Socioeconomic status, poor health in childhood, and human capital development. *Journal of Economic Literature, 47*(1), 87–122.

[182] Hair, E., Halle, T., Terry-Humen, E., Lavelle, B., & Calkins, J., (2006). Children's School Readiness in the ECLS–K: Predictions to Academic, Health, and Social Outcomes in First Grade, *Early Childhood Research Quarterly, 21*(4), 431–454.

[183] Bruner, C. (2009). *Connecting child health and school readiness* (Issue Brief No. 9). Denver, CO: The Colorado Trust.

[184] U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion. (2010). National Action Plan to Improve Health Literacy. Washington, DC: Author.

[185] *http://cfoc.nrckids.org.*

[186] Carr, K. (2012). American Academy of Pediatrics issues policy statement on pesticide exposure in children. University of Washington, Seattle, WA.

[187] U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General.* (2006). Rockville, MD: Author.

[188] Kieran J., Phelan, K. J., Khoury, J., Kalkwarf, H., & Lanphear, B. (2005). Residential injuries in U.S. children and adolescents. *Public Health Reports, 120,* 65–70.

[189] *Ibid.*

[190] Simasek, M., & Blandino, D. (2007). Treatment of the common cold. *American Family Physician, 75*(4), 515–520.

[191] Nandrup, B. I. (2011). Comparative studies of hand disinfection and handwashing procedures as tested by pupils in intervention programs. *American Journal of Infection Control, 39*(6), 450–455.

[192] Mulay, D. A. Keeping All Students Safe: The Need for Federal Standards to Protect Children from Abusive Restraint and Seclusion in Schools.

propose to require that programs develop and implement a system of management, training, ongoing oversight, correction and continuous improvement adequate to ensure child safety. Additionally, we propose to require that all facilities for center-based programs meet licensing requirements and all family child care programs be licensed to maintain a minimum level of safety. This section references these proposed requirements, which are found in 1302.21(d)(1) and § 1302.23(d) of the proposed rule. Finally, in paragraph (c), we propose to require all programs report any safety incidents in accordance with proposed § 1302.102(d)(1)(iii). We specifically request comment on this section in regard to whether we include the appropriate areas of health and safety and whether we include the appropriate amount of specificity for these proposed requirements.

Additional safety practices related to background checks; standards of conduct including Head Start specific supervision requirements and prohibitions on seclusion and restraint; vaccination; and transportation are retained and strengthened in the appropriate subparts throughout the proposed standards to ensure child safety.

Family and Community Partnership Program Services; Subpart E (Currently §§ 1304.40 and § 1304.41)

This subpart proposes requirements programs must implement to partner with families and communities. Family engagement is central to the mission of Head Start and Early Head Start. This is reflected in how we integrate family- and parent- related requirements throughout the existing and proposed rule. To improve clarity and transparency, we propose to broadly restructure, revise and redesignate most of the provisions from § 1304.40 and § 1304.41 in the existing rule, under a new subpart E, entitled Family and Community Partnership Program Services. In this new subpart, we propose to revise the existing rule to include only the requirements for general approaches to family engagement, parent services to promote child development, family partnership services, and community partnerships. We also propose changes to improve the quality of these services.

To make it easier both for programs to implement and for the public to understand the broad range of Head Start family services and involvement, we propose to redesignate family services requirements from §§ 1304.40 and 1304.41 of the existing rule to the subparts that are the most relevant. For example, we propose to redesignate and revise § 1304.40(c) of the existing rule, which addresses the services that must be provided to enrolled pregnant women, into its own subpart (subpart H) in the proposed rule. Similarly, we propose to redesignate and revise §§ 1304.40(h) and 1304.41(c) of the current rule, both of which address transition services, to their own subpart focused solely on transitions services (subpart G). This proposed reorganization improves clarity about what we expect programs to deliver and properly elevates the importance of transition services to providing high quality early education. In addition, we propose to redesignate and revise § 1304.40(f), which addresses parent involvement in health nutrition, and mental health education, to § 1302.46 Family Support Services for Health, Nutrition, and Mental Health in the proposed subpart D (Health Services).

In addition to the reorganization described above, we propose policy revisions to improve the quality of family services and update community partnerships. We propose to better integrate family engagement practices into all aspects of programs and increase use of research-based strategies. In addition, we propose to clarify the expected outcomes of effective family engagement: Enhanced parenting skills, increased parental engagement in child learning and development, and improved family well-being in order to support child learning. Moreover, we propose to eliminate requirements for written plans, increase our focus on outcomes, and increase local flexibility to better match resources with family needs. We also propose revisions to community partnerships as required by the Act. These revisions will reduce bureaucratic burden and clarify that community partnership priorities should be driven by family needs and goals.

Section 1302.50 In General

This section proposes the fundamental requirements that apply broadly to all parent and family engagement activities as well as general parent and family practices in Head Start and Early Head Start programs. These fundamental requirements are consistent with long-standing Head Start philosophy about the importance of parents in the Head Start mission. Some provisions are retained from the current rule and others are updated to reflect best practice and lessons from research.

In paragraph (a), we propose to require programs to integrate parent and family engagement strategies into all systems and program components. We envision program leadership playing an important role in this intentional integration so that all staff value and understand how to support and engage parents and families. Specifically, we propose to require programs to implement strategies into all systems and program components and develop community partnerships that will support family well-being in order to promote child learning and foster parental confidence and skills in ways that promote child learning and development. In parts of this section, we propose to retain some provisions with slight revisions, including current § 1304.40(a)(5), which requires staff to respect family diversity and cultural and ethnic backgrounds, and current § 1304.40(d)(3), which requires programs to provide parents with opportunities to participate as employees or volunteers.

In addition, we propose new requirements that reflect research and best practice. For example, in § 1302.50(b)(1), we propose to require a greater emphasis on supporting regular child attendance because this is central to improving child outcomes in Head Start. Emerging research demonstrates a link between higher attendance rates in preschool and school readiness for kindergarten.[194] Although about half of the days young children miss in preschool are likely due to illness, recent research in Chicago indicates that missed days may also be explained by other challenges, such as transportation, child care, and other demands on the family that make it difficult for the parent to secure child attendance.[195] The proposed change requires programs to work with parents to determine how best to address attendance issues. This important new emphasis is further strengthened by additional systemic requirements for programs to promote regular attendance in § 1302.16 in the proposed rule.

[193] Dunlap, G., Ostryn, C., & Fox, L. (2011). Preventing the Use of Restraint and Seclusion with Young Children: The Role of Effective, Positive Practices. Issue Brief. *Technical Assistance Center on Social Emotional Intervention for Young Children.*

[194] Magnuson, K.A., Meyers, M.K., Ruhm, C.J., Waldfogel, J., (2004). Inequality in preschool education and school readiness. *American Educational Research Journal, 41*(1), 115–157.

[195] Erlich, S.B., *Preschool Attendance in Chicago Public Schools: Relationships with Learning Outcomes and Reasons for Absences,* The University of Chicago Consortium on Chicago School Research, 2013.

In paragraph (b)(3) we propose to require programs to implement an intentional focus on father involvement in their children's early learning and development because it has been linked to improve child outcomes.[196] For example, a study of Early Head Start families found that father engagement was associated with increased security and exploration among toddlers and stronger math and reading skills in the fifth grade.[197]

In paragraphs (b)(5) and (6), we propose to add language to ensure programs allow families a choice in where they share personal information and have procedures for communication between family service, education staff, and home visiting staff to share information relevant to best meet the needs of children and families.

Section 1302.51 Parent Activities To Promote Child Learning and Development

In this section, we propose revisions to existing requirements in § 1304.40(e) describing the parent activities programs must provide to promote child learning and development in order to give more local flexibility to programs in determining the best way to meet the individual needs of families they serve. We also propose revisions to strengthen the quality of services by requiring programs offer parents opportunities to participate in a research-based parenting curriculum. The existing rule does not require research-based approaches, and we believe some parent activities programs provide do not have the impact that research shows is possible. Positive parent-child relationships are fundamental to the goal of promoting child learning and development. In paragraph (a) in this section, we propose to strengthen the longstanding commitment in Head Start and Early Head Start to promoting parenting skills with the incorporation of key concepts that have emerged in recent research: parental efficacy or confidence and parenting education that is designed to model targeted skills. Programs can and should provide supportive environments for parents and families that help them develop positive views of themselves as parents and the knowledge and skills to effectively foster the healthy development and early learning of their children. Interactions with staff, opportunities to form peer relationships, and access to information and supports can support parental confidence.

Specifically, in proposed § 1302.51(b), we propose a new requirement that all parents be offered the opportunity to practice and enhance parenting skills through participation in a research-based parenting curriculum. We believe this will improve the effectiveness of parent services aimed at enhancing parenting skills that support child learning and development.[198] According to testimony by Dr. Hirokazu Yoshikawa for the Senate Committee on Health, Education, Labor and Pensions, programs with a parenting focus augment preschool effectiveness only if it they provide parents with modeling of positive interactions or opportunities for practice with feedback.[199] One meta-analysis found that early childhood programs that simply provide parenting information had little to no effects, whereas programs that implemented intensive efforts in which desired behaviors are modeled and gave parents opportunities to practice had more significant gains.[200]

Section 1302.52 Family Partnership Services

In this section, we propose to revise and redesignate parts of § 1304.40(a) and (b) of the existing rule that govern what were formerly named family partnership plans, to clarify the ongoing and strength-based nature of these services, to enumerate a specific sequence of activities programs are to offer families, and to allow more local flexibility in serving families. Existing regulations do not identify the key areas for engagement nor permit local flexibility to meet family needs. We envision a family partnership services approach that continues to be initiated as early as possible, is clearly shaped by parent interest and need, but effectively targets program and staff resources to ensure appropriate levels of intensity of services. We believe these proposed revisions increase local flexibility to meet family needs while placing a greater emphasis on measurable outcomes, which should lead to more targeted and effective service delivery.

We propose revisions to the family partnership agreement process in this section to de-emphasize the development of a single written plan and instead require programs to offer individualized linkages to services based on family strengths and needs. Our intention is to require programs to analyze what they learn from families about their strengths and needs on an ongoing basis and tailor program family engagement and support strategies and resources as needed. We also make clear in § 1302.52(c) that, while we propose to require all families be offered opportunities for individualized family partnership services, programs must take into account the urgency and intensity of family needs as well as their own program's capacities and triage services as appropriate. Our proposal would give programs the flexibility they need to able to respond to the range of enrolled families' needs, whether the family is homeless or financially stable; well-functioning or in crisis.

In paragraph (b), we propose new requirements that programs implement intake and enrollment procedures that capture important information about family strengths and needs according to family outcomes outlined in the Head Start Parent Family and Community Engagement Framework, as appropriate. These new requirements make clear that information collected is just the first step of an ongoing process of collaborating with families to identify, prioritize, and access services and supports that are appropriate to address identified strengths and needs, and, if desired, work toward family goals. The proposed requirements also give programs the leeway to judge how best to match program and staff resources according to intensity and urgency of needs and goals. Programs must be able to measure progress in meeting identified needs and goals and work with parents to identify other actions if necessary. Finally, in proposed paragraph (d), we revise § 1304.40(a)(3) in the existing rule, to acknowledge that programs and families operate within a larger community context. We propose to require that programs are aware of existing plans developed by other community agencies and help families access needed resources from other entities in the community, if available, in order to avoid duplication of effort.

Section 1302.53 Community Partnerships

This section redesignates and revises § 1304.41(a) and (b) of the existing rule, that address community partnerships

[196] Fagan, J., & Iglesias, A. (1999). Father involvement program effects on fathers, father figures, and their Head Start children: A quasi-experimental study. *Early Childhood Research Quarterly, 14*(2), 243–269.

[197] Cook, G.A., Roggman, L.A., & Boyce, L.K. (2011). Fathers' and mothers' cognitive stimulation in early play with toddlers: Predictors of 5th grade reading and math. *Family Science, 1*(2), 131–145.

[198] The National Center on Parent Family and Community Engagement, Research to Practice Series, *Positive Parent-Child Relationships,* 2013.

[199] Yoshikawa, H. Testimony to the Senate HELP Committee—Full-Committee Hearing on Supporting Children and Families through Investments in High-Quality Early Education, February 6, 2014.

[200] Shonkoff, J. (2013). Minds (Still) Wide Open: Sharpening our Theory of Change and Advancing the Frontiers of Innovation. Presentation to Frontiers of Innovation Community Workshop, Boston, MA.

and advisory committees, with additions required by the Head Start Act, language updates to streamline existing provisions, and adds new provisions on coordination with state and local Quality Rating and Improvement Systems and agencies funded for early childhood data systems and K–12 statewide data systems (*e.g.,* State Longitudinal Data Systems). We propose to update the existing regulations on community partnerships to reflect the development of an array of services since Head Start's inception. Although in some communities there may be many more potential partners than previously, there continues to be a need for coordination of services for families. We believe Head Start agencies must play an evolving leadership role to coordinate and build local systems as they provide complementary services on behalf of Head Start and Early Head Start children and families.

We intend to strengthen community partnership activities in several additional ways. In § 1302.53(a), we propose to remove documentation requirements and place a greater focus on active implementation. This would reduce bureaucratic burden that is more about process than action. Additional changes in § 1302.53(a) and (b) propose create a more direct connection between the family partnership services described in this subpart and how programs prioritize the formation of community partnerships. This further clarifies that community partners that can advance family needs and goals, including those for improving family economic well-being and stability, education and credentials, and asset-building, should be prioritized as needed.

In addition, in § 1302.53(b) we propose to add types of providers with which programs should engage in collaborative relationships and partnerships. This includes providers of services to homeless children and families, domestic violence prevention and support, substance abuse prevention, mental health, providers of pre- and post-natal support, Temporary Assistance for Needy Families agencies, and workforce development and training programs; family literacy, adult education, and post-secondary education institutions. Some of these additional partners are proposed as required in section 645A(b)(11) and section 642(e) of the Act, others reflect best practices from the Parent and Community Engagement Framework,[201] and others from recommendations from the Advisory Committee on Head Start Research and Evaluation.[202]

We propose three additional changes in this section. First, in § 1302.53(c), we propose to retain the requirement that programs must have health advisory committees and we propose to remove language about an option to have other advisory committees. This streamlined proposal reduces unnecessary redundancy. Second, in § 1302.53(d), we reflect a provision described in section 642(e)(5) of the Act that requires a program to enter into a memorandum of understanding with the appropriate local entity responsible for managing publically funded preschool programs in the service area. This has been in effect since 2008 and does not reflect a new requirement on programs. Finally, we propose a new provision that programs should participate in state or local Quality Rating and Improvement Systems if they have been validated to show that the tiers in the State's Tiered Quality Rating and Improvement System accurately reflect differential levels of quality, are related to progress in learning and development, and build toward school readiness and if Head Start programs can participate in the same way as other early childhood providers in the area. We considered making this a stronger requirement that programs must participate and are seeking comment on whether that would be a better approach. We are also specifically requesting comment on whether this provision will assist in improving information for parents and the quality of services for children or will create an undue burden on programs and duplication in monitoring. We are also specifically requesting comments on whether the Quality Rating and Improvements Systems have been appropriately validated, the results are publicly available and we should limit the proposal for Head Start participation in Quality Rating and Improvement Systems to systems that meet these or other requirements.

Additional Services for Children With Disabilities; Subpart F (Currently Part 1308)

In this subpart of the NPRM, we propose to redesignate requirements in part 1308 in the existing rule, related to Services for Children with Disabilities, and significantly update those requirements to align with the Act. Specifically, we propose revisions to reflect requirements that children must be identified and receive services as prescribed in the Individuals with Disabilities Education Act (IDEA). In order to communicate its critical importance, we also propose to incorporate requirements for the full inclusion and participation of children with disabilities in all program activities, including but not limited to children eligible for IDEA services, throughout this NPRM.

Prior to reauthorization of the Act in 2007, we permitted programs to use independent evaluators to diagnose disabilities and provide services. In this subpart, we propose to remove all requirements relevant to this outdated authority, including the eligibility criteria, which are outlined for twelve diagnostic categories in the existing rule (§§ 1308.7 through 1308.17). Consistent with revisions throughout this NPRM, we propose to revise this section to include children from birth through the age of kindergarten entry, rather than just preschoolers. Additionally, we propose to remove the entire Appendix to § 1308 in the existing rule because we do not want to provide guidance in tandem with regulations as this often causes confusion and an unwieldy document.

Section 1302.60 In General

As in other subparts of this NPRM, we propose to include an 'In general' section to outline the requirements contained herein and to specify that programs must ensure all children with disabilities, including but not limited to those who are eligible for IDEA services, and their families receive all applicable program services and are able to fully participate in all program activities.

Section 1302.61 Additional Services for Children With Disabilities

In paragraph (a) of this section, we require that programs ensure all children with disabilities have access to and full participation in the range of activities and services provided, including individualized accommodations and supports necessary for their full participation. In paragraph (b), we propose new language to require programs to provide appropriate individualized services and supports for children, to the maximum extent possible, during the interim period while the local IDEA agency determines eligibility. It may take several months after referral for children to be evaluated and determined to be eligible to receive services under IDEA Part C or Part B. We believe it is important that their possible early intervention and special education and related service needs are met to the fullest possible extent during this time.

[201] *http://eclkc.ohs.acf.hhs.gov/hslc/tta-system/family.*

[202] Advisory Committee on Head Start Research and Evaluation: Final Report (2012).

Once a local IDEA agency determines a child is eligible for IDEA services, we also propose to require programs to meet the individual needs of children with IFSPs or IEPs. Specifically, in paragraph (c)(1), we propose to require programs to work closely with local IDEA agencies and other service providers, as appropriate, to ensure that indicated services are planned and delivered as required by the IFSP or IEP; children are working toward the goals that are identified in their individual plans; service providers have been identified as necessary for services that the program cannot meet such as for speech, physical or occupational therapy or consultant special education teacher services; and IFSPs and IEPs are revised and updated as required and needed.

Finally, in paragraph (2), we propose to redesignate existing requirements, §§ 1304.8(g) and 1304.20(f)(2)(iii), which describe transition services programs must provide for children with IFSPs or IEPs into this section. This section also retains existing requirements related to inclusion and transitions, with significantly streamlined and reduced language through reference to IDEA requirements. Specifically, we propose to redesignate and revise existing requirements (§ 1304.20(f)(iii)) that programs with children with an IFSP transitioning out of Early Head Start must collaborate with parents, and the local IDEA agency to ensure that there is a timely determination of continued eligibility and service delivery under IDEA. In addition, in this section we propose to redesignate and revise existing provisions in § 1308.4(g), which require programs with children with IEPs transitioning out of Head Start to kindergarten to collaborate with the children's parents and local IDEA agencies to identify continued eligibility and appropriate IDEA service delivery.

Section 1302.62 Additional Services for Parents

Finally, in this section, we propose to redesignate and revise §§ 1308.6(e), 1304.20(f)(ii), and 1308.21 in the existing rule related to additional services for parents. Specifically, in paragraph (a), we recommend revisions to these requirements to explicitly identify the supports programs must provide to assist the parents of children with disabilities in meeting the needs of their children. We believe these proposed revisions streamline and more accurately enumerate the expectations that are implicit in the existing regulation. These clarified requirements include: Program collaboration with parents to help parents become advocates for their children; and understand their child's disability and how to meet their needs and support their development. While the existing rule requires that programs inform parents of possible resources such as the Supplemental Security Income (§ 1308.21(a)(7)), the revised rule specifically requires that programs assist parents in accessing the services and resources necessary for their family, including securing adaptive equipment and devices, creating linkages with support groups, and helping parents establish eligibility for additional supportive programs, as applicable (§ 1302.62(a)). We believe that this more expansive language clarifies the expectation the programs assist parents in obtaining the knowledge, equipment, and services they need to support the maximal development of their child. This is crucial as parents' ability to advocate for their children with special needs may play a critical role in acquiring necessary services both as a child is entering the system as an infant, toddler, or preschooler and as they eventually move into school.

In paragraph (b), the clarified requirements apply explicitly to parents of children eligible for IDEA and include programs helping parents: Understand the referral, evaluation, and service provision timelines required under IDEA; actively participate in the eligibility determination and IFSP or IEP development process; understand the purposes and results of the evaluation process and the services that are provided through an IEP or IFSP; and finally, ensure their children's needs are accurately identified and addressed through the IEP or IFSP. We consider Head Start's role in helping parents navigate the IDEA process critical to obtaining needed early intervention and special education and related services.

Section 1302.63 Coordination and Collaboration With the Local Agency Responsible for Implementing IDEA

Section 645A(b)(8) of the Act requires programs to ensure formal linkages with agencies implementing IDEA and providers of IDEA services. In this section, we propose to largely retain existing provisions (§§ 1308.4(l) and 1304.20(f)(ii)) that describe requirements for programs to work with local agencies responsible for implementing IDEA to identify children who may be eligible. We note that section 637(a)(10) of the IDEA and the IDEA Part C regulations in 34 CFR 303.210 and 303.302(c)(1)(ii)(E) also require coordination between Head Start and Early Head Start programs and IDEA early intervention service providers to ensure the early identification of, and provision of services to, young children with disabilities. We propose revisions to streamline the language to more clearly express actual program requirements rather than requiring programs to have a plan to address requirements. We propose to update the language in the existing rule which refers only to local education agencies (LEAs) such that it refers to ''the agency responsible for implementing IDEA'' to reflect that the term ''local IDEA agency'' is applicable to both children age birth to three and children age three through five and that the entity that provides IDEA Part C services to children with disabilities age birth to three are early intervention service (EIS) providers and that the entity that provides IDEA Part B services to children with disabilities age three through five are LEAs.

In paragraph (b), we propose to redesignate and slightly revise for clarity provisions that require programs to develop agreements with local IDEA agencies to ensure efficient referral, evaluation, service coordination, and transition services (§§ 1308.6(e), 1304.20(f)(ii) and 1308.21 in the existing rule). In paragraph (c), we propose to revise existing provisions (§§ 1308.21 and 1304.20(f)(ii)) that require programs, in collaboration with parents, to participate in the development and implementation of Individualized Education Programs (IEP) and Individualized Family Service Plans (IFSP), including through the provision of screening and other information and participation in meetings. Finally, in paragraph (d), we propose to include a new requirement for programs to retain copies of children's IEPs or IFSPs for the time the child is in the program. We believe this provision will ensure every program has access to a child's individualized plan in order to support implementation to the fullest extent possible.

Transition Services; Subpart G (Currently §§ 1304.40, 1304.41, and 1305.7)

This subpart proposes to organize all provisions related to transition services from §§ 1304.40(h), 1304.41(c) and 1305.7(c) in the existing rule into a single subpart. Starting kindergarten is a big change for both children and families. Head Start provides transition services to support children and families effectively adapt to this change. Supporting children in this major life event so they feel comfortable with their

new setting and new teachers can lead to better social and academic outcomes for children.[203] [204] Supporting families through this transition can lead to more family engagement in kindergarten,[205] and greater family engagement leads to better social and academic outcomes for children.[206] [207] Head Start transition services include collaborations with families and schools to help ensure children and families are supported during this change. Planning and implementing transitions from Early Head Start also provides important support for children and families and fosters continuity of services.

We propose to reorganize and update transition services to improve their quality and effectiveness. In the existing rule, transition services are organized primarily under parent and community collaboration in §§ 1304.40(h) and 1304.41(c). We propose to maintain these central linkages to parent and community collaboration but in a new structure that will support better service delivery, make it easier to determine what transition services we require from Early Head Start and Head Start programs, and elevate the importance of these program services.

Despite the structural reorganization, we propose to maintain most of the existing provisions regarding transition services from the existing rule. We propose to streamline and update these provisions to improve clarity. In addition, we propose to include requirements from section 642A of the Act and expand services to better reflect lessons from transitions research, and reflect the changing landscape of available early learning programs. We believe these requirements will foster successful transitions to help children feel comfortable and positive about their new settings. We also believe they will enable parents to support their children emotionally and academically and assist them in understanding how to advocate for and engage in their children's education.

Section 1302.70 Transitions From Early Head Start

This section proposes the requirements for supporting successful transitions out of Early Head Start and lays the foundation for sustained parent involvement in their child's education. This includes general requirements that support transitions from Early Head Start, specific requirements about transition planning, family collaborations, and collaboration between Early Head Start and Head Start, in paragraphs (a) through (d) of this section, respectively. Paragraph (e) includes a cross-reference to the additional transition services required for children with an IFSP and described in subpart F.

This section mainly retains the existing requirements regarding these areas of transition services from §§ 1304.40(h), 1304.41(c), and 1305.7(c) because we believe they are important to supporting successful transitions. In paragraph (d)(2), we propose slight language changes to the existing rule to improve clarity and streamline language, and make collaboration requirements subject to privacy requirements proposed in part 1303. In paragraph (c), we also revise § 1304.40(h)(2) to no longer require a staff-parent meeting be held toward the end of the year, but retain the core requirement that programs must provide information to parents about their child's progress during the program year as part of transition services. We believe this will reduce confusion and increase local flexibility without decreasing quality of service delivery. The existing rule requires programs to conduct at least two home visits with parents and at least two teacher-parent conferences. A separate provision under the current rule requires programs conduct a teacher-parent meeting toward the end of the year to help support transitions. Though we have not interpreted this to require three separate teacher-parent meetings, programs have expressed confusion about whether they are required to conduct the transition meeting separately from the parent-teacher conference. We believe elimination of specific mention of an end of year transition meeting will eliminate the confusion of whether a third meeting is required and allow local programs the flexibility to determine when and how (home visit or parent-teacher meeting) to best provide these transition services.

We propose to strengthen transition services by requiring Early Head Start and Head Start to implement strategies to improve the collaboration and coordination for transition services between Early Head Start and Head Start in § 1302.70(d). Only slightly more than half of Early Head Start children attend Head Start when they become age-eligible,[208] [209] and we believe programs must do more to maximize enrollment of Early Head Start children into Head Start, consistent with eligibility requirements. Extending services throughout the birth-to-five period is a more efficient use of Head Start funds and will help more children start kindergarten prepared to succeed in school. With the recent expansion of Early Head Start, this is increasingly important.

Section 1302.71 Transitions From Head Start to Kindergarten

In this section, we propose the services programs must implement to support successful transitions from Head Start to kindergarten. In paragraphs (a) through (d), respectively, we propose general provisions for programs to implement transition strategies and practices, family collaboration transition services, community collaborations transition services, and learning environment transition activities. Paragraph (e) includes a cross-reference to the additional transition services required for children with an IEP and described in subpart F. We believe these provisions will help Head Start preschoolers make strong transitions to elementary school and lay the foundation for sustained parent involvement in their child's education.

Most of the requirements in this section are provisions we retain from § 1304.40(h) and § 1304.41(c) in the existing rule. We made minor language changes to improve clarity, eliminate confusion, and reflect a provision required by the Head Start Act. For example, in (b)(2)(iii), we propose to revise § 1304.40(h)(3)(i) in the current rule, which requires programs to prepare parents to exercise their rights and responsibilities concerning the education of their children, to reflect requirements in the Section 642A of the Act to help parents of dual language learners understand the availability and appropriateness of language instruction educational programs available at their

[203] Curby, T.W., Rimm-Kaufman, S.E., & Ponitz, C.C. (2009). Teacher-child interactions and children's achievement trajectories across kindergarten and first grade. *Journal of Educational Psychology, 101(4),* 912–925.

[204] Tran, H., & Winsler, A. (2011). Teacher and center stability and school readiness among low-income, ethnically diverse children in subsidized, center-based child care. *Children and Youth Services Review, 33,* 2241–2252

[205] Schulting, A.B., Moore, P.A., & Dodge, K.A. (2005). The effect of school-based transition policies and practices on child academic outcomes. *Developmental Psychology 41(6),* 860–871.

[206] Barnard, W.M. (2004). Parent involvement in elementary school and educational attainment. *Children and Youth Services Review, 26,* 39–62.

[207] McWayne, C., Hampton, V., Fantuzzo, J., Cohen, H.L., & Sekino, Y. (2004). A multivariate examination of parent involvement and the social and academic competencies in urban kindergarten children. *Psychology in the Schools, 41(3),* 363–377.

[208] Chazan-Cohen, R.& Kisker, E.E. (2012). Links between early care and education experiences birth to age 5 and prekindergarten outcomes. *Monographs of the Society for Research in Child Development,* 78(1), 110–129.

[209] Conversation with the Office of Policy Research and Evaluation, HHS regarding unpublished data. June 2, 2014.

elementary school. In addition, we propose to clarify, in paragraphs (c)(2)(i) through (ii), that transfer of relevant records and communication between Head Start and elementary school staff are consistent with privacy requirements we propose in part 1303.

Furthermore, as with Early Head Start, we revise § 1304.40(h)(2) in the existing rule, which requires programs to hold a staff-parent meeting at the end of the year to provide information about the child's progress during the program year. We propose to retain the core requirement that programs provide this information to parents as part of activities that support successful transitions but remove the meeting requirement. As noted above, we believe this will allow programs more local flexibility to determine when and how to collaborate with parents on transitions services and eliminate confusion about whether the existing rule requires a third teacher-parent meeting.

We propose several small but substantive changes to existing provisions in this section. First, we propose to redesignate and revise current § 1304.41(c)(1) to require programs to implement transition plans and to emphasize that programs must use ongoing transition strategies and practices. Throughout this NPRM, we have made a conscious effort to move away from requiring programs to develop plans and instead emphasize implementation. However, in this instance, research suggests that having a transition plan in place is important to support successful transitions.[210] [211] [212] [213] [214] We also propose to expand upon this same existing rule, which requires programs to ''establish and maintain procedures to support successful transitions,'' by explicitly proposing in paragraph (d) to require programs include strategies and activities in the learning environment that familiarize children with the transition to kindergarten and foster confidence about the transition. All three of these proposed changes incorporate lessons from research on effective transitions.[215] [216] [217] [218]

Furthermore, we propose additional provisions to strengthen transition services for children moving from Head Start to kindergarten. First, we propose to expand family collaboration services with a new requirement in paragraph (b)(2)(ii) for programs to implement strategies and activities with families that include helping parents understand and use parenting practices that effectively provide academic and social support for their children during transitions. This reflects best practices and will improve service quality.

In paragraphs (c)(1) and (c)(2), we propose to retain provisions consistent with sections 642(d)(3)(B) and 642(b)(13) of the Act that require programs to coordinate with school districts and kindergarten teachers. Secondly, in paragraph (c)(3), we propose to expand Head Start collaboration with school districts to include efforts to enroll Head Start children who will enter kindergarten into available summer school programming. Research finds that elementary students from low-income families lose skills and knowledge during the summer break.[219] [220] Though this ''summer slide'' has not yet been examined with children between their pre-kindergarten and kindergarten years, we are concerned Head Start child in programs that do not operate during the summer months will experience this situation as well. This new provision aims to address this potential problem.

Section 1302.72 Transitions Between Programs

In this section, we propose three new provisions that will support transitions for children and families who might not otherwise receive such services. First, in paragraph (a), we propose to require programs to undertake efforts to enroll and support transitions for children and families moving out of the community in which they are currently served, including homeless families and children involved in the child welfare system, to other Early Head Start and Head Start programs. It is common for children from low-income families to experience housing instability.[221] We also propose to include children in the child welfare system in this provision, given their family instability and the importance of early intervention, like that provided by Head Start, on their school readiness and long-term outcomes.[222] Thus, Early Head Start and Head Start families sometimes move during a program year because of changing and challenging family circumstances.[223] We believe it is important that programs make significant effort to facilitate the continued enrollment of these children in Early Head Start and Head Start programs in their new communities. This provision will improve continuity of services to children and families and improve the efficiency of Head Start funds.

Second, in paragraph (b), we propose a new provision to require Head Start programs to provide transition services to families who decide to enroll their children in a different public pre-kindergarten program in the year prior to kindergarten entry. This reflects the increasing availability of state- or locally-funded pre-kindergarten. These types of transitions may reflect as large a change for children and families as the transition from Head Start to kindergarten so it is important that Head Start programs implement services to support a successful transition.

[210] Pianta, R.C., Cox, M.J., Taylor, L., & Early, D. (1999). Kindergarten teachers' practices related to the transition to school: Results of a national survey. *Elementary School Journal, 100*(1), 71–86.

[211] Patton, C., & Wang, J. (2012). Ready for Success: Creating Collaborative and Thoughtful Transitions into Kindergarten. *Harvard Family Research Project.*

[212] Pianta, R.C., & Kraft-Sayre, M. (2003) *Successful Kindergarten Transition: Your Guide to Connecting Children, Families, & Schools.* Baltimore, Md.: National Center for Early Development and Learning, Paul Brookes Publishing Co.

[213] National Governors Association. (2005). Building the foundation for bright futures: final Report of the NGA Task Force on School Readiness. *Retrieved June, 2,* 2014.

[214] Bohan-Baker, M., & Little, P.M. (2002). *The transition to kindergarten: A review of current research and promising practices to involve families.* Cambridge, MA: Harvard Family Research Project.

[215] Patton, C., & Wang, J. (2012). Ready for Success: Creating Collaborative and Thoughtful Transitions into Kindergarten. *Harvard Family Research Project.*

[216] McGann, J F., & Clark, P. (2007). Fostering positive transitions for school success. *Young Children, 62*(6), 77.

[217] Pianta, R.C., Rimm-Kaufman, S.E., & Cox, M.J. (1999). Introduction: An ecological approach to kindergarten transition. In R.C. Pianta & M.J. Cox (Eds.), *The transition to kindergarten* (pp. 3–12). Baltimore, MD: Paul H. Brookes Publishing Co.

[218] LaParo, K.M., Kraft-Sayre, M., & Pianta, R.C. (2003). Preschool to kindergarten transition activities: Involvement and satisfaction of families and teachers. *Journal of Research in Childhood Education, 17,*147–158.

[219] Cooper, H., Charlton, K., Valentine, J.C., & Muhlenbruck, L. (2000). Making the most of summer school. A meta-analytic and narrative review. *Monographs of the Society for Research in Child Development, 65* (1, Serial No. 260), 1–118.

[220] Cooper, H., Nye, B., Charlton, K., Lindsay, J., & Greathouse, S. (1996). The effects of summer vacation on achievement test scores: A narrative and meta-analytic review. *Review of Educational Research, 66,* 227–268.

[221] Profiles of Risk: Characterizing Housing Instability. Research Brief 1. (2011). Institute for Children, Poverty, & Homelessness. Washington, DC: Author.

[222] Rankin, V.E., & Gonsoulin, S. (2014). *Early learning is essential: Addressing the needs of young children potentially at risk for system involvement.* Washington, DC: National Evaluation and Technical Assistance Center for Children and Youth Who Are Neglected, Delinquent, or At Risk (NDTAC).

[223] Head Start and Housing (In)stability: Examining the School Readiness of Children Experiencing Homelessness. (2013). Institute for Children, Poverty, & Homelessness. Washington, DC: Author.

In paragraph (c), we propose to require Migrant and Seasonal Head Start programs support effective transitions to other Head Start programs when families move out of the community. Most Migrant and Seasonal Head Start programs already implement this important practice. Given the frequent mobility among families served by Migrant and Seasonal Head Start, supporting these transitions to maximize re-enrollment in Head Start programs and effective transitions is particularly important.

Services to Enrolled Pregnant Women; Subpart H (Currently § 1304.40)

In this subpart, we propose to redesignate, revise, and build upon concepts from § 1304.40(c) of the existing rule, which describes the services that Early Head Start programs must provide to pregnant women they choose to enroll. We propose to redesignate these requirements from the existing family engagement subpart into a new standalone subpart in order to highlight the importance of prenatal health care and education and to significantly improve the transparency of these requirements for programs serving pregnant women. Long standing research clearly demonstrates the importance of prenatal care and the effectiveness of prenatal interventions in facilitating healthy pregnancies [224] [225, 226] [227] [228] and improving child outcomes that affect later school readiness [229] [230] [231] [232] [233] among at-risk women. While most of this proposed subpart represents a structural revision of existing requirements, it also expands upon currently required services to codify best practices.

Section 1302.80 Enrolled Pregnant Women

In paragraph (a) of this section, we propose to include a requirement that programs determine whether enrolled pregnant women have ongoing sources of health care and, as appropriate, health insurance coverage and in paragraph (b), we propose that if the enrolled pregnant woman does not have such a source of care and, as appropriate, health insurance coverage, the program must facilitate access to each. We understand how important it is for pregnant women and children to have health insurance coverage. Pregnant women who have health insurance coverage are more likely to receive prenatal care. The link between a pregnant woman's health and the health of her child is a well-established fact. Early Head Start programs help pregnant women access health insurance coverage and will continue to offer this support through a combination of systems and services. This language reflects the proposed revisions to child health status in subpart D of the proposed rule. While this requirement can been inferred from § 1304.40(c)(1)(ii) of the existing rule, our proposed revisions would align with services that programs must deliver to children to reduce confusion and allow programs to use the same process for families of enrolled children and enrolled pregnant women. The prenatal empirical literature demonstrates the importance of such care during pregnancy. Research shows that pregnant mothers who receive consistent, ongoing prenatal care and engage in prenatal education activities are more likely to give birth to a healthy, full-term baby.[234] The research also clearly demonstrates that children who are healthy at birth are more likely to experience healthy development throughout the early childhood years.[235]

Further, in paragraph (c), we propose to redesignate and slightly revise § 1304.40(c)(1)(i) and (iii) in the existing rule such that we clearly require programs to facilitate access to comprehensive services, such as nutrition counseling and mental health services. The 2002 Early Head Start Research and Evaluation Project found that 52 percent of enrolled mothers were depressed, and 18% of fathers showed signs of depression when their children were 2 years old, leading to poorer outcomes for both children and their families.[236] This research specifically on Early Head Start solidifies the importance of prenatal and postnatal mental health services for the families we serve. Additionally, research has clearly established the benefits of breastfeeding,[237] signaling the critical importance of prenatal nutritional counseling for pregnant mothers enrolled in Early Head Start.

Section 1302.81 Prenatal and Postpartum Services

In this proposed section, we redesignate, revise, and expand upon provisions describing the prenatal and postpartum education services for pregnant women and relevant family members, in § 1304.40(c)(2) of the existing rule. We propose that education services requirements in this section now include fetal development, the importance of nutrition, risks of alcohol, drugs and smoking, labor and delivery, postpartum recovery, infant care and safe sleep practices, and the benefits of breastfeeding. Paragraph (b) also proposes to emphasize existing requirements and expand upon them to require programs provide supports that promote emotional well-being,[238] nurturing and responsive caregiving, [239] [240] and father engagement during pregnancy and early childhood,[241] each of which have been linked to later positive child outcomes. We know that many Early Head Start

[224] Olds, D.L., Henderson, Jr., C.R., Tatelbaum, R., & Chamberlin, R. (1986) Improving the Delivery of Prenatal Care and Outcomes of Pregnancy: A randomized Trial of Nurse Home Visitation. *Pediatrics, 77(1),* 16–28.

[225] Villar, J., Farnot, U., Barros, F., Victora, C., Langer, A., & Belizan J.M. (1992) A Randomized Trial of Psychosocial Support during High Risk Pregnancies, *The New England Journal of Medicine, 327(18),* 1266–1271.

[226] Olds, D.L., & Kitman, H. (1993). Review of Research on Home Visiting for Pregnant Women and Parents of Young Children. *The Future of Children, 3(3),* 53–92.

[227] McLiaghlin, F.J., Altemeier, W.A., Christensen, M.J., Sherrod, K.B., Dietrich, M.S., & Stern, D.T. (1992). Randomized Trial of Comprehensive Prenatal Care for Low-Income Women: Effect on Infant Birth Weight. *Pediatrics, 89(1),* 128–132.

[228] Alexander, G.R., & Korenbrot, C.C. (1995). The Role of Prenatal Care in Preventing Low Birth Weight. *The Future of Children, 5(1),* 103–120.

[229] Larson, C.P. (1980). Efficacy of Prenatal and Postpartum Home Visits on Child Health and Development. *Pediatrics, 66(2),* 191–197.

[230] Olds, D.L., Henderson, Jr., & C.R., Kitzman, H. (1994). Does Prenatal and Infancy Nurse Home Visitation have Enduring Effects on Qualities of Parental Caregiving and Child Health at 25 to 50 Months of Life? *Pediatrics, 93(1),* 89–98.

[231] Olds, D.L., & Kitzman, H. (1990). Can Home Visitation Improve the Health of Women and Children at Environmental Risk? *Pediatrics, 86(1),* 108–116.

[232] Hack, M. Klein, N.K., & Taylor, H.G. (1995). Long-term Developmental Outcomes of Low Birth Weight Infants. The *Future of Children, 5(1),* 176–196.

[233] Reichman, N.E. (2005). Low birth weight and school readiness. *The Future of Children, 15*(1), 91–116.

[234] *Ibid.*

[235] Center on the Developing Child at Harvard University. (2010). *The foundations of lifelong health are built in early childhood.* Cambridge, MA: Author.

[236] Administration for Children and Families, Office of Planning, Research and Evaluation. (2002). *Depression in the lives of Early Head Start families: Research to practice brief.* Washington, DC: Author.

[237] National Women's Health Information Center. (n.d.) The Comprehensive Benefits of Breastfeeding. Washington, DC: Author.

[238] Administration for Children and Families, Office of Planning, Research and Evaluation. (2002). *Depression in the lives of Early Head Start families: Research to practice brief.* Washington, DC: Author.

[239] Bornstein, M.H., & Lamb, M.E. (2002). *Development in infancy: An introduction.* Psychology Press.

[240] Sroufe, L.A. (2005). Attachment and development: A prospective, longitudinal study from birth to adulthood. *Attachment & Human Development, 7*(4), 349–367.

[241] Fagan, J., & Iglesias, A. (1999). Father involvement program effects on fathers, father figures, and their Head Start children: A quasi-experimental study. *Early Childhood Research Quarterly, 14*(2), 243–269.

programs already provide these supports and services, which are best practices for prenatal and postnatal care. This proposal simply codifies best practices that many Early Head Start programs already have in place.

Section 1302.82 Family Partnership Services for Enrolled Pregnant Women

In general, this section of proposed subpart H, simply highlights that, as with all other families, enrolled pregnant women should be receiving the family partnership services described in proposed subpart E. However, it clarifies that these services should be explicitly directed towards their prenatal and postpartum care needs. We also propose to redesignate § 1304.4(i)(6) of the existing rule in this section to make the requirement more transparent to programs. This provision requires that programs engage in a home visit with the mother within 2 weeks after her child's birth, consistent with 645A(i)(2)(G) of the Act. Finally, we also propose to codify best practices, which excellent programs already follow, with regard to engaging the mother in discussions about program options and transitioning her child into program enrollment during and support the mother, where appropriate.

Human Resource Management; Subpart I (Currently §§ 1301.31, 1304.21 Through 1304.23, 1304.51, 1304.52, 1306.20 Through 1306.23, and 1306.33)

In this subpart, we propose to redesignate, update, and combine all current regulations related to human resources management into one coherent section. We believe this will increase transparency and clarify human resources management for programs. Topics related to human resources were included in multiple sections within the existing rule, including §§ 1301, 1304.52, 1306.20(f) and 1306.21. In addition to this broad restructuring, we propose to universally apply several concepts to the revisions to this section. Specifically, we propose to move away from requiring written plans and prescribing how specific requirements should be achieved in order to give greater flexibility to programs in determining the best way to meet the expectations we retain.

These universal themes are reflected in this subpart through the proposed revisions to the written personnel policy requirements, the proposed removal of staff qualifications that were not easily measurable, and the proposed retention of requirements that all staff adhere to appropriate standards of conduct and all staff and consultants have sufficient knowledge, training, and experience to fulfill the roles and responsibilities of their positions to ensure the delivery of high quality services. We also propose to increase many staff qualifications as required by the Act and improve the focus of professional development for education staff, which will further improve program quality.

Section 1302.90 Personnel Policies

In this section, we propose to redesignate, consolidate, and update provisions from §§ 1301.31, 1304.52(i), and 1304.52(g). Consistent with the principles described above, we propose to remove § 1304.52(j) of the existing rule, which prescribed a process for conducting staff appraisals. While we believe that conducting annual staff appraisals is good managerial practice, we also acknowledge that there may be other equally appropriate methods for staff supervision and feedback, and therefore wish to provide programs with flexibility on this process. Additionally, we propose to remove much of § 1301.31(a) of the existing rule, which requires multiple written policies and prescribes what those policies must include, because we believe prescribing the content of these written policies causes undue burden on programs and we believe it will be more efficient and effective to give programs flexibility in meeting their managerial requirements. Therefore, in this section we propose to retain the requirement that programs establish written personnel policies and procedures, but remove the prescription of the topics that those policies and procedures must cover.

In this section, we also propose to retain and strengthen the process for performing background checks on staff and standards of conduct. We propose to largely retain the conceptual process for recruiting and selecting staff (§ 1301.31(b)). Within this process, however, we propose to highlight child safety as a top priority for the Office of Head Start by strengthening the criminal background check requirements to reflect revisions to the Act, align with a new ACF resource guide called *Caring for Our Children Basics* (discussed below), and complement the new background check requirements in the Child Care and Development Block Grant (CCDBG) Act of 2014. The proposed requirement would strengthen the background check process for staff in Head Start programs by requiring both state/local/tribal and federal criminal background checks, as well as clearance through available child abuse and neglect and sex offender registries. Making this requirement complement the new CCDBG requirement will minimize burden on programs that operate with both Head Start and Child Care Development Funds. In addition, the existing rule requires a background check but does not require programs to act on that information. While we do not propose to include Head Start specific prohibitions based on the background checks, we do propose to require programs use the disqualification factors their state licensing entities establish when making employment decisions.

In paragraph (b)(3), to further protect children's safety, we do propose to require programs provide justification for any hire where an arrest, pending criminal charge, or conviction is present. The strengthening of these proposed provisions aligns with a consistent message from the federal government about the importance and characteristics of high quality background checks, which are critical to ensuring child safety in all early care and education settings. In addition, because section 648A(e) of the Act now requires all staff to have background checks completed prior to employment, we propose to remove all of § 1301.31(b)(2) and § 1301.31(c) of the existing rule because declarations and exclusions on such declarations are no longer relevant. In paragraph (b)(4), we propose to further strengthen background check requirements by requiring programs perform background checks every five years for current staff.

Additionally, in paragraph (b)(5), with regard to hiring parents, we propose to revise the language in the existing rule (§ 1304.52(b)(2)) and redesignate the provision to this section to reflect that ''being qualified'' and being the best suited for a job are not identical concepts and to increase local flexibility. We want to make sure parents, and their parental status are considered in the hiring process, but we do not want programs to believe they are required to hire any parent who applies with appropriate qualifications, without regard to the program's judgment of how well qualified that parent is or the qualifications and experience of other applicants.

Under paragraph (c) of this section, we also propose to strengthen the current standards of conduct (§ 1304.52(i)(1)) in this section to align with the prohibited behaviors listed in a new ACF resource, *Caring for Our Children Basics,* which is available on the OHS Web site. *Caring for Our Children Basics* is a common set of recommendations, which is intended to create a common framework to align basic health and safety efforts across all early childhood settings. *Caring for Our Children Basics* is based on *Caring for*

Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, Third Edition, a document produced with the expertise of researchers, physicians, and practitioners working with the American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education, and the Maternal and Child Health Bureau in the Department of Health and Human Services. The standards of conduct we propose to include strengthen the requirements that ensure all staff, consultants and volunteers interact with family and children with respect and that their actions support the best interests and safety of all children. The standards are strengthened specifically by the inclusion of an explicit prohibition on seclusion and restraint and retain the existing protections for child and safety related to standards of conduct in § 1302.90(c).

Finally, in paragraph (d) of this section, we propose to redesignate language from §§ 1304.52(g) and 1306.20(f) in the existing rule to reflect the importance of staff being able to communicate with dual language learners and their families, either directly or through interpretation or translation. We also clarify, throughout the proposed rule that children for whom English is not their first language are dual language learners, whereas their parents and families (adults) are Limited English Proficient. Given the proportion of dual language learners that Head Start programs serve, it is critical that programs devote the necessary resources within their management of human resources to provide high quality services to these children and their families, and this includes ensuring the ability of staff to communicate with them in their primary language.[242] [243] [244]

Section 1302.91 Staff Qualification Requirements

In this section, we propose to redesignate §§ 1304.52(b) through (h) and 1306.21 to ensure that all staff qualification requirements are centrally located within the rule. We propose to remove §§ 1306.21 and 1304.52(b)(1) to eliminate relying on cross-referencing the Act for qualifications of classroom teachers. Rather, we propose to incorporate language that reflects the requirements of the Act, which include a minimum of an Associate's Degree for all Head Start Teachers and an infant and toddler Child Development Associate (CDA) for Early Head Start. This decision was made because there are several intermediary requirements of the Act, which are no longer in effect at the time of this NPRM, and to provide clarity for programs on the requirements for all staff. The requirements incorporated have been in effect since 2011 and 2012 respectively. While we propose to add the provisions dictating the qualifications of teachers and assistant teachers, the requirements are technically retained from the existing rule per the cross-reference to the Act.

We propose additional revisions to increase staff quality. Building on the section 648A of the Act's requirement of ''demonstrated competencies'' for teachers, we propose to add key core competencies for all teaching staff and home visitors to better support the delivery of high quality education services. Specifically, we propose to require that teachers demonstrate competencies needed to plan and implement high quality learning experiences, effectively implement curriculum, support a warm environment, and promote progress across the standards in the Head Start Early Learning Outcomes Framework (Birth–5). In paragraph (f), to create a minimum staff qualification for all home visitors which we currently lack, we require that all home visitors have, at a minimum, a home-based CDA credential. We recognize that the Head Start and Early Head Start home visiting workforce is, in general, very well qualified. However, 10 percent of our current workforce does not hold at least a CDA, and given the complex skills necessary to be a successful home visitor, we are motivated to address this shortfall. We feel the home-based CDA offers the minimum level of training and content necessary for home visitors to effectively help children and families make progress on school readiness goals. We would like to invite public comment specifically on this proposed change and whether experts and practitioners would recommend setting an even higher standard.

In addition, we propose to remove qualifications that were especially nebulous or hard to determine during an interview process like ''knowledge of'' and instead propose to rely on training and experience, and, where possible, degrees, licenses or certificates. Specifically, we propose to remove qualifications for family service, health, and disabilities staff (§§ 1304.52(b)(1), 1304.52(b)(4) and (5), and 1304.52(b)(6)) because the requirements in the existing rule were not meaningful or measureable, and because research does not support the need for specific degrees. Therefore, we propose to require programs ensure all staff and consultants have sufficient knowledge, training, and experience to fulfill the roles and responsibilities of their positions and deliver high quality services. We propose to revise the requirements for qualifications of a fiscal officer in response to feedback that programs of diverse sizes have diverse needs for fiscal officers. The proposed revision would give programs greater flexibility to assess their own needs and ensure that their fiscal officer is qualified to meet those needs.

While we have not proposed in this NPRM to increase the qualification requirements for teachers beyond what is in the Act, we are specifically seeking public comment on whether all Head Start teachers and potentially all Early Head Start teachers should be required to have a bachelor's degree. The Institute of Medicine and National Research Council recently issued a report entitled, ''Transforming the Workforce for Children Birth to Age Eight: A Unifying Foundation.'' The report includes a specific recommendation that ''comprehensive pathways and multiyear timelines at the individual, institutional and policy level [be developed and implemented] for transitioning to a minimum bachelor's degree requirement, with specialized knowledge and competencies, for all lead educators working with children birth through age 8.'' We believe the proposed requirements in this section will ensure all teachers in Head Start and Early Head Start will have the specialized knowledge and competencies the recommendation includes. Further, we have clarified that all training and professional development should be credit bearing in section 1302.92 of this NPRM but do not require those credits lead to a bachelor's degree. Currently, 71% of Head Start teachers have a bachelor's degree, but only 27% of Early Head Start teachers have their bachelor's. In Early Head Start, such a requirement would potentially be complicated by the lack of a ''lead'' teacher in these classrooms. Therefore, it is unclear whether all Early Head Start teachers should have a bachelor's degree or if one teacher with a

[242] Castro, D. C. & Espinosa, L. M. (2014). Developmental characteristics of young dual language learners: Implications of policy and practice in infant and toddler care. *Zero To Three,* January, 2014.

[243] Espinosa, L. (2010). *Getting it right for young children from diverse backgrounds: Applying research to improve practice.* Upper Saddle River, NJ: Pearson.

[244] Hakuta, K. (1986). Mirror *of language: The debate on bilingualism.* New York: Basic Books.

bachelor's degree could be assigned greater responsibility and be designated the ''lead'' educator for this purpose. As a result, rather than increase the qualification requirements for all teachers in this NPRM, we are asking for specific comments for whether and how more teachers in both Head Start and Early Head Start should have a bachelor's degree.

We are also specifically seeking public comments about specific degree requirements that might be required for family service workers, disabilities services staff, and health staff.

Section 1302.92 Training and Professional Development

In this section, we propose to revitalize requirements for staff training and professional development so that resources are targeted to support effective professional development strategies and the content of such activities focus on the areas most important to supporting elements of teacher and program practice that are most directly linked to improved child outcomes. We instead describe a system of professional development that must include research-based approaches for all staff. We also propose to narrow the focus of professional development for educational staff to a coordinated system of professional development, the majority of which is delivered through individualized coaching. In addition, the approach to family child care providers has been revised to reflect that family child care providers are educators and therefore need the same professional development opportunities as center-based education staff. As a result, we removed the list of requirements that reiterated the need for programs to train family child care providers (§ 1304.52(l)(4) of the existing rule), and included family child care providers in the overall system of professional development.

We propose to improve the focus of the professional development and training system and redesignate and revise language from § 1304.52(l)(1) and (2) in the coordinated system of professional development described in this section. In addition, we propose to add more specific language around supporting education staff to develop the core competencies necessary to better improve child outcomes, including effective curricula implementation, content knowledge of the Head Start Early Learning Outcomes Framework (Birth–5), providing effective teaching and nurturing teacher-child interactions, supporting dual language learners, addressing challenging behaviors, using child assessment data to individualize child progress, and preparing children for new programs. This more targeted training and professional development reflects research that suggests such an approach has the greatest impacts on quality.[245] [246]

Through the coordinated system of professional development we also propose to add a new emphasis on utilizing intensive coaching as a method for delivering effective professional development. We aim for this to largely replace intermittent workshops and conferences, which are not shown to lead to sustained improved practice. There is a growing body of research supporting the effectiveness of intensive professional development for implementing specific research-based practices in early care and education settings.[247] [248] [249] Recent research documents the emergence of coaching and other on-site, intensive models of professional development as strategies to support the application of teaching practices and overall quality improvement in early care and education settings and find that coaching is associated with improved teacher practice in the classroom and a positive increase in classroom quality.[250] [251] In many currently operating coaching systems, the coaching occurs on a weekly or bi-monthly schedule, for less than one program year. Yet, most programs do not have the staffing patterns to ensure that there is a dedicated staff person who can conduct regular observations of teacher practice and provide ongoing feedback and support to help them improve. For this reason, we propose to require that all grantees employ expert coaches or mentors who provide regular classroom, family child care, or home based observations and feedback, but we do not propose to designate a specific schedule. We also propose to require that such observations and feedback be directed primarily at the implementation of research-based practices and effective teacher-child interactions.

We recognize that requiring intensive coaching models of professional development may represent a significant increase in burden for some programs, but we are convinced that it is an essential component of raising the quality of educational services in Head Start and improving child outcomes. Given the realities of limited resources, the proposed revisions build in program flexibility to direct these intensive services, at a minimum, to the teachers and education staff, including teaching teams, who would benefit the most from intensive professional development to improve the quality of their instruction and teacher-child relationships. We do propose to require that education staff who do not receive intensive coaching as an individual or as part of a teaching team, at a minimum, continue to receive other research-based professional development opportunities. Proposed requirements in paragraph (c) are consistent with section 648A(a)(5) of the Act which requires each Head Start teacher receive no less than 15 clock hours of professional development per year.

Finally, in paragraph (d), we propose requirements that ensure local flexibility to develop an innovative approach to professional development to better meet the needs of their staff. Specifically, we allow programs to waive or significantly adapt the coaching strategy requirements outlined in paragraphs (b)(4) and (5) of this section. However, because high quality professional development is important for child outcomes,[252] we propose that a program that wished to develop any variation of the approach outlined in this section work with experts from a college, university, or research organization to develop and evaluate the effectiveness of their system. We believe this proposal provides critical flexibility

[245] Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature.* Report prepared for the U.S. Department of Education.

[246] Tout, K., Halle, T., Zaslow, M., & Starr, R. (2009). *Evaluation of the Early Childhood Educator Professional Development Program: Final Report:* Report prepared for the U.S. Department of Education.

[247] Buysse, V., & Wesley, P.W. (2005). *Consultation in Early Childhood Settings.* Baltimore, MD: Paul H. Brookes Publishing.

[248] Tout, K., Halle, T., Zaslow, M., & Starr, R. (2009). *Evaluation of the Early Childhood Educator Professional Development Program: Final Report:* Report prepared for the U.S. Department of Education.

[249] Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature.* Report prepared for the U.S. Department of Education.

[250] Isner, T., Tout, K., Zaslow, M., Soli, M., Quinn, K., Rothenberg, L., Burkhauser, M. (2011). *Coaching in early care and education programs and Quality Rating and Improvement Systems (QRIS): Identifying promising features.* Child Trends.

[251] Lloyd, C.M., & Modlin, E.L. (2012). *Coaching as a key component in teachers' professional development: Improving classroom practices in Head Start settings.* Administration for Children and Families.

[252] Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature.* Report prepared for the U.S. Department of Education.

to drive innovation and growth in the field of professional development, while also ensuring important safeguards for quality and accountability.

Section 1302.93 Staff Health and Wellness

In this section, we propose to separate requirements for staff and volunteers and to support consolidation of all human resources requirements into subpart I. We propose to retain the provision that requires programs to make mental health and wellness information available to staff. A recent survey of Head Start staffs in one state found diagnosed depression was more prevalent among Head Start staff than national estimates, and suggested that depressive symptoms are even more prevalent.[253] Research has also demonstrated a link between caregiver depression and stress, and poorer quality interactions with children.[254] [255] [256] [257] Given this research, it is important for programs to continue to provide supports for staff to understand their own mental health needs and seek support as necessary, as required by proposed paragraph (b).

Section 1302.94 Volunteers

In this section, we propose to redesignate and slightly revise § 1304.52(k)(2) of the current rule related to the utilization of volunteers, to support consolidation of all human resources requirements into subpart I.

Program Management and Continuous Program Improvement; Subpart J (Currently §§ 1304.51, 1304.52, and 1304.60)

This proposed subpart enumerates program requirements for management, high quality program operation, and continuous improvement. It establishes the roles and responsibilities of the management system (§ 1304.52(a) of the existing rule) and proposes to expand the program planning process in § 1304.51(a), (b), and (d) of the existing rule to clarify how each aspect of quality improvement fits into a cycle of continuous program improvement. Specifically, we propose to describe how programs must establish, monitor progress, and reevaluate and revise their goals for continuous program improvement. In addition to this broad restructuring, several concepts were applied universally to the proposed revisions to the program management and continuous program improvement requirements enumerated in this subpart. Specifically, we propose to move away from requiring written plans, and prescribing how specific requirements should be achieved-leaving more flexibility for programs to determine the best way to achieve their goals, without reducing expectations about what the programs must achieve. These universal themes are reflected throughout the proposed revisions in this subpart.

We propose to revise the provisions to emphasize the role of management in ensuring child safety and the provision of high quality effective services that are responsive to child and family needs and promote school readiness. We propose to replace existing requirements for individual ''written plans'' with requirements that programs implement continuous program improvement informed by the ongoing analysis of data. While many programs may find that developing and implementing written plans is necessary, these revised requirements emphasize the outcomes rather than the processes selected by programs to accomplish those outcomes.

In this section, we also propose to introduce new requirements for the program's use of data within the cycle of continuous improvement to establish, monitor, and revise program performance goals. Writ large, these proposed revisions reflect the integration of the recommendations offered by our Secretary's Advisory Committee on Head Start Research and Evaluation.[258] The Advisory Committee's vision for all Head Start programs was that they become 'learning organizations' which are 'systematically and consistently focused on outcomes' and are able to use data and research to 'develop and continually refine [services] to ensure they are systematic, intentional, and intensive enough to achieve their goals for children's school readiness and family well-being'. The revisions proposed in this section are aimed at achieving this vision and creating a system that ensures the continuous improvement of all Head Start services, and thereby the outcomes of the vulnerable children and families that Head Start programs serve.

Section 1302.100 In General

This section succinctly describes the requirements contained herein, specifically that programs must implement program management and an ongoing monitoring and self-improvement process that ensures child safety, enables the provision of high quality services, and ensures continuous program improvement.

Section 1302.101 Management System

In this section, we propose removing the enumeration of individual management responsibilities (§ 1304.52(a)). Rather, similar to § 1304.5252(a) in the existing rule, we propose requiring programs to ensure their management and delineated responsibilities within management are governed by a system that enables the delivery of the high quality services described throughout the NPRM. We also propose to incorporate § 1304.51(a) into our description of the implementation of the management system by requiring regular and ongoing staff supervision to support continuous program improvement.

In this section, we also propose to require programs establish coordinated approaches to ensure professional development, services for dual language learners, and services for children with disabilities are fully integrated and supported throughout all aspects of the program. We propose to require a coordinated approach to professional development, because the strengthened requirements proposed in § 1302.92 of this NPRM, necessitate adequate program planning to ensure alignment of program performance goals and the content and strategies applied to fulfill those requirements. Supporting the school readiness of dual language learners also necessitates an informed and coordinated approach.[259] [260] [261] Young children who

[253] Whitaker, R.C., Becker, B.D., Herman, A.N., & Gooze, R.A. (2013). Peer Reviewed: The Physical and Mental Health of Head Start Staff: The Pennsylvania Head Start Staff Wellness Survey, 2012. *Preventing Chronic Disease, 10.*

[254] Hamre, B.K., & Pianta, R.C. (2004). Self-reported depression in non-familial caregivers: prevalence and associations with caregiver behavior in child-care settings. *Early Childhood Research Quarterly, 19*(2), 297–318.

[255] Pianta, R., Howes, C., Burchinal, M., Bryant, D., Clifford, R., Early, D., & Barbarin, O. (2005). Features of pre-kindergarten programs, classrooms, and teachers: Do they predict observed classroom quality and child-teacher interactions? *Applied Developmental Science, 9*(3), 144–159.

[256] Gilliam, W.S., & Golan, S. (2006). Preschool and child care expulsion and suspension: Rates and predictors in one state. *Infants and Young Children, 19(3),* 228–245.

[257] Brennan, E.M., Bradley, J.R., Allen, M.D., & Perry, D.F. (2008). The evidence base for mental health consultation in early childhood settings: Research synthesis addressing staff and program outcomes. *Early Education and Development, 19*(6), 982–1022.

[258] Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

[259] Hakuta, K. (1986). Mirror *of language: The debate on bilingualism.* New York: Basic Books.

[260] Winsler, A., Díaz, R.M., Espinosa, L., & Rodríguez, J. (1999). When Learning a Second Language Does Not Mean Losing the First: Bilingual Language Development in Low-Income, Spanish-Speaking Children Attending Bilingual Preschool. *Child Development, 70*(2), 349–262.

Continued

are dual language learners are highly diverse [262] and as such, programs serving dual language children must be intentional and coordinate what research tells us about dual language development with program policies and practices.[263] [264] For example, successful assessment of children requires understanding processes of dual language development, the selection of valid and reliable instruments, as well as communicating with families in order to understand a child's experiences with two languages. Programs must hire and train staff to work with children and families in ways that support their school readiness. Given that nearly one-third of all children served in Head Start in 2013 spoke a language other than English in the home,[265] it is critically important that programs plan for and apply a coordinated approach across all elements of service provision to ensure high quality services for these children and their families.

Similarly, we propose to require a coordinated approach to effectively serving children with disabilities and their families because doing so effectively requires coordinated forethought, planning, and intentionality with as well as entities outside of the program. In addition, ensuring programs have appropriate facilities, program materials, curriculum, instruction, staffing, supervision, and partnerships to effectively serve this population can only be adequately accomplished through a coordinated approach to program management.

Finally, the Administration for Children and Families believes that greater integration of Head Start data into broader State longitudinal data systems is critical to helping states, Head Start grantees, and school districts make informed policy decisions and improve program instruction. As a key step to this effort, we propose a coordinated approach to ensuring effective data systems and data governance. Specifically, programs would be required to approach data system management and data governance in a thoughtful and intentional way that supports the overall management of Head Start data, including the availability, usability, integrity, and security of data. Data governance is both an organizational process and a structure. Data governance should include a data governance body or council with clear roles and responsibilities assigned to the group and to individual members with ongoing feedback and communication from the agencies' overall governing body and policy council; a framework for decision-making and/or procedures about data management including how data quality will be monitored; how data will be shared while protecting privacy and confidentiality; a plan to execute those procedures; and an accountability structure for meeting these requirements. These procedures and structure are considered best practice in supporting communication and collaboration among data systems and protecting privacy while reducing staff burden and improving data quality. In developing these procedures, Head Start grantees should work with the Head Start State Collaboration Office and/or the state's Early Childhood Advisory Council (HSSCO/ECAC), the State Educational Agency (SEA), and other state coordinating bodies to allow for better integration of Head Start data within State early childhood data systems and sources and K–12 state longitudinal data systems, as appropriate. Finally, grantees should align their data collection and definitions with the Common Education Data Standards.

We recognize that in trying to meet statutory or Federal reporting requirements, Head Start providers may use different data definitions than the States' K–12 data system or other early education data systems that could make integration more difficult. We invite public comment specifically on potential areas where Head Start data may not be aligned with other systems, and how to better align Head Start data collection and definitions to facilitate data sharing.

Section 1302.102 Achieving Program Performance Goals

In this section, we propose to reorganize sections in the existing rule (§ 1304.51(a), (b), and (d)) which describe goal setting with respect to quality improvement to provide clarity and align with the Designation Renewal System. We believe this reorganization better conveys the importance of establishing goals for effective health and safety practices, all elements of high quality service provision, and continuous quality improvement for all programs, not just those with identified quality issues or deficiencies. We also propose to require that programs establish program performance goals for school readiness that are aligned with the Head Start Early Learning Outcomes Framework, state or tribal early learning standards as appropriate, and program performance goals for the provision of education, health, nutrition, and family and community engagement services.

In addition, we propose to expand the entire program planning process to clarify how each aspect of quality improvement fits into a continuous cycle and how programs must use each aspect for planning, goal setting, and re-evaluating their goals. We believe this is integral to improving the quality of service delivery. We also propose to expand upon the current requirement for programs to establish program performance goals, including school readiness goals and goals for effective provision of comprehensive services, and monitor their short- and long-term progress towards achieving these goals. However, we propose to no longer require written plans as described in § 1304.60 (c) through (f) of the existing rule. While we do propose to require quality improvement plans in the face of deficiencies, or other issues as prescribed by section 641(A) of the Act, we also propose to require all programs establish goals and monitor their progress towards those goals as well as their compliance with the performance standards. We also propose to require programs to implement strategies for achieving their goals and ensuring compliance and revise those strategies over time to reflect their progress and shifting priorities.

In paragraph (c) of this section, we propose to introduce new requirements for the program's use of data within the cycle of continuous improvement to establish, monitor, and revise program performance goals. Incorporating requirements that reflect the process already established under part 1307, including that data must be aggregated and analyzed at least three times per year, in the existing rule clarifies the need for all programs to collect, aggregate, and analyze data to achieve program performance goals and consistently work to improve quality. This new emphasis on the use of data for the purposes of program management and ongoing improvement is intended to support improved efficiency and effective operations. Using data in this way will allow programs to develop individualized

[261] Bialystok, E. (2001). *Bilingualism in Development: Language, Literacy, & Cognition.* Cambridge: Cambridge University Press.

[262] Genesee, F., Paradis, J., & Crago, M.B. (2004). *Dual language development and disorders: A handbook on bilingualism and second language learning.* Baltimore: Paul H. Brookes.

[263] Castro, D.C. & Espinosa, L.M. (2014). Developmental characteristics of young dual language learners: Implications of policy and practice in infant and toddler care. *Zero To Three,* January, 2014.

[264] Espinosa, L. (2010). *Getting it right for young children from diverse backgrounds: Applying research to improve practice.* Upper Saddle River, NJ: Pearson.

[265] Head Start 2014 Program Information Report. *http://eclkc.ohs.acf.hhs.gov/hslc/data/pir.*

responses and manage their resources more efficiently.[266]

While the concept of written plans (§ 1304.60(c) through (f)) was generally removed to allow programs to focus more on implementing improvements than plans, paragraph (d) of the proposed rule does retain reporting requirements and quality improvement plans for programs when certain deficiencies or other problems arise to ensure needed accountability. We also propose to redesignate and revise concepts from § 1304.52(a)(1)(ii) and (iii) of the existing rule in this section to require that any deficiencies in quality or compliance be reported and corrected and that procedures be put in place to prevent recurrence, and we strengthen this provision to include the reporting and immediate correction of any health and safety incidents. Additionally, this proposed section clearly delineates the expected content of both program annual self-assessments and public reports to include program community needs assessments. Collectively, these proposed requirements reflect the goal of achieving quality improvement, but hold programs accountable for improving rather than simply planning.

Section 1302.103 Implementation of Program Performance Standards

In this section, we propose a requirement that programs develop a program-wide approach for preparing for and implementing the extensive changes to the program performance standards proposed throughout this NPRM. Specifically, we propose to require current grantees implement an approach that ensures the timely and effective implementation of the changes. Each program's approach must include at a minimum, the purchase of and training on any curriculum, assessment, or other materials, assessment of professional development needs and staffing patterns, the development of coordinated management approaches, the development of appropriate protections for the privacy of child records, and provision of transition services, as needed, for children leaving Early Head Start or Head Start at the end of the program year as a result of any slot reductions. The effective date for the majority of the proposed changes in this NPRM has been set for one full program year following the publication of this NPRM. Therefore, programs must ensure that children currently being served are not displaced from the program during a program year. Finally, programs may petition the responsible HHS official for a one year extension in meeting the criteria described in §§ 1302.21 through 1302.23 if such an extension is necessary to ensure no currently enrolled children are displaced. These proposed requirements will ensure faithful and timely implementation of the performance standards, without unnecessary enrollment disruptions, and that every program is poised for successful quality improvement.

Financial and Administrative Requirements; Part 1303 (Currently §§ 1301, 1303, 1309, and 1310)

This part lays out the financial and administrative requirements for agencies currently included in §§ 1301, 1303, 1309 and 1310.

§ 1303.1 Overview

In this section we summarize the subparts that comprise part 1303 and reference the statutory requirements that serve as the basis for these regulations. Subpart A outlines the financial requirements consistent with sections 640(b) and 644(b) and (c) of the Act. Subpart B specifies the administrative requirements consistent with sections 644(a)(1), 644(e), 653, 654, 655, 656, and 657A of the Act. Subpart C implements the statutory provision at section 641A(b)(4) of the Act that directs the Secretary to ensure the confidentiality of any personally identifiable data, information, and records collected or maintained. Subpart D prescribes regulations for the operation of delegate agencies consistent with section 641(A)(d) of the Act. Subpart E implements the statutory requirements in section 644(c), (f), and (g) of the Act related to facilities. Subpart F prescribes regulations on transportation consistent with section 640(i) of the Act.

Financial Requirements; Subpart A

In this subpart, we propose to reorganize, revise, and streamline the financial requirements currently in part 1301, subparts A, B, C, and D. We also propose to move provisions or sections, such as personnel policies, that fit more logically in other sections of our proposed structure. We also remove provisions currently in part 1301; for example, we propose to eliminate specific Head Start regulations, such as audit requirements, when there are related government-wide regulations for all federal grants. The purpose of these changes is to organize the requirements in a more logical order, conform to recent changes in regulations that govern all federal grants, and reduce the administrative burden on agencies.

To summarize the reorganization, we propose to move the existing requirement in § 1301.32 on development and administrative cost limitations to the proposed subpart A where we have the requirements on federal financial assistance and non-federal share match because all of these provisions pertain to financial requirements on agencies. We propose to move the requirement in the existing § 1301.11 related to insurance and bonding to the proposed subpart B, Administrative Requirements. We move the content of § 1301.31 on personnel policies to the proposed part 1302 subpart I, where we consolidate requirements pertaining to Human Resource Management. We also propose to move grantee appeals addressed in the current § 1301.34 to the proposed part 1304 on Federal Administrative Procedures.

Lastly, the most significant change to this subpart is that we propose to remove the existing requirements on the annual audit and the accounting system certification in § 1301.12 and § 1301.13 respectively for two reasons. First, we propose to remove § 1301.12 to conform to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, which requires a Single Audit for all programs receiving more than $750,000. This new requirement supersedes the requirement in the existing § 1301.12 that all Head Start grantees have an annual audit. The result of this change is that a very small number of Head Start programs will not be required to have an audit. Second, we propose to remove the accounting system certifications in current § 1301.13 because it is not something an independent auditor can reasonably do under their professional standards. In fact, this provision has not been enforced since 2012 because of this conflict so this change codifies what is done in practice.

In this subpart, we propose to include the current list of applicable regulations for all grants made under the Act; the requirements related to federal financial assistance, the non-federal share match, and waivers; and the limitations on development and administrative costs. We discuss key issues with each section according to the structure we propose.

Section 1303.2 In General

We propose to make minor changes to the existing § 1301.1 for purposes of updating and streamlining the language.

[266] Landry, S. H., Anthony, J. L., Swank, P. R., & Monseque-Bailey, P. (2009). Effectiveness of comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology, 101*(2), 448.

Section 1303.3 Other Requirements

In this section, we propose to update the list of relevant regulations that apply to all grants made under the Act. We propose to remove 45 CFR part 74 and part 92 from the list since the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards now supersedes it. Since 45 CFR part 74 is superseded, we have removed current § 1301.10(b)(1) and (2), which reference this provision.

We propose to add five regulations to the current list of federal regulations applicable to all grant awards. The five we propose to add are not new requirements and are already included in the Terms and Conditions on grantees' Notice of Award, but we add them to update this list and be transparent.

(1) 2 CFR part 170: FFATA Sub-award and Executive Compensation: Head Start awards are subject to the Federal Financial Accountability and Transparency Act sub-award and executive compensation reporting requirements (FFATA).

(2) 2 CFR 25.110: CCR/DUNS requirement: The Dun and Bradstreet Data Universal Numbering System (DUNS) number is a required universal identifier for applicants, recipients and direct sub-recipients of federal financial assistance. The Central Contractor Registration (CCR) is the repository for standard information about applicants and recipients.

(3) 45 CFR part 30: HHS Standards and Procedures for Claims Collection apply should ACF have to pursue the collection of debt from an existing or former grantee.

(4) 45 CFR part 87: Equal Treatment for Faith Based Organizations, which requires that Faith Based Organizations are permitted to receive funding without discrimination and prohibits them from engaging in ''inherently religious activities'' as part of the program or services HHS funds.

(5) 45 CFR part 75: Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, effective December 26, 2013, consolidates a number of other regulations into one comprehensive guide for administering grants.

Section 1303.4 Federal Financial Assistance, Matching and Waiver Requirements

In this section, we propose to combine and streamline requirements currently included in §§ 1301.20 and 1301.21. This approach consolidates the financial assistance, non-federal share match, and waiver requirements into one section. We are not proposing any policy changes but rather clarifying, while still conforming to the Act, and removing outdated requirements. Specifically, we propose to clarify that the non-federal share match is 20 percent for each budget period of the five-year project period. We reference the Act for the list of circumstances the Secretary can consider when approving a waiver of non-federal share match, rather than using the more narrow approach in the existing regulation. We remove requirements at §§ 1301.20(a)(2) and (3), 1301.20(b), and 1301.20(c) related to federal financial assistance because they are outdated or unnecessary because the requirement is specified in the Act.

Section 1303.5 Limitations on Development and Administrative Costs

This section addresses the limitations on development and administrative costs currently in § 1301.32. As noted, we propose to move the existing requirement to the proposed subpart A where we have the requirements on federal financial assistance and non-federal share match because all of these provisions pertain to financial requirements on agencies. In accordance with section 644(b) of the Act, we retain the current requirement that agencies must not exceed the 15 percent administrative cap on development and administration, unless the responsible HHS official grants a waiver.

Under section 644(b) of the Act, the Secretary shall establish criteria for determining (1) the costs of developing and administering a program and (2) the total costs of such a program. Under this authority, we propose a much more simplified and streamlined approach that requires grantees to categorize, identify, and allocate costs for determining whether they meet the 15 percent administrative cap. In contrast to current § 1301.32(b) through (f), which weaves together compliance requirements, definitions, and explanations, our proposed approach lays out a clear and concise process for agencies to analyze which of their costs relate to development and administration. Specifically, grantees must: (1) Determine the costs of developing and administering their programs, (2) categorize costs as development and administrative versus program costs, (3) identify and allocate the portion of dual benefit costs that are for development and administration; (4) identify and allocate the portion of indirect costs that are for development and administration versus program costs, and (5) delineate all development and administrative costs in the grant application and calculate the percentage of total approved costs allocated to development and administration. We propose definitions of development and administrative costs, program costs, and dual benefit costs consolidated in part 1305, to assist grantees in that process.

In paragraph (b), we propose to implement section 644(b) of the Act and to simplify the requirements in the existing § 1301.32(g) pertaining to waivers of the 15 percent administrative cap. We propose to combine the circumstances under which a waiver will be considered into more broadly-stated conditions. We also add language that the responsible HHS official may grant a waiver if an agency is unable to administer the program within the 15 percent administrative cap.

Administrative Requirements; Subpart B

In this subpart, we propose to include the general requirement in the existing § 1301.30 related to agency conduct; the limitations and prohibitions to which agencies must adhere; and the requirements for insurance and bonding.

Section 1303.10 In General

We propose to revise and redesignate the language in the existing § 1301.30 with minor changes to better conform to Section 644(a)(1) of the Act.

Section 1303.11 Limitations and Prohibitions

For purposes of clarity and in response to questions from the field, we propose to reference a number of sections in the Act that place limitations or prohibitions on agencies. These are not new prohibitions because they are included in the Act, but we propose a section that references all of them in one single place. These include prohibitions on using Head Start funds to assist, promote or deter union organization (section 644(e) of the Act); compensating employees in excess of the rate payable for level II of the Executive Schedule (section 653 of the Act); using Head Start funds to pay the contracted costs of construction in excess of $2,000 where Davis-Bacon Act compliance is not required by the terms of the contract (section 644(g)(3) of the Act) discriminating on the basis of race, creed, color, national origin, sex, political affiliation, beliefs, or disability (section 654 of the Act); conducting unlawful demonstrations, riots or civil disturbances (section 655 of the Act); engaging in political activity or voter registration activities (section 656 of the Act); and administering nonemergency intrusive physical examinations of a

child without parental consent (section 657A of the Act).

Section 1303.12 Insurance and Bonding

We propose to take a different approach to the requirement on insurance and bonding than the existing requirement at § 1301.11. We propose to remove specific requirements for student accident insurance, liability insurance for accidents on agencies' premises, and liability insurance for transportation—which actually represent an incomplete list of major risk areas—and instead require grantee to maintain a documented process to ensure identification of risks and provide proof of appropriate coverage in their application. Requiring grantees to assess their own risks and determine appropriate cost-effective coverage is a less prescriptive approach than the current regulation.

We also propose requiring agencies, as part of the process of identifying risks, to consider the risk of losses resulting from fraudulent acts by individuals authorized to disburse Head Start funds and to maintain adequate fidelity bond coverage if they have insufficient coverage to protect the federal government's interest. In 2 CFR 200.304 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements, federal awarding agencies can include a provision on bonding in specific circumstances, and one such circumstance is when the non-federal entity lacks sufficient insurance to protect the federal government's interest. We are invoking the authority provided in 2 CFR 200.304 to require agencies to maintain adequate fidelity bond coverage in this circumstance.

Protections for the Privacy of Child Records; Subpart C

In this subpart, we propose new performance standards designed to protect the privacy of children and families Head Start programs serve. Families entrust Head Start programs with their personal information and expect programs will use the information to serve their needs effectively and efficiently. Section 641A(b)(4) of the Act requires the Secretary to promulgate regulations that provide policies, protections, and rights equivalent to those in section 444 of the General Education Provisions Act,[267] also known as the Family Educational Rights and Privacy Act or FERPA, in order to, ensure the confidentiality of any personally identifiable data, information and records collected or maintained by any program. FERPA applies to an educational agency or institution that receives funds under a program administered by the U.S. Department of Education. This includes virtually all public schools and school districts and most private and public postsecondary institutions, including medical and other professional schools.[268]

FERPA requires written consent from parents in order to disclose personally identifiable information (PII) from education records, unless the disclosure meets an exception to FERPA's general consent requirements. FERPA recognizes that the benefits of using student data must always be balanced with the need to protect student privacy. Educational agencies and institutions must implement FERPA in a way that protects the privacy of education records while allowing for the effective use of data.

FERPA gives parents certain rights with respect to their children's education records. For example, parents have the right to inspect and review their child's education records. Parents also have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent then has the right to a formal hearing. If, after the hearing, the school still decides not to amend the record, the parent has the right to place a statement with the record setting forth his or her view about the contested information. In addition to giving parents certain rights, FERPA requires educational institutions and agencies to notify parents of students currently in attendance, of their rights annually.

FERPA defines education records as those records that are: (1) Directly related to a student; and (2) maintained by an educational agency or institution, or by a party acting for the agency or institution. Immunization and other health records, as well as records on services and accommodations provided to a student that are directly related to a student under 18 and maintained by an elementary or secondary school, are classified as education records under FERPA. Schools often have legitimate educational reasons to authorize third-parties to access these education records, for purposes such as communicating with parents, improving the effectiveness of education programs, to identify gaps in student services, and reasons as simple as providing secure data storage.[269] In addition to FERPA, Parts C and B of the IDEA include specific confidentiality provisions applicable to the personally identifiable information in early intervention and education records of infants, toddlers, and children with disabilities.

We broadly address privacy and confidentiality in our current performance standards. In §§ 1304.51(g) and 1304.52(1)(i), we require programs to establish record-keeping systems that keep information confidential and we require programs to ensure staff follow confidentiality policies. However, we do not provide programs with conditions to permit the disclosure of PII in their education records to balance privacy and effective use of data. In this NPRM, we propose standards that provide parents with certain rights with respect to their child's education records and programs with permissions to disclose personally identifiable information in the absence of written consent from parents equivalent to those in FERPA that are appropriate for Head Start programs. However, instead of using the term ''education records'' as defined by FERPA, we use the term ''child records'' to reflect the population we serve. Additionally, unlike FERPA, we do not include a commonly used provision to disclose directory information without parental consent and programs must provide parental notice and opportunity to refuse when disclosing PII to officials at a school in which a child intends to enroll. If a Head Start program is governed by FERPA and/or IDEA, programs must comply with those provisions in addition to the Head Start proposed regulations and those provisions take precedence over the Head Start provisions when they differ.

We note that under the Privacy Rule under the Health Insurance Portability and Accountability Act and the statutory and regulatory provisions under FERPA, there are Federal complaint procedures for consumers and parents to seek to enforce the confidentiality requirements of those laws. Additionally, under the IDEA, States must establish State complaint procedures under which parents may enforce specific provisions including the IDEA confidentiality provisions. While we considered proposing such procedures, it was unclear whether they would be necessary or reasonable within the structure of Head Start. The Office of Head Start currently has in place a monitoring system that is aligned with a comprehensive five year

[267] *See* 20 U.S.C. 1232(g).

[268] *See* 34 CFR 99.1(d).

[269] See *http://ptac.ed.gov/sites/default/files/LEA%20Transparency%20Best%20Practices%20final.pdf.*

continuous oversight plan that includes a review of complaints, parent interviews and on-site reviews. The Office of Head Start also has a system in place for handling parent complaints, which is currently undergoing improvements to streamline the process of resolving complaints. Additionally, we provide the parent with other rights in other sections of the Head Start standards. Although existing enforcement mechanisms have been sufficient to for existing provisions, we expressly invite comment on whether additional enforcement procedures need to be codified in our provisions for the new requirements regarding maintaining the privacy of children and families in Early Head Start and Head Start programs under this section.

Section 1303.20 In General

Our approach in this section is different from our approach in the existing rule. Currently, we require programs to focus on record keeping and privacy without providing additional provisions to describe how to balance privacy and disclosure. In this section, we set the stage for programs to ensure the protection of the confidentiality of any personally identifiable information in child records consistent with the expanded section on parental consent, parent rights, and recordkeeping. Specifically, we propose to require programs to establish procedures that protect the privacy of child records and that allow appropriate disclosure of personally identifiable information from child records for valid educational purposes while ensuring that there are policies, protections, and rights, equivalent to those provided to a parent, student, or educational agency or institution under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

Section 1303.21 Program Procedures—Applicable Confidentiality Provisions

In this section, we propose provisions for programs where FERPA and/or IDEA apply. If FERPA and/or IDEA apply, we propose to require programs comply with those provisions in addition to the Head Start requirements described in this section. Further, we propose a requirement that FERPA and/or IDEA provisions take precedence over the Head Start proposed regulations for the specific programs or children to which they apply. In addition to the IDEA, FERPA, and Head Start regulations, state privacy laws may apply if they afford parents additional privacy protections.[270]

Section 1303.22 Disclosures With, and Without, Parental Consent

In this section, we propose minimum provisions programs must include in the protection of the privacy of child records and data sharing procedures. In paragraph (e), we propose programs notify parents of their rights under this subpart annually. In paragraph (a), we also propose programs obtain parents' written consent before they disclose personally identifiable information from child records, subject to the exceptions contained in paragraph (b) and (c).

In paragraph (b) and (c), we propose eight exceptions to permit programs to disclose PII from child records to third parties in the absence of written consent if conditions are met. Briefly described, these exceptions are to: (1) Officials in a program, school, or school district where the child seeks or intends to enroll or where the child is already enrolled so long as the disclosure is related to purposes related to the child's enrollment or transfer, if the parent is notified and given an opportunity to refuse; (2) officials within the program or acting for the program, if the program determines the official has legitimate educational interests and informs parents of the provision at enrollment; (3) authorized representatives of local, state or federal entities in connection with an audit or evaluation of a Federally or State-supported education, including early childhood, program (*e.g.* the Head Start program, Race to the Top-Early Learning Challenge program, a state preschool program funded under preschool development grants), or for enforcement or compliance with the federal legal requirements of the program so long as the official agrees in writing to protect PII; (4) organizations that conduct research to improve child and family outcomes, including improving the quality of programs, for, or on behalf of the program so long as the organization agrees in writing to protect PII; (5) appropriate parties in order to address a disaster or other health or safety emergency, which is limited to the period of the emergency; (6) comply with a judicial order or lawfully issued subpoena, provided the program makes a reasonable effort to notify the parent in advance of the compliance therewith unless the court has ordered that neither the subpoena nor its contents be disclosed or if the parent is a party involved in the court proceeding involving child abuse and neglect or dependency matters; (7) the Secretary of Agriculture or an authorized representative from the Food and Nutrition Services to conduct program monitoring or evaluation for the Child and Adult Care Food program; and (8) a caseworker or other representative from a state, local, or tribal child welfare agency, who has the right to access a child's case plan so long as the representative agrees in writing to protect PII.

Notably, a provision is not included to permit the disclosure of designated ''directory information.'' Although directory information is generally considered not harmful or an invasion of privacy under FERPA, we are concerned that there could be disclosures of directory information that would be considered harmful or an invasion of privacy to the sensitive populations we serve. Consistent with section 1303.21, Head Start programs governed by FERPA would be able to exercise the right to disclose appropriately designated ''directory information'' without consent. We invite comment on the exclusion of the right to disclose appropriately designated directory information without parental consent for Head Start programs not governed by FERPA.

In paragraph (d), we propose procedures for written agreements if a program establishes a written agreement with a third party identified in paragraph (c). This requirement only applies if a written agreement is made with a third party. For example, in the case of an emergency, a written agreement does not need to exist with the third party.

In paragraph (e), we propose annual notice requirements that notify parents of their rights described in § 1303.20 through 1303.24, and applicable definitions in 1305. A description of PII that may be disclosed without parental consent must be included in the annual notice. We invite comment on the burden of the annual notice.

Section 1303.23 Parents' Rights

In this section, we focus on parents' rights. We recognize that parents have a general right to control the disclosure of their children's records, and in that vein, in paragraph (a), we propose that programs give parents the right to inspect information contained in their child's records. This right to confirm information aligns with FERPA and, in paragraph (b), would allow parents to ask programs to amend inaccurate information that the parents believe is inaccurate, misleading, or violates the child's privacy and, if necessary, to challenge information at a hearing

[270] See *https://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf.*

which will be scheduled within a reasonable timeframe under paragraph (c). If parents are still not satisfied with information in their child's records, we propose to require programs to allow parents to place a statement in their child's record that explains why they disagree with the information. We propose to require that programs maintain these statements with children's records for as long as programs maintain the child's records. In paragraph (d), a parent has the right to a copy of an initial record, free of charge, of child records disclosed with parental consent and, upon request, an initial copy of child records disclosed to third parties under one of the exceptions to parental consent. In paragraph (e), a parent has the right to review any written agreements with third parties as provided under section 1303.22 (d).

Section 1303.24 Maintaining Records

We propose recordkeeping requirements in this section. We propose programs maintain, with each child's record, a list of all individuals, agencies, or organizations that have requested or obtained access to PII from child records. The list must indicate the expressed interests that each person, agency, or organization had to obtain this information. Recordkeeping of disclosures to program officials or parents are not required since it would be too burdensome for Head Start programs. We also propose to require programs ensure that only parents, officials, and appropriate staff have access to records.

Delegation of Program Operations; Subpart D

We propose to establish a new subpart that consolidates current requirements for the delegation of program operations into one section and revises or removes existing requirements to conform to the Act. Section 641A(d) of the Act requires agencies to establish procedures relating to its delegate agencies and provides further specifics related to evaluation, corrective actions, and terminations. Our proposed subpart D aligns with the Act and is organized into four sections.

Section 1303.30 In General

In this section, we lay out the clear expectation that a grantee is accountable for the provision of quality services in their delegate agencies. The grantee retains legal authority and financial accountability for the program when services are provided by delegate agencies. It is the responsibility of the grantee to support and oversee delegate agencies and ensure they provide high quality services to children and families and meet all applicable regulations. A grantee may not terminate without showing cause and must establish a process for delegate agencies to appeal, which is discussed in more detail in § 1303.33.

Section 1303.31 Determining and Establishing Delegate Agencies

We propose to add a new requirement in paragraph (a) of this section. We require an agency that enters into an agreement with another entity to serve children to determine if the agreement meets the definition of ''delegate agency'' in section 637(3) of the Act. The rationale for this added requirement is to provide an important clarification. If an entity meets the definition of delegate in the Act, it is a delegate, regardless of what a grantee calls the entity to which it has delegated all or part of the responsibility for operating the program. In paragraph (b) we propose to streamline and move the current requirement in § 1301.33. It states that federal financial assistance is not available for program operations that a grantee delegates unless there is a written agreement the responsible HHS official has approved.

Section 1303.32 Evaluation and Corrective Action for Delegate Agencies

In this section, we include the requirements in section 641A(d) of the Act with respect to the evaluation of delegate agencies and corrective actions in the event of a deficiency.

Section 1303.33 Termination of Delegate Agencies

We propose to clarify in this section that an agency can terminate a delegate agency on the basis of cost-effectiveness or showing cause. An agency cannot terminate a delegate agency without showing cause, and the decision to terminate cannot be arbitrary or capricious. To align with section 641A(d)(1)(C) of the Act, we require grantees to establish procedures for defunding a delegate agency, and for a delegate agency to appeal a defunding decision and ensure the process is fair and timely.

We propose to remove the appeal procedures for delegate agencies currently in part 1303 subpart C for several reasons. First, in both the Designation Renewal System and this proposed subsection, we make clear our expectation that the grantee is accountable for the services their delegate agencies provide to children and families. However, we believe grantees must have the necessary tools at their disposal to remove delegate agencies in order to meet that expectation and be held accountable. We think the current system inappropriately ties the hands of grantees and has become overly bureaucratic. Second, we think timely action to resolve issues with delegates is critical, and the Designation Renewal System and the reality of five-year grants require a swifter pace to resolution. We do require grantees to inform the responsible HHS official of the appeal and the decision.

Facilities; Subpart E (Currently Part 1309)

In this subpart, we propose to prescribe what a grantee must do to show it is eligible to purchase, construct and renovate facilities as outlined at section 644(c), (f) and (g) of the Act. We arrange the application process chronologically to make it clear for grantees and we propose requirements for grantees that protect federal interest in facilities purchased, constructed or renovated with grant funds.

This subpart differs from part 1309 in three key ways. First, it clarifies what is required in an application to use Head Start funds for purchase, construction or major renovation of facilities and organizes these elements in a logical, sequential and transparent way. We believe our proposed application process makes it easier for grantees to use and better aligns with existing grants analysis procedures. Second, it clearly states and logically organizes all relevant information and requirements for protecting the federal interest under a broad variety of circumstances, recognizing that grantees have evolved to increasingly complex facilities funding and development activities. Third, it removes requirements that are not Head Start-specific but rather are overarching requirements for managing federal grants and aligns all remaining provisions with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

We also propose to define *federal interest* in part 1305. The purpose of the definition is to clarify the term, describe the funding agency rights created by a federal interest in accordance with existing Departmental Appeals Board and judicial decisions, and note that funds spent on facilities are subject to the non-federal share match. The federal government has an interest in all real property and equipment grantees purchase with grant funds. Additionally, part 1309 currently has explanations and information related to federal interest woven throughout different sections. Grantees have

reported difficulty understanding these provisions. We propose a detailed definition of federal interest to clarify the concept and consolidate the explanation in one place. We discuss major issues we propose in each section below.

Section 1303.40 In General

In this proposed section, we clarify that this subpart applies to major renovations. We explain that these provisions apply only to minor renovations and repairs when they are included in a purchase and are part of the purchase costs.

Section 1303.41 Approval of Previously Purchased Facilities

The current regulation does not have language on refinancing. But as interest rates have fallen, grantees have asked us for permission to apply for more advantageous loan terms. In this section, we implement section 644(f) of the Act and we propose to expand on current § 1309.2 and allow grantees that have purchased facilities beginning in 1987 and that continue to pay purchase costs or seek to refinance indebtedness to apply for funds to meet costs associated with refinancing. We have also received questions from the field about whether interest is part of purchase costs. We propose to clarify that a purchase includes both principle and interest payments in accordance with section 644(g)(2) of the Act.

Section 1303.42 Eligibility To Purchase, Construct, and Renovate Facilities.

Current § 1309 has separate sections that prescribe what grantees must show to be eligible to construct or renovate a facility. However, part 1309 does not address what a grantee must show to purchase a facility. In this section, we propose to consolidate these requirements, including purchases, into a single uniform set of eligibility criteria we believe would be easier for grantees to understand and for federal staff to evaluate. We also modify one eligibility criterion to clarify that grantees applying for funds to purchase, construct or renovate a facility must establish that the facility will be available to Indian tribes, rural or other low-income communities, which is less restrictive than current § 1309 but more aligned with the Act.

Section 1303.43 Use of Grant Funds To Pay Fees

In this section, we revise and redesignate current § 1309.43 and propose to clarify the type and extent of pre-project costs, such as project feasibility studies and professional fees, we may approve before a grantee applies for funding to purchase, construct, and renovate facilities. We also move these provisions up in the regulation to better follow the normal flow of how projects are developed and to bring it to the attention of grantees considering facilities projects. We believe these changes will help grantees better decide whether they are eligible to apply for additional funding.

Section 1303.44 Applications To Purchase, Construct, and Renovate Facilities

In this section, we propose to reorder the process grantees must use to apply for funds in a more logical sequence based on the normal flow of how facilities projects are developed, implemented, and completed. In the current regulation, there are provisions that require licensed engineers or architects to certify that facilities are structurally sound and comply with licensing and other requirements in separate paragraphs. We propose to group these provisions under one paragraph in this section. We also propose to retain language that allows the responsible HHS official to request additional information for unique individual projects in paragraph (a)(13).

Section 1303.45 Cost Comparison To Purchase, Construct, and Renovate Facilities

We currently require grantees to compare costs to renovate, to lease an existing facility, or to construct a new facility to determine which activity would be most cost effective to meet program needs. Grantees must demonstrate that they have compared costs and weighed options so we know our investment in a particular facility activity is cost-effective and service-relevant.

In this section, we propose to allow grantees greater flexibility to describe projects and to compare costs to other alternatives within their service areas. We approach this section differently than we currently do in § 1309.11. Cost comparison requirements in § 1309.11 are unclear. Consequently, grantees often submit substantial, and sometimes, unnecessary information that does not give us a comprehensive picture of the relationship between the facility activity proposed and the quality of services to children and families. What we propose in this section strengthens the relationship between the cost justification and the project. We also believe what we propose here ensures the best use of federal funds and encourages grantees to make decisions about facilities based on the needs of the communities and the families they serve.

Section 1303.46 Recording and Posting Notices of Federal Interest

In this section and the following section respectively, we propose to revise and redesignate current part 1309 subpart C—protection of federal interest, and to clarify when grantees must file notices of federal interest and what the notices must contain. We intend to mitigate any risk of property loss in a facility transaction and to keep the facilities purchased with federal funds for Head Start purposes. We explain that grantees must file notices in the official real property records in their jurisdiction. We also propose to consolidate facilities activities, including modular units previously covered in a different section, into one section to make it easier for grantees.

Section 1303.47 Contents of Notices of Federal Interest

In this section, we propose to revise and redesignate parts of current § 1309.21 and to logically and comprehensively explain what notices of federal interest must contain when a grantee owns a facility, when a grantee leases a facility, and when a grantee occupies a modular unit. We believe by being clear and thorough about what notices of federal interest must contain will help protect federal interest. We also want grantees to understand that if we award subsequent funds after the grantee files the initial notice of federal interest, our federal interest is protected under the initial notice of federal interest. We believe this will protect the ongoing investment of federal funds.

We propose to add language in paragraph (a)(8) that requires governing bodies to approve notices of federal interest because governing bodies have ''legal and fiscal responsibility for administering and overseeing programs . . . including the safeguarding of federal funds'' under section 642(c)(1)(E)(i) of the Act. This requirement will ensure the governing body is aware of the restrictions associated with how federal funds are used for facilities activities.

Section 1303.48 Grantee Limitations on Federal Interest

This section redesignates and revises § 1309.21, which identifies grantee limitations associated with properties subject to a federal interest.

Section 1303.49 Protection of Federal Interest in Mortgage Agreements

Current funding for facilities often includes both federal funds and mortgage proceeds. As facilities funding has become more complex, it is common to find federal funds and mortgages on the same property. In order to protect federal interest, we require grantees to ensure that any mortgage agreements they have include specific provisions that would mitigate our risk of loss and ensure the property remains for Head Start purposes. For example, we propose to require grantees to ensure mortgage agreements specify that the responsible HHS official can intervene when a grantee defaults. We also propose similar clauses that obligate grantees to pay the federal share if they default on mortgage agreements and that protect federal interest even if the responsible HHS official fails to respond to a default notice.

Section 1303.50 Third Party Leases and Occupancy Arrangements

Grantees may use federal funds to renovate leased property, often at substantial cost. This section requires grantees to have leases in place for 30 years for construction of a facility and at least 15 years for a renovation or placement of a modular unit to protect underlying federal interests in these unusual cases where the government is putting major costs into facilities on land that they do not own. These terms are based on the minimum useful life as noted in the Internal Revenue Code useful lives tables used for depreciation purposes. We propose to replace language in § 1309.21(d)(1) of the existing rule that is subjective and only requires leases to be long enough to recover the value of federally funded improvements.

Section 1303.51 Subordination of Federal Interest

In this section, we propose to revise and redesignate §§ 1309.21(a) and 1309.21(f)(1) to emphasize that only the responsible HHS official can subordinate federal interest to a lender or other third party. Grantees cannot subordinate federal interest on their own. The official must agree to subordination in writing. In addition to a written agreement, the mortgage agreement or security agreement for which subordination is requested must comply with § 1303.49, and the amount of federal funds already contributed to the facility must not exceed the amount provided by the lender seeking subordination. We believe our emphasis here will ensure lender interests do not prevail over our interests without properly executed agreements.

Section 1303.52 Insurance, Bonding and Maintenance

This section revises and redesignates current § 1309.23. Our experience has demonstrated that grantees have not maintained sufficient insurance for replacement of facilities that are substantially damaged or destroyed, particularly through floods and other natural disasters. After Hurricane Sandy, we realized we had to be more vigilant to protect grantees against loss. We mention flood insurance at § 1309.23(a) in our existing regulation. However, we do not clarify when grantees should have flood insurance.

In paragraph (b)(2), we propose to require grantees to obtain flood insurance if their facilities are located in areas the National Flood Insurance Program defines as high risk. We also propose to add language in (b)(1) to clarify for the grantees that physical damage or destruction insurance must cover full replacement value.

Section 1303.53 Copies of Documents

This section revises and redesignates current § 1309.40. In this section, we propose to add notices of federal interest to the list of required documents grantees must provide to the responsible HHS official. We also propose to explain that grantees must give copies of notices of federal interest to the responsible HHS official after they have filed the notices in their jurisdiction's property records. This is particularly important because notices of federal interest do not fully protect the federal share until the notices are filed in the appropriate property records.

Section 1303.54 Record Retention

This section revises and redesignates current § 1309.41. We propose to clarify what documents grantees must retain as records covered by the record retention requirement, as well as the fact that the retention requirement applies to facilities activities funded wholly or partially with Federal funds. We have not changed the basic retention period, which is aligned with general requirements in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Section 1303.55 Procurement Procedures

In this section, we propose to revise and redesignate current § 1309.52 and to summarize briefly the general procurement procedures as context for grantees. We also remove references to grants management regulations superseded by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Paragraph (a) clarifies that grantees still need to comply with procurement requirements ensuring full and open competition; nothing in the current part 1309 or proposed subpart diminishes those overarching requirements. Paragraphs (b) through (d), substantially the same as the current regulation, identify circumstances under which the grantee must obtain prior approval for project changes and guarantee HHS rights to access and inspect of facilities projects.

Section 1303.56 Inspection of Work

In this section, we propose minor changes to current section § 1309.53 to align the elements of the final inspection report with those required in the engineer or architect's certification that accompanies the initial facilities project application. We want to know whether the licensed engineer or architect did the work they said they would do and did not just certify that the project is complete. We believe the changes we propose will ensure inspections of work comply with professional certifications.

Transportation; Subpart F (Current Part 1310)

We propose to retain all major provisions from part 1310 of the current rule in this NPRM. In several sections, we propose streamlined version of those provisions. We eliminate redundancy and minor requirements that are unrelated to improving the safety of transportation services. We also propose to add a requirement to help address a dangerous problem some programs have experienced of inadvertently leaving children unsupervised on vehicles. We propose to remove provisions related to the graduated effective dates in the original rule because they are no longer applicable. Consistent with other parts in this NPRM, we reorganized this subpart to be more useful for program staffs that are charged with its implementation. We propose to arrange provisions under this part in 4 sections.

Section 1303.70 In General

This section describes transportation services and waiver options for programs. Specifically, in paragraph (a) we propose to streamline § 1310.2(a) in the current rule, to specify how provisions in this part apply to all programs, including those programs that provide transportation services, regardless of whether services are

provided directly on agency-owned or -leased buses or through an arrangement with another provider. We also propose to remove paragraphs (b) and (c) at § 1310.2 in the current rule, because they are no longer applicable.

This section also proposes to revise paragraphs (a) and (b) at § 1310.10 in the current rule. These paragraphs stipulate that programs must either provide transportation services directly to some or all of their children, or make efforts to provide reasonable assistance to families in accessing needed transportation so that children can participate in the program. We propose to retain the provision that requires programs to provide information about transportation options in recruitment announcements so that families who have transportation barriers will not necessarily be discouraged from applying for services. We also propose to include revised provisions from the current rule at § 1310.23 which require programs to make efforts to coordinate transportation services with other human service agencies to maximize cost efficiency, access, and quality. In addition, we propose to retain § 1310.10(f) in the current rule that requires programs that provide transportation services to ensure that accidents are reported in accordance with state regulations.

Finally, we propose to slightly revise § 1310.10(c) in the current rule, which describes waiver application options. We propose to streamline the language to clarify that waivers may be requested as part of the agency's annual funding application or amendment and that the responsible HHS official may request additional documentation. We also propose to retain the stipulation that HHS is not authorized to waive any requirements of the Federal Motor Vehicle Safety Standards (FMVSS).

Section 1303.71 Vehicles

This section proposes to revise provisions in the current rule related to vehicle types, safety equipment, and vehicle maintenance and inspection. As with much of this section, the provisions we propose are not substantive policy changes. Rather, we propose a revised structure to reduce redundancy and to improve clarity. We propose to consolidate provisions from § 1310.12(a) and (b) in the current rule, which allow programs to use grant funds to purchase school buses or allowable alternate vehicles to transport children. We propose to retain the exemption under § 1310.12(c) in the current rule for the home-based option.

This section also proposes to describe all of the safety equipment requirements for vehicles that transport children. Specifically, we propose to retain the provision under § 1310.12(a) in current rule that requires vehicles to be equipped for height and weight appropriate child restraint systems. We propose retain to § 1310.12(b) in the current rule that requires vehicles to have reverse beepers. We propose to retain § 1310.10(d)(1) through (4) in the current rule that requires vehicles be equipped with an emergency communication system and appropriate emergency safety equipment, including a seat belt cutter, charged fire extinguisher and first aid kit. We propose to no longer require programs to strategically locate and mark all safety equipment, because we expect programs will ensure that such equipment is readily accessible as needed. We also retain safe seating requirements, including those related to auxiliary seating in current § 1310.10(e) and child restraint systems in current § 1310.11(a), with slight revisions to remove effective date language that is no longer applicable.

Finally, this section also proposes to revise provisions in the current rule related to the vehicle maintenance and inspection. Specifically, we propose to revise § 1310.13(a) through (c) in the current rule, which requires programs to ensure that vehicles are maintained in safe operating condition at all times, and receive, at a minimum, an annual safety inspection, systematic preventive maintenance, and daily pre-trip inspections. We also propose to revise § 1310.14 in the current rule. That section requires programs to have bid announcements for school buses and allowable alternate vehicles that include the correct specifications and a clear statement of the vehicle's intended use and to ensure that vehicles are inspected upon delivery to ensure they comply with those specifications.

Section 1303.72 Operation of Vehicles

This section proposes to revise provisions in the current regulation that relate to vehicle operation, safety procedures, driver qualifications and applicant reviews, and driver and bus monitor training. Specifically, this section proposes to revise safety procedure requirements in § 1310.15(a) and (d) in the current rule that all children must be seated in height and weight appropriate child safety restraint systems on vehicles equipped for such use. We propose to revise § 1310.15(b) in the current rule that requires programs to ensure baggage and other items are properly stored and secured and that aisles and emergency exits remain unobstructed as in § 1310.15(b).

This section also proposes to require programs to maintain up to date rosters of children transported on all buses or vehicles as well as a list of adults to whom each child is authorized to be released, including alternates, which is at § 1310.10(g) in the current rule. We propose to add a new provision to clarify that programs must ensure that no child is left unattended either at the pick-up location or on a vehicle at the end of a route. This is essential for ensuring child safety. In addition, this section proposes to retain § 1310.15(c) in the current rule that requires all programs, except home based programs, to have at least one bus monitor be on board at all times with additional monitors provided as necessary based on the number and needs of the children.

This section proposes to reorganize and streamline provisions at § 1310.16(a) in the current rule that describe driver qualifications. This section also proposes to revise the applicant review process, described in § 1310.16(b) in the current rule. Finally, this section proposes to revise § 1310.17 in the current rule, which describes training requirements for drivers and bus monitors. These provisions are largely unchanged. However, we propose to remove obsolete effective date language under § 1310.17(a) in the current rule.

Section 1303.73 Trip Routing

In this section, we propose to retain all provisions under § 1310.20 in the current rule related to trip routing. We propose to slightly revise the language from the current rule to streamline and improve clarity.

Section 1303.74 Safety Procedures

This section proposes to consolidate and reorganize requirements described in § 1310.21 in the current rule to make them more comprehensible. We propose to revise and redesignate to § 1302.46 the requirement for programs to provide pedestrian safety training for parents and children and eliminate the prescriptive requirement that it occur in the first 30 days of program operation. Additionally, we propose to retain current provisions that require programs to teach children who receive transportation services safe riding practices, procedures for boarding and exiting vehicles, procedures for crossing the street as necessary, in and around danger zones, and emergency evacuation drills. We also propose to retain a current provision that requires programs to train parents on how to escort children to and from the vehicle stop and on how to reinforce the safety

training provided to their children. We also propose to retain the provision in the current rule regarding evacuation drills.

Section 1303.75 Children With Disabilities

This section proposes to revise and to remove obsolete implementation language in the current rule at § 1310.22. We propose to retain the provision at § 1310.22(a) and (b) in the current rule that requires programs, except the home-based option, to ensure that there are school buses or allowable alternate vehicles adapted or designed to transport children with disabilities who are enrolled in the program and that, to the extent possible, such children are transported in the same vehicles as other enrolled children. Additionally, we propose to retain the provision at § 1310.22 (c) in the current rule that requires programs to ensure that any special transportation requirements identified in a child's IFSP or IEP are followed, including special pick-up and drop-off and requirements, seating requirements, special equipment, necessary additional assistance, or special training.

Federal Administrative Procedures; Part 1304

In this part, we remove, consolidate, amend, update, or redesignate all of the existing regulations which govern the federal administrative procedures through which the responsible HHS official takes any adverse action against a grantee, determines whether grantees need to compete for renewed funding and decides on the results of competitions for all grantees. This part also includes specific provisions when replacing American Indian/Alaska Native grantees, which have almost entirely been redesignated from current regulations.

Monitoring, Suspension, Termination, Denial of Refunding, Reduction in Funding and Their Appeals; Subpart A

This proposed subpart includes all of the provisions that outline Office of Head Start monitoring and the authority to and describe the procedures for an adverse action against a grantee, any appeal rights and procedures for a grantee to appeal that action, as well as the one instance required by the Act that a prospective delegate agency may appeal to ACF.

The Act made a number of changes to section 646 that require revisions to the Head Start regulations with regard to suspension at 45 CFR part 1303. We make these changes in §§ 1304.2 and 1304.3 in this proposed rule. Extensive, detailed and various appeal procedures are described throughout the current part 1303. We propose to eliminate these various procedural provisions and instead adopt the Departmental Appeals Board (DAB) procedures in 45 CFR part 16. We believe this streamlined process will ease administrative burden and reduce confusion caused by unnecessary Head Start specific provisions. Specifically we propose to eliminate procedural requirements at §§ 1303.5, 1303.7, 1303.8, 1303.14(e), 1303.15(h), 1303.16(a) through (d) and probably (e) through (h), and 1303.17.

Section 1304.1 In General

In this section of the proposed rule, we describe the provisions of the proposed part 1304, which revises, and redesignates parts of parts 1302 and 1303 in the existing rule. We also clarify that this subpart does not apply to reductions to a grantee's financial assistance based on chronic under-enrollment procedures in section 641A of the Act or to any administrative action based on a violation, or alleged violation, of title VI of the Civil Rights Act of 1964.

Section 1304.2 Monitoring

We propose to redesignate §§ 1304.60 and 1304.61 to this section. We propose to remove current language that is duplicative and to streamline other provisions in accordance with sections 641A of the Act. We propose to streamline current standards to clarify our authority to ensure through monitoring that a grantee complies with standards proposed in parts 1301, 1302, and 1303 under this title. We also propose to clarify for grantees that a deficiency can develop from an uncorrected area of noncompliance and from monitoring findings that show either a grantee's systemic or substantial material failure to comply with standards.

Section 1304.3 Suspension With Notice

We propose to revise and redesignate § 1303.11 to this section. Section 646(a)(2) in the Act requires OHS to adopt procedures to assure financial assistance is not suspended, except in emergency situations, unless the grantee has been given reasonable notice and opportunity to show cause. The Act made significant changes to suspensions and to the process the responsible HHS official must use to in order to suspend grantees. Two major changes require us to update these regulations. Suspensions can no longer last more than 30 days, unless a grantee has deficiencies that have been ongoing and uncorrected for 180 days and it is appealing a termination, reduction, or denial of refunding and an appeal for suspensions lasting 30 days is no longer required under section 646(a)(5)(B) of the Act. HHS may continue a suspension if the grantee requests that the suspension continue and the responsible HHS official agrees. Nothing in this section precludes the HHS official from imposing a suspension again for an additional 30 days if the cause of the suspension has not been corrected.

We propose to revise two sections of this provision to reflect the amended section 646 of the Act. The current § 1303.11(h) and (k) include statements that read, ''If termination proceedings are initiated in accordance with § 1303.14, the suspension of financial assistance will be rescinded.'' These statements do not reflect the suspension provision in the revised Act at section 646(a)(5)(B) that allows for suspensions longer than 30 days for grantees that are appealing a termination, denial of refunding, or reduction of funding and so they have been removed.

Section 1304.4 Suspension Without Advance Notice

We propose to revise and redesignate § 1303.12 to this section. Section 1303.12 includes the regulations for summary suspensions. Although most of the regulations remain in this section without change, a few are updated and streamlined. A few parts of this section are revised to implement the changes from the Act that strictly limit the suspension period. Because of the Act's 30-day limit on suspensions, we propose to update current § 1303.12(f) to only include the exception to the 30-day limit for when proceedings for terminations and denials of refunding are initiated against grantees with deficiencies that have been ongoing for 180 days and have not been eliminated. Consequently, suspensions can no longer last more than 30 days, unless the conditions under section 646(a)(5)(B) of the Act apply, or the grantee requests the suspension to continue and the responsible HHS official agrees. We also add proceedings for reductions in financial assistance to that list to align with the Act's language in section 646(a)(3). Because as discussed below, the Act no longer requires appeals for suspensions lasting more than 30 days, we removed provisions in § 1303.12, paragraphs (g) and (h)(2) and (3), that reference appeals in the existing rule. Those redesignated sections are also amended to make it clear that suspensions can only last longer than 30 days in the limited

circumstances allowed by the Act. We also propose a few small changes, specifically adding the term ''emergency situation'' to the reasons we can suspend without notice, to be more closely aligned with the Act and the elimination of (m) allowing for contributions during the suspended period to count toward in-kind match.

Section 1304.5 Termination and Denial of Refunding

We propose to combine appeal procedures for terminations and denials of refunding. There is no substantive reason for why these provisions are currently in separate sections, §§ 1303.14 and 1303.15. This just adds to the part's bulk and complexity and makes it more difficult for a lay person to understand. We propose to retain all of the substantive elements of the current rule including the reasons HHS can terminate, deny refunding or reduce funding. We intend for this proposed section to replace current §§ 1302.20, 1302.21, and 1302.22 which only duplicate the reasons for termination in § 1303.14 and are no longer necessary.

Section 1304.6 Appeal for Prospective Delegate Agencies

Section 646(a)(1) of the Act requires appeal procedures for certain conflicts between delegates and grantees. The Act requires a timely and expeditious appeal to the Secretary for an entity who wants to serve as a delegate and whose application has been rejected or not acted upon. The current regulation includes an additional step of appealing application decisions to the grantee first. The extra step of appealing to the grantee adds nothing to the application appeal process beyond extending it. Therefore we are proposing streamlined procedures that eliminate the required appeal to the grantee and require only submission of the application and briefings from both sides. In order to have a more efficient process we also propose to eliminate the reconsideration process described in the current § 1303.23. The proposed changes to procedures support the importance of timely action given the new realities of the Designation Renewal System and 5-year grants that requires a swifter pace in resolving delegate issues. The proposed changes to this provision, which is still required by the Act, are consistent with the intent of removing delegate appeals to ACF that are not required by the Act in proposed part 1303.

Section 1304.7 Legal Fees

In the current regulation, § 1303.3 provides for the right to an attorney and attorney fees. We are proposing to revise this section in light of amendments to the Act made in the 2007 Reauthorization to section 646(a)(4)(C) which requires the Secretary to prescribe procedures that prohibit a Head Start agency from using program grant funds to pay attorney fees and costs incurred during an appeal. Accordingly, we propose removing § 1303.3(a)(1) and (2), (b), and (c). They are replaced with § 1304(a) which states that ''legal fees or other costs may not be charged to program grants for appeals of terminations, reductions of funding, or denials of applications of refunding.''

However, section 646(a)(6) of the Act gives the Secretary the ability to potentially reimburse Head Start grantees in certain actions. Sections 646(a)(4)(C) and 646(a)(6) read together to allow for reimbursement, though not expenditure of award funds, for legal fees in DAB appeals for termination, reduction, or denial of refunding when the Head Start agency prevails. Section 1304(b) outlines the situation when an agency may apply for reimbursement of fees and the procedures for doing so.

Designation Renewal; Subpart B

In this section, we propose only technical changes to reorder the existing provision in part 1307 into the logical order of this NPRM. ACF is currently conducting an independent evaluation of the Designation Renewal System that was proposed in response to the Congressional Mandate to establish such a system. Results from that evaluation are still pending. Once the evaluation is completed, ACF will consider the results to determine whether any changes to current regulations should be proposed.

The Administrative Procedure Act does not require an agency to adhere to public procedure and invite comment, when the agency, for good cause, finds notice and public procedure are unnecessary.[271] In this NPRM, we do not invite comment on the Designation Renewal System (DRS), which is under part 1307 in the current rule. We, for good cause, find that to do so is unnecessary. First, we adhered to public procedure when we published the DRS NPRM in 2010.[272] We received approximately 16,000 comments from Head Start grantees, parents, teachers, state and national organizations, academic institutions, and legal entities. We considered each of those comments and responded to them in the DRS final rule.[273] Second, we do not propose any substantive changes to DRS in this NPRM. We will redesignate §§ 1307.1 and §§ 1307.3 through 1307.7 to proposed part 1304 and § 1307.2 to proposed part 1305. We will also make technical amendments to correct cross references. Our efforts in this NPRM neither change nor alter the substance of what we published in the DRS final rule. The text of this language is included for transparency.

Selection of Grantees Through Competition; Subpart C

Section 641(d)(2) of the Act outlines the specific criteria the Secretary must use to select grantees and allow consideration of ''other factors'' and we refer to this citation in our proposed regulatory text. This subpart revises current regulations at §§ 1302.10 and 1302.11 to reflect the more transparent and streamlined process for Head Start grant competitions and outline the other factors to be considered. To do this, we remove vague criteria from § 1302.10 to ground competitions in the criteria announced in the now standardized Funding Opportunity Announcement process. We revise requirements for part 1311 to make it clear that replacement programs only need to consider the employment of effective and qualified personnel.

Replacement of American Indian/Alaska Native Grantees; Subpart D

This subpart re-designates and minimally revises current regulations at §§ 1302.30, 1302.31, and 1302.32 to ensure that the current requirements for replacing American Indian/Alaska Native Head Start programs apply in all circumstances. We add designation for competition as one of the reasons for using these procedures to address the question of whether this would be the practice which we have received from American Indian/Alaska Native programs. This subpart, § 1304.30 implements section 646(e) of the Act; § 1304.31 implements section 641(d) of the Act; and § 1304.32 implements section 646(e)(2) of the Act.

Head Start Fellows Program; Subpart E

This subpart redesignates and minimally revises current regulations at §§ 1311.1 through 1311.5 to maintain the current requirements for administration of the Head Start Fellows Program.

[271] *See* section 533(b)(3)(B) of the Administrative Procedure Act.

[272] *See https://www.federalregister.gov/articles/2010/09/22/2010-23583/head-start-program.*

[273] *See https://www.federalregister.gov/articles/2011/11/09/2011-28880/head-start-program#h-10.*

Definitions; Part 1305

In this part, we propose to redesignate definitions from all sections, except for DRS (part 1307), in the existing rule for ease of grantee and prospective grantee understanding and transparency. We do not include definitions from DRS because we do not propose any changes to that section in this NPRM. In the existing rule, definitions are attached to each section. We propose to create one definitions part for the entire NPRM. In order to do this, we propose to consolidate all definitions that were repeated in multiple sections. In addition, we propose to remove many definitions that are either not meaningful or do not add to the widely understood meaning. We also propose to remove definitions that are clearer and more meaningful when they are incorporated into the provisions themselves rather than enumerated as definitions. Finally, we propose to add some new definitions to this section in order to support other proposed revisions throughout this NPRM, and reference the definitions in other relevant pieces of legislation where appropriate. We describe what we propose for each definition only in the first section in which it appears in the current rule. In addition to these changes, we propose to add a definition of *personally identifiable information* (PII) to this section, to clarify proposed language for the new set of provisions related to data sharing and privacy.

Definitions From Part 1301

Specifically, from part 1301 in the existing rule, we propose to redesignate and revise the definition of *Act,* and redesignate the definitions of *budget period, development and administrative costs, dual benefit costs, program costs,* and *total approved costs.* We propose to remove definitions for *independent auditor* and *major disaster* because we propose to remove the relevant provisions in this NPRM. We propose to remove the definitions of *community, Head Start agency,* and *indirect costs* because they do not add to the widely understood meaning. We also propose to incorporate the meaning of *Head Start program* into the proposed requirements of the NPRM by explicitly noting any time 'program' only refers to Head Start, and not Early Head Start, and therefore we remove it from the definitions section, for improved clarity and transparency. Additionally, we propose to reference the Act for the definition of *delegate agency.* We also propose to add a definition for *directory information* as it relates to confidentiality and privacy.

Definitions From Part 1302

From part 1302 in the existing rule, we propose to revise and redesignate the definitions of *financial viability* and *grantee* for improved clarity, and redesignated the definition of *legal status.* We propose to remove the definitions of *approvable application, community action agency, community action program* and *Head Start grantee* because their definitions do not add to the widely understood meaning. Additionally, we propose to reference the Act for the definition of *Indian tribe.*

Definitions From Part 1303

From part 1303 in the existing rule, we propose to redesignate and revise definitions for *responsible HHS official* and *agreement* for clarity, and redesignate the definition of *termination of a grant or delegate agency.* In this section we also propose to remove definitions currently enumerated in part 1303, including *ACYF, agreement, day, denial of refunding, funding agency, interim grantee, prospective delegate agency, submittal, substantial rejection, suspension of a grant* and *work day* because they are either no longer relevant or do not add to the widely understood meaning.

Definitions From Part 1304

From part 1304 in the existing rule, we propose to revise and redesignate the definition of *family* from part 1304 of the existing rule to reflect a more inclusive definition, specifically with regard to foster parents. We also propose to revise and redesignate the definitions of *policy group* and *staff* for clarity. We propose to remove many of the definitions currently enumerated in part 1304, including *collaboration and collaborative relationships, contagious, developmentally appropriate, guardian, health, minimum requirements, program attendance, referral, teacher* and *volunteer* because they are either no longer relevant, or did not add to the widely understood meaning. We also propose to incorporate the meaning of *assessment,* and *curriculum,* at part 1302 subpart C, *home visitor* at part 1302 subpart I, and *Early Head Start program* by explicitly noting any time 'program' only refers to Early Head Start, and not Head Start. Therefore, we propose to remove them from this definitions section, for improved clarity and transparency. We propose to reference the Individuals with Disabilities Education Act for the definition of *Individual Family Service Plan.* We propose to reference the Head Start Act for the definitions of a *child with a disability* and *deficiency.* Finally, we propose to add a definition of *continuity of care* to reflect a renewed focus on this critical concept within the proposed program options and program management provisions in this NPRM.

Definitions From Part 1305

In this part, we propose to remove definitions currently included part 1305 of the existing rule. Specifically, we propose to remove the definitions of *enrollment, enrollment opportunities, family for pregnant women, low income family, selection,* and *vacancy* because they do not add to the widely understood meaning or are unnecessarily confusing. We also propose to incorporate the meaning of *Head Start eligible, income guidelines* and *recruitment* into the proposed requirements of this NPRM at part 1302, subpart A, and therefore remove them from this definitions section, for improved clarity and transparency. We propose to redesignate definitions of *enrollment year, funded enrollment, income, migrant family, participant, recruitment area, service area* and *verify* into this section. We also propose to add several definitions related to the provisions that are revised and redesignated from part 1305 of the existing rule. Specifically, we add new definitions of *accepted, enrolled, foster care, Migrant or Seasonal Head Start program,* and *relevant time period* to address grantee confusion and to reflect the evolving demographics of the families that Head Start programs serve.

Definitions From Part 1306

In this part, we also propose to incorporate the meaning of definitions currently enumerated in part 1306 into the proposed requirements of this NPRM. Therefore we remove them from this definitions section. Specifically, we propose to incorporate the meaning of *center-based program option, double session variation, family childcare, family childcare program option,* and *home-based program option* into part 1302, subpart B. We propose to incorporate the meaning of *group socialization activities, home visits,* and *parent-teacher conference* into part 1302, subpart C. Finally, we propose to incorporate the meaning of *family childcare provide*r into part 1302, subpart I. We propose to remove the definitions of *combination program option, Head Start class, Head Start and Early Head Start services,* and *full-day variation* because they do not add to the widely understood meanings. We also redesignate and revise the definition of *Head Start parent* to be more inclusive of foster parents. Finally, we revise and redesignate the definitions of *days of*

operation and *hours of operation* for improved clarity.

Definitions From Part 1307

We propose to redesignate all of the definitions from part 1307 of the existing rule into this part, but have not been revised them in any way because we will not accept comments on the provisions in part 1307 (part 1304, subpart B in this NPRM) as part of this NPRM. These definitions include *Act, ACF, agency, aggregate child-level assessment data, child-level assessment data, Early Head Start agency, going concern, Head Start agency, school readiness goals,* and *transition period.*

Definitions From Part 1308

With regard to the definitions currently enumerated in part 1308, we propose to remove *commissioner, day, disabilities coordinator, eligibility criteria, performance standards, related services, assistive technology, assistive technology service* and *special education* because they do not add to the widely understood meaning or are no longer relevant to the proposed provisions. We also propose to incorporate the definition of *least restrictive environment* into the text of this NPRM at part 1302, subpart F, and therefore remove it from this definitions section. In addition, we propose to add a definition of *local agency responsible for implementing IDEA* to clarify intent. Finally, we propose to reference the Individuals with Disabilities Education Act for the definition of *Individualized Education Program.*

Definitions From Part 1309

In this part, we also propose to remove several definitions currently enumerated in part 1309, including *acquire, grant funds, Head Start center or a direct support facility, incidental alterations and renovations,* and *suitable facility* because they do not add to the widely understood meaning. We propose to redesignate and revise *major renovations, modular unit, real property, facility,* and *purchase* for improved transparency and clarity, and redesignate the definition of *construction.* We also propose to add definitions of *repair* and *minor renovations* to resolve confusion amongst grantees.

Definitions From Part 1310

In this part, we propose to remove several definitions which are currently enumerated in part 1310 of the existing rule. Specifically, we propose to remove *national standards for school buses and school bus operations, reverse beeper* and *seat belt cutter* because they do not add to the widely understood meanings or are no longer relevant to the proposed provisions. We propose to incorporate the definitions of *agency providing transportation services, bus monitor* and *trip routing* into the text of this NPRM at part 1303, subpart F, and therefore remove it from this definitions section. We also propose to reference the Act for the definition of *State.* Lastly, we propose to redesignate the remaining definitions from part 1310 into this section, including *allowable alternative vehicle, child restraint system, commercial driver's license, Federal Motor Vehicle Safety Standards, fixed route, National Driver Register, school bus* and *transportation services* for clarity and transparency.

Definitions From Part 1311

Finally, in this section, we propose to remove the definition of *Head Start Fellows* which is currently defined in part 1311 of the existing rule, because the meaning is conveyed in the proposed provisions at part 1304, subpart E.

Effective Dates

Current Head Start program performance standards remain in effect until this NPRM becomes final. We propose for this NPRM to become effective 60 days after it is published as a final rule in the **Federal Register**. However, programs may require more time to implement §§ 1302.21(b)(2); 1302.21(c)(1) and (3); 1302.22(c)(1) and (2); and 1302.23(c); 1302.32(a)(1)(iii) and (a)(3); 1302.32(b); 1302.90(b),(2) and (4); 1302.91(f)(1); 1302.92(b)(4) and (5). Therefore, we propose for these provisions to become effective 12 months after the final rule becomes effective. We solicit comments on these effective dates.

V. Regulatory Process Matters

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA),[274] as amended by the Small Business Regulatory Enforcement Fairness Act, requires federal agencies to determine, to the extent feasible, a rule's economic impact on small entities, explore regulatory options for reducing any significant economic impact on a substantial number of such entities, and explain their regulatory approach.

This NPRM will not result in a significant economic impact on a substantial number of small entities. It is intended to ensure accountability for federal funds consistent with the purposes of the Head Start Act and is not duplicative of other requirements.

Regulatory Planning and Review Executive Order 12866

Executive Order 12866 requires federal agencies to submit significant regulatory actions to the Office of Management and Budget (OMB) for approval. The Order defines ''significant regulatory actions,'' generally as any regulatory action that is likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.[275]

The provisions proposed in this NPRM, are different from many proposed rules in the federal government in that they will require Head Start programs to allocate funding in different ways, but will not affect the amount of Head Start's appropriation and therefore will not affect the amount of funding that will be provided to Head Start programs overall. Nonetheless, given the costs of these changes and the expected loss of slots for eligible children and teacher employment as a result of these costs, we have determined that this NPRM will have an annual effect on the economy of more than $100 million. Therefore, the proposed changes in this NPRM represent a significant regulatory action as defined by Executive Order 12866. Given both the directives of the Order and the importance of understanding the benefits, costs, and savings associated with these proposed changes, we describe the costs and benefits associated with the proposed changes and available regulatory alternatives below.

1. Need for Regulatory Action

The purpose of Head Start, as prescribed by the Act, is to ''promote the school readiness of low-income children by enhancing their cognitive, social, and emotional

[274] 5 U.S.C. 605(b).

[275] Executive Order 12866, sec. 3(f)(1).

development.'' [276] This purpose, and the Head Start program itself is based upon decades of scientific research that documents the strong and lasting impact of children's experiences in their first five years of life on brain development, learning, and health,[277] [278] [279] and the significant economic impact of such benefits on children individually and on society as a whole. However, provision of consistently *high quality* early learning experiences is central to reaping these benefits from all Head Start programs. The congressionally mandated, randomized control trial study of Head Start's impact did not show lasting effects on the outcomes measured. Specifically, while the Impact Study found some initial effects, by third grade the control and treatment groups showed no significant differences.[280] In order for Head Start to achieve its mission to be an effective tool in supporting children's success in Kindergarten and beyond, all programs must be high quality. Decades of best practice, cutting edge research in early education including the Head Start Impact Study, expert advice, and The Secretary's Advisory Committee's recommendations all culminate in a call to action for policy changes that ensure all Head Start programs provide a consistently high quality early learning experience that prepares children for Kindergarten and has long-term effects on their academic success and overall health. We believe the proposed changes in this NPRM will empower all programs to achieve this goal.

2. Cost and Savings Analysis

In the following sections, we describe the costs associated with the proposed changes to the current regulation included in this NPRM. First, we detail both the programmatic costs and savings associated with individual provisions and then determine the projected loss of Head Start slots and teacher jobs associated with those costs without additional funding, given that Head Start program would need to absorb these additional costs into their current program operations. Then, we detail how the net programmatic costs differ from the net cost to society of the provisions based upon the calculation of opportunity costs and transfers. Further, we describe the effect on society by exploring the benefits lost for children who would not have access to Head Start in the future, based upon two scenarios. In the first scenario additional funds are appropriated that cover the cost of the NPRM per the President's FY2016 budget request to support the extension of the program day and year. In the second scenario, additional funds are not available and children who would have had access to Head Start are cared for in other environments with varying levels of quality and associated benefits for those children.

Programmatic Costs and Savings

This NPRM includes a number of provisions, associated with costs, intended to increase program quality and, as a result, increase the impact Head Start services will have on the children and families programs serve. This NPRM also includes several provisions, which improve upon important managerial and administrative responsibilities, and streamline processes to reduce unnecessary administrative burden, which are associated with savings. These provisions apply specifically to the approximately 2,815 grantees and delegates currently providing Head Start and/or Early Head Start services.

We estimate the total programmatic costs associated with the provisions in their entirety proposed in this NPRM at $1,155,974,916. We estimate the total programmatic savings associated with the provisions proposed in this NPRM at $104,635,321. Therefore, we estimate net programmatic monetary cost of this NPRM at $1,051,339,595. As noted above, the President's FY2016 Budget requests $1.5 billion in additional Head Start resources to support these quality improvements and continue the new Early Head Start-Child Care Partnerships. If the additional resources are provided by Congress, these costs would be covered. In this situation, there would be no slot or teacher job loss associated with the changes proposed in this NPRM. However, we estimate below the total slots and teacher jobs that would be lost if the additional funding requested in the President's Budget is not provided.

In order to estimate slot and teacher job loss as programs adjust their budgets in the absence of additional funding, we first determined the proportion of current funded enrollment that are Head Start slots (85%) and Early Head Start slots (15%), respectively. We then applied this proportion to the total monetary cost associated with the NPRM, in FY2014 dollars, and divided the cost that will be borne in Head Start slots ($893,638,656) by the average cost per slot for Head Start in 2014 or $7,886, and divided the cost that will be borne in Early Head Start ($157,700,939) by the average cost per slot for Early Head Start in 2014 or $12,013. This calculation provided the total estimated slot loss as well as slot loss estimates for regulatory alternatives. Without additional funding, this net cost would be associated with a reduction in slots (or number of children served) of 126,448.

	Proportion of slots	Proportion of net cost	Cost per slot	Number of slots lost
EHS	15%	$157,700,939	$12,013	13,128
HS	85%	893,638,656	7,886	113,320
Total				126,448

In order to estimate the total number of teacher jobs which would be lost in association with the slot reduction that would occur if additional funding requested by the President's Budget is not provided, we first reduced the net monetary cost of the NPRM by the cost of eliminating the option for double sessions ($368,720,660). Double session

[276] 42 U.S.C. 9831.

[277] National Scientific Council on the Developing Child (2007). *The Timing and Quality of Early Experiences Combine to Shape Brain Architecture: Working Paper No. 5.* Cambridge, MA: Author.

[278] Anda R.F., Felitti V.J., Bremner J.D., Walker J.D., Whitfield C., Perry, B.D., Dube, S.R., & Giles, W.H. (2006). The enduring effects of abuse and related adverse experiences in childhood. A convergence of evidence from neurobiology and epidemiology. *European Archives of Psychiatry and Clinical Neuroscience, 256(3),* 174–186.

[279] National Scientific Council on the Developing Child (2010). *Early Experiences Can Alter Gene Expression and Affect Long-Term Development: Working Paper No. 10.* Cambridge, MA: Author.

[280] Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. *US Department of Health and Human Services Office of Planning, Research and Evaluation.*

programs typically operate a morning and afternoon session of 3.5 hours, which serve different children but utilize the same teachers. As a result, double session teachers should not lose their jobs, even as fewer children are served in those programs. To translate the remaining cost ($682,618,935) into slot loss, we again applied the proportion of Head Start slots (85%) and Early Head Start slots (15%) to the total monetary cost associated with the NPRM, less the cost of eliminating double sessions, and divided the cost that will be borne in Head Start slots ($580,226,095) by the average cost per slot for Head Start, or $7,886, and the cost that will be borne in Early Head Start ($102,392,840) by the average cost per slot for Early Head Start, or $12,013. We then applied current percentages from the Program Information Report (PIR) on the percent of 3- versus 4-year olds in Head Start and the percent in home-based versus center-based in Early Head Start to the estimated slot loss. Then we applied a 1:4 teacher: child ratio to the center-based Early Head Start slots lost (given two teachers for a maximum class size of 8) and 1:12 for home-based Early Head Start slots lost (given the maximum caseload of 12) to determine the total number of Early Head Start teacher jobs that would be lost. And, for Head Start, we applied a 1:8.5 ratio for the number of 3 year old slots lost (given two teachers for a maximum class size of 17) and a 1:10 ratio for 4 year old slots lost (given two teachers for a maximum class size of 20). The sum of these estimates gave us our cumulative estimate of teacher jobs lost. Without additional funding, this net cost would be associated with a reduction of 9,432 teachers' jobs.

		Number of slots lost (less double session costs)	Ratio applied	Number of teacher jobs lost
EHS	Center-based	4,858	1:4	1,215
	Home-based	3,665	1:12	305
HS	3 year olds	31,403	1:8.5	3,694
	4 year olds	42,174	1:10	4,218
Total				9,432

Societal Cost and Savings

Throughout this Cost and Savings Analysis, we also identify costs and savings to society associated with the proposed changes that are not related to program operation and therefore are not included in estimations of slot and teacher job loss. Specifically, there are two provisions, home visits for frequently absent children and criminal background checks for prospective staff, where there is an opportunity cost associated with prospective staff or parents' time spent complying with new requirements, and we have monetized these opportunity costs at $943,530 and $726,824, respectively, based on foregone earnings. Further, there is one provision that will be associated with opportunity cost savings by reducing parents' time spent on parent committees as a result of the new requirements. We have monetized this opportunity cost savings at $2,689,098 based on retained earnings. Finally, although we have quantified programmatic savings related to the removal of provisions that allow Head Start Programs to develop their own IEPs for children, we recognize that from a societal perspective, these savings in the amount of $41,125,086 should be categorized as a transfer, because the IEPs will still be developed for such children by another entity. Therefore, we have calculated the net total cost to society of the NPRM to be the total programmatic cost $1,051,339,595 plus the total additional opportunity costs $40,106,342. Based on these calculations, we estimate the net total cost to society of this NPRM to be $1,091,445,937.

Opportunity cost/savings/transfer	Estimate	Net total cost to society
Additional Home Visits for Frequently Absent Children (Cost)	$943,530	$1,051,339,595 + $40,106,342 = $1,091,445,937
Criminal Background Checks for Prospective Staff (Cost)	726,824	
Removal of Parent Committees (Savings)	(2,689,098)	
Removal of IEP Process (Transfer)	41,125,086	
Total Additional Opportunity Costs	40,106,342	

However, the total societal costs and savings of this NPRM is dependent on the future appropriation for Head Start. It is also dependent on the realization of the potential transfer of benefits from children who might have participated in Head Start but lack access to the program if the additional funding requested by the President's Budget is not provided to those who will receive a greater duration of services and higher quality care in Head Start, as well as the potential transfer of costs of serving these children from Head Start to other Early Childhood Education (ECE) programs. The President's FY2016 Budget included a request for $1,078,000,000 in additional Head Start funding to support the extension of the Head Start program day and year, which are the two provisions associated with the largest costs in this NPRM.

If Head Start appropriations increase by this or a similar amount, the programmatic costs currently estimated in this section would be borne essentially in full by the federal government but there would be no lost benefit to society of a reduction in Head Start slots. In this case, the net cost to society (borne by the federal government) would be the $1,091,445,937 calculated above, and there would be no transfer of benefits. Rather, the full additional potential benefits of higher quality services would be realized for all children receiving Head Start.

However, if Head Start receives no additional funding and the children, who otherwise would have attended Head Start but lack access due to a funding shortfall that results in fewer slots, do not have access to any other early childhood education program, the benefits that these children would have received from attending Head Start would be transferred to children who continue to have access to Head Start and experience an increase in the

duration and quality of services. Transfers may, in spite of holding the same dollar value universally, have different worth for entities on opposite sides of the transfer. In this case, the additional Head Start expenditures accruing to the children receiving more hours (and otherwise higher quality) Head Start services may yield benefits that are equal to, greater than, or less than the benefits lost by the children who lack access to Head Start due to this funding shortfall.[281]

We know that some children who would have otherwise participated in Head Start will be served by other early childhood programs, although they may be of lower quality. In the Head Start Impact Study, many children who did not have access to Head Start received services from other early childhood education programs of varying quality.[282] In this case, determining how the absence of Head Start services for children impacts society depends on how costs and benefits differ between Head Start and the alternative programs. If children have access to pre-kindergarten programs of roughly equivalent quality to Head Start, they will likely have equivalent costs and benefits. Other children, however, will likely enroll in programs that may have both lower costs and lower benefits to society than Head Start. Finally, given there is significant unmet need and the supply of both affordable and quality early learning opportunities for poor families is limited, some children, as discussed above, will not access any other ECE program. In this case, the cost of the NPRM as currently estimated, though explained in terms of Head Start's programmatic costs, would be borne by whomever pays for the alternative early childhood education programs, *e.g.* state governments, parents, etc. Meanwhile, among children who lack access to Head Start services, those that enroll in alternative programs of similar quality would experience no additional or lost benefit and would not affect the NPRM's cost to society, while children who enroll in programs of lower quality or no program at all would increase the associated costs to society of the NPRM by the amount that the benefit they would receive from Head Start is reduced in their alternative program.

Although we are unable to quantify the associated costs, benefits, and potential transfers that would arise from these implementation scenarios, it is important to keep these factors in mind as we consider both the societal costs and savings and the cost-benefit analysis of this NPRM.

Itemized Programmatic and Societal Costs and Savings

In the following sections, we itemize each of the regulatory changes for which we expect there to be associated costs or savings in the areas of structural program option provisions, educator quality provisions, curriculum and assessment provisions, and administrative/managerial provisions.

Structural Program Option Provisions

This NPRM includes several provisions that increase the duration of the Head Start experience for children. It also includes provisions intended to improve child attendance. We analyzed costs associated with the following specific requirements: Minimum of 180 days of operation for all Head Start center-based programs and family child care homes at § 1302.21(c)(1) and § 1302.23(c); minimum of 36 home visits and 18 group socializations for all Head Start home-based programs at § 1302.22(c)(1); minimum of 230 days for all Early Head Start center-based programs and family child care homes at § 1302.21(c)(1) and § 1302.23(c); minimum of 46 home visits and 22 group socializations for all Head Start home-based programs at § 1302.22(c)(1); minimum of 6 hours per day at § 1302.21 and additional home visits for chronically absent children at § 1302.16. In all cases, costs are estimated based on data about whether programs are currently meeting these new minimum requirements.

Extension of the Program Year

This NPRM proposes to extend the minimum Head Start year by 20 days (or one month) for programs operating 160 days (the current average) and by 52 days for programs operating 128 days, at §§ 1302.21(c)(1) and 1302.22(c)(1) and to codify current interpretation of a ''full-year'' of Early Head Start at 230 days at §§ 1302.21(c)(1) and 1302.22(c)(1). These proposed changes will increase the amount of exposure to Head Start and Early Head Start experiences, or dosage, which research suggests will, in turn, result in larger impacts on child outcomes.[283] [284] Specifically, research on summer learning loss and attendance demonstrates the importance of extending the minimum days of operation in Head Start.[285] [286] [287] [288] [289] [290] [291] [292] [293] [294]

[281] If the resources needed to convert all slots to full school day and full school year are not available, then it is important to consider whether the benefits to those children who have access to Head Start and participate in a longer, higher quality day and program year offsets any potential loss from children who might have otherwise participated in Head Start under the current program minimum requirements that allow for part-day and part-year services. As noted above, the relative sizes of those benefits and costs depend in part on the degree to which those children who might have otherwise participated in Head Start have access to other early education programs and the quality of those programs. If the impact of Head Start deepens significantly if the dosage (hours per day and days per year) is above a threshold level greater than the current program minimum requirements, then the benefit from increasing program dosage above this threshold will be large relative to the proportional increase in dosage. On the other hand, if there are diminishing returns to increasing the dosage, then the gains to increasing the dosage will be smaller than the proportional increase in the program hours, and would be less likely to offset the losses to children who might have otherwise had access to Head Start, though this depends as noted above on the early learning opportunities available to those children. Robin et al. (2006) provide preliminary evidence in support of the latter possibility, in that they find a tripling of hours in Head Start yielding approximately a doubling of children's skill gains. (See Robin, K.B., Frede, E.C., Barnett, W.S. (2006). Is More Better? The Effects of Full-Day vs. Half-Day Preschool on Early School Achievement. *NIEER Working Paper.*) We invite comment on this issue and all aspects of the rule's potential impact on children's skills and life outcomes.

[282] Puma, M., Bell, S., Cook, R., Heid, C., & Lopez, M. (2005). Head Start Impact Study: First Year Findings. *Administration for Children & Families.*

[283] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84,* 2112–2130.

[284] Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up.* National Institute for Early Education Research Rutgers—The State University of New Jersey.

[285] Sloan McCombs, J. et al. (2011). *Making Summer Count. How Summer Programs Can Boost Children's Learning.* Santa Monica, Calif.: RAND Corporation.

[286] Alexander, K.L., Entwisle D.R., & Olson L.S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review, 72,* 167–180.

[287] Alexander, K.L., Entwisle D.R., & Olson L.S. (2007). Summer learning and its implications: Insights from the Beginning School Study. *New Directions for Youth Development, 114,* 11–32.

[288] Sloan McCombs, J. et al., (2011). *Making Summer Count. How Summer Programs Can Boost Children's Learning.* Santa Monica, Calif.: RAND Corporation.

[289] Allington, R.L. & McGill-Franzen, A. (2003). The Impact of Summer Setback on the Reading Achievement Gap. *The Phi Delta Kappan, 85(1),* 68–75.

[290] Fairchild, R. & Noam, G. (Eds.) (2007). *Summertime: Confronting Risks, Exploring Solutions.* San Francisco: Jossey-Bass/Wiley.

[291] Downey, D.B., von Hippel, P.T. & Broh, B.A. (2004). Are Schools the Great Equalizer? Cognitive Inequality During the Summer Months and the School Year. *American Sociological Review,* 69(5), 613–635.

[292] Alexander, K.L., Entwisle D.R., & Olson L.S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review, 72,* 167–180.

[293] Logan, J.A.R., Piasta, S.B., Justice, L.M., Schatschneider, C. & Petrill, S. (2011). Children's Attendance Rates and Quality of Teacher-Child Interactions in At-Risk Preschool Classrooms: Contribution to Children's Expressive Language Growth. *Child & Youth Forum 40(6),* 457–477.

Continued

Current Head Start minimums essentially permit 4 months of summer break, making the likelihood and magnitude of skill loss between program years even higher than what we see in elementary and secondary education. The majority of Head Start programs operate with a 4 month break between program years, which we believe undermines the progress Head Start children make during the year and lessens the overall impact of the program. Our new proposed minimums will reduce the allowable summer break to 3 months and should, therefore, decrease summer learning loss of Head Start children.

In order to estimate the costs associated with these provisions, we used Grant Application Budget Instrument (GABI) data and Program Information Report (PIR) data. Specifically, for each of four categories of programs (Head Start center-based, Head Start home-based, Early Head Start center-based, and Early Head Start home-based) we calculated the cost of operating the entire program for an additional day by calculating the average number of days each type of program currently operates and dividing the average cost per child by the days that programs operate. It is important to note that the cost per child includes teacher salary and fringe, facilities, materials and all other costs associated with administering the program. Head Start grantees are allowed to spend 15 percent of their total funds on administrative costs, which are also included in the cost per child. Therefore, we reduce the cost per child in this estimate by 15 percent because administrative costs such as insurance, staff salaries for management personnel, including the Executive Director, who are employed year-round, and costs associated with occupying and maintaining space, are not associated with the length of the program year. We also removed all programs currently meeting the requirement from the calculation and determined the average number of days programs not meeting the requirement would need to add in order to get to 180 days (36 weeks for home-based) or 230 days (46 weeks for home-based), for Head Start (HS) and Early Head Start (EHS), respectively. These calculations reflected that Head Start center-based programs would need to add 33 days, Head Start home-based programs would need to add 3.8 weeks (19 days), Early Head Start center-based programs would need to add 35 days, and Early Head Start home-based programs would need to add 2 weeks (10 days).

We then multiplied the cost per child per day by these estimates and the funded enrollment (FE) of programs currently not meeting the requirement to produce a cost estimate. Funded enrollment is the total number of slots programs are funded to provide. We did these estimations separately for Head Start and Early Head Start because the total cost per child in 2014 for Head Start slots was $7,886 and the total cost per child in 2014 for Early Head Start slots was $12,013. We also calculated estimates for center-based (CB) and home-based (HB) programs separately because home-based programs report weeks of operation, which we translated into days and center-based programs report days of operation. Finally, we reduced each cost estimate in dollars by 20 percent assuming that a small percentage of programs currently operating fewer days than the new requirement will apply for and receive a waiver under § 1302.24. Using this method, we estimated the total cost of these new minimums to be $560,596,307.

Program type	Avg. cost/ child	Less 15% admin costs	Avg. days (weeks) of operation	Avg. cost/ day/child	Avg. additional days	Funded enrollment (FE)	Estimated cost	Less 20% waiver
HS CB	$7,886	$6,703	169	39.66	33	493,041	$645,336,114	$516,268,891
HS HB	7,886	6,703	170.4 (34.1)	39.34	19	12,420	9,282,849	7,426,280
EHS CB	12,000	10,211	215	47.49	35	23,436	38,954,147	31,163,318
EHS HB	12,000	10,211	227.5 (45.5)	44.88	10	15,981	7,127,273	5,737,818
Total								560,596,307

Extension of the Program Day

This NPRM proposes a new minimum number of hours per day for all center-based Head Start and Early Head Start programs at §§ 1302.21(c)(3) and 1302.22(c). These proposed changes will increase the amount of exposure to Head Start and Early Head Start experiences, or dosage, which research suggests is necessary to support larger impacts on child and family outcomes.[295] [296] Specifically, researchers have demonstrated that pre-kindergarten programs that focus on intentional teaching and both small group and one-to-one interactions have larger impacts on child outcomes.[297] It is extremely difficult for a half-day program to provide sufficient time for teachers to conduct learning activities and intentional instruction in small group and one-on-one interactions. More content-focused curriculum includes at least three hours of cognitive instruction per day, something that cannot be accomplished in programs operating under our current minimums. Our new proposed minimums will ensure that teachers have adequate time to support each child's learning and will, when combined with our proposed higher education standards, improve outcomes.

In order to estimate the costs associated with these provisions, which would extend the Head Start and Early Head Start day to a minimum of 6 hours, we also used GABI data and PIR data. Specifically, we calculated estimates for both Head Start center-based and Early Head Start center-based, and double session and non-double session programs separately. For double session programs, which include two sessions of 3.5 hours, we assumed the entire cost per child would need to be added for half of all funded enrollment slots. To calculate this cost, we divided the current funded enrollment for EHS (418) and HS

[294] Hubbs-Tait, L., McDonald Culp, A., Huey E., Culp, R., Starost, H., & Hare, C. (2002). Relation of Head Start attendance to children's cognitive and social outcomes: moderation by family risk. *Early Childhood Research Quarterly, 17,* 539–558.

[295] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84,* 2112–2130.

[296] Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

[297] Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *Teachers College Record, 112(3),* 579–620.

(136,883) double session programs separately by 2 to get a total number of slots for EHS (209) and HS (68,442). We then multiplied the resulting number of slots by the average cost per child for each program. It is important to note that the cost per child includes teacher salary and fringe, facilities, materials and all other costs associated with administering the program. Head Start grantees are allowed to spend 15 percent of their total funds on administrative costs, which are also included in the cost per child. Therefore, we reduce the cost per child in this estimate by 15 percent because administrative costs such as insurance, staff salaries for management personnel, including the Executive Director, who are employed year-round, and costs associated with occupying and maintaining space, are not associated with the length of the program day.

For non-double session programs we calculate the cost by dividing the cost for an additional hour of the teaching team, based on the average hourly rate for teachers and assistant teachers, by the maximum class size to produce a cost estimate for the cost per child per additional hour. We calculated these costs separately for 4–5 year olds and 3 year olds, given the differing class size maximums of 20 and 17, respectively. For infants and toddlers we used the class size maximum of 8. We then multiplied the average cost per child per hour by the average number of hours that programs not currently meeting the minimum would need to add in order to do so over the program year (360 hours for Head Start programs and 552 hours for Early Head Start programs). This estimate per child was then multiplied by the appropriate funded enrollment (FE) to produce the estimated cost. Finally, we reduced those cost estimates by 20 percent, assuming that a small percentage of programs currently operating fewer hours than the new requirement, or operating double session programs will apply for and receive a waiver under § 1302.24. Using this method, we estimated the total cost of these new minimums to be $445,226,855. We would like to invite public comment specifically on whether any costs in addition to teacher salary will be affected by this provision and should therefore be included in our estimate.

Program type	Teaching team/hr	Maximum class size	Cost/child	Avg. additional hours/year	FE	Estimated cost	Less 20% waiver
HS CB (4–5)	$29.69	20	$1.48	360	92,887	$49,640,568	$39,712,454
HS CB (3)	29.69	17	1.75	360	66,906	42,065,891	33,652,713
EHS CB	24.04	8	3.01	552	2,367	3,926,285	3,141,028
Program type	Avg. cost/ child	Less 15% admin	FE	Number of slots with new costs		Estimated cost	Less 20% waiver
HS DS	7,886	6,703	136,883	68,442	458,766,726	367,013,381	
EHS DS	12,013	10,211	418	209	2,134,099	1,707,279	
Grand Total							445,226,855

Removal of Home-Based Preschool Standard Option

This NPRM proposes to remove the home-based option for preschoolers as a standard option. We propose this removal because the home-based option does not provide the intensity of services required to improve children's early learning outcomes. In order to estimate the cost of removing this option, we first determined from PIR data that there are 17,232 home-based preschool slots currently funded. We then calculated the current cost associated with home visitor's salaries for these children by dividing the slot number by the home-visiting caseload (12) and then multiplying by the current average home visitor salary for an estimate of $41,888,120. We then calculated the cost that would be associated to serving all of these children in center-based program instead of home-based. To estimate that cost, we divided the slot number by number of children per teacher for Head Start (10) and then multiplied that number the current average teacher and assistance teacher salary to get an estimate of $41,521,366. We then inflated this cost by the administrative cap (15%) to account for additional administrative burden of center-based programs to estimate the new cost at $47,749,570. We then found the difference between the home-visitor salary cost and the inflated teacher salary cost, which is $5,861,450. Finally we estimated the total cost of equipping the newly needed center-based classrooms by dividing the current home-based slot number by 20 to find the number of new classrooms needed (862) by $20,000 which represents a cost associated with space, equipment, and supplies, to be $17,232,000. Therefore, we estimate the cost of this provision to be the $5,861,450 combined with the $17,232,000 which is $23,093,450. However, this provision is also covered by the local variation waiver so we reduced this total by the percentage of programs we expect would receive this waiver (33%). We assume that this waiver will be awarded at a higher rate than other local variation waivers given the unique circumstances that likely drive current programs to use this option to meet community needs. Therefore, we estimate the total net cost of this provision to be $15,380,238.

Number of HB preschool slots	Current number of home-visitors	Total cost of home-visitors salaries	Number of teachers needed	Total cost of teacher salary	Total cost of equipping classrooms	Total cost of provision
17,232	1,436	$41,888,120	1,723	$41,521,366	$17,232,000	$23,093,450
Inflated by 15%				47,749,570		
Difference in Costs				5,861,450	Waiver Reduction (33%) Grand Total.	15,380,238

Waiver Authority for Early Head Start 2 Year Old Classroom Ratios

This NPRM proposes to apply the proposed locally-designed variation authority, discussed above, at § 1302.24 to all programs. As a result, for the first time, programs may request a waiver of ratios for children under the age of 3. We believe that programs in states that allow higher ratios for two year olds classrooms or mixed age classrooms may request waivers to allow them to serve more children and support continuity as children approach pre-school. We anticipate awarding waivers to programs who propose to serve 2-year old children at a ratio of 1:6 rather than 1:4, provided they have sufficient space to meet square footage requirements. We estimate the savings associated with receipt of this waiver here. First we estimated the savings associated with all 2-year old classrooms operating with a 1:6 ratio. We used the total number of 2-year olds currently being served (65,852) from PIR data to find the number of teachers that would no longer be needed by dividing the number of 2-year olds by the current ratio of 1:4 (which yields 16,463 teachers) and then by the 1:6 ratio that would now be allowed (which yields 10,975 teachers), and taking the difference (5,488). We then multiply this number of teachers that would no longer be needed (5,488) by the average Early Head Start teacher salary of $25,495 to get a total potential savings of $139,916,560. However, we assumed that only approximately one-third of programs currently serving 2-year olds have adequate space to accommodate the larger group size associated with a 1:6 ratio. Therefore, we estimate that the actual total savings for this provision would be $46,638,853.

Total number of 2 year olds	Current number of teachers (1:4)	New number of teachers (1:6)	Number of teachers no longer needed	Average EHS teacher salary	Total savings
65,852	16,462	10,975	5,488	$25,495	$139,916,560
Grand Total (Reduced by ⅔ for programs without adequate space)					46,638,853

Waiver Applications for Locally-Designed Program Options

As discussed above, this NPRM includes a provision at § 1302.24 that would require any program wishing to operate a locally-designed program option to submit a waiver application explaining why the local design better meets community needs and demonstrating that children are making sufficient progress. As discussed in further detail in the discussion of the proposed rule at § 1302.24, this proposed change will strengthen program accountability while maintaining local flexibility.

In order to estimate the cost associated with this provision we used Grant Application Budget Instrument (GABI) data to determine the total number of program schedules that do not meet the new proposed minimums. It is important to note that most grantees operate more than one program schedule. It is possible that a single grantee operates program schedules that both meet our minimums and do not and may operate multiple program schedules that would require waiver applications. For example, one grantee may operate three centers with three different program schedules, one of which meets the minimums and two of which do not. In order to ensure our cost estimate captures every grantee that may choose to submit a waiver application, we likely overestimate the total number of programs by using program schedules as the unit of analysis. Among all Head Start and Early Head Start programs, 4,207 program schedules do not meet our proposed minimums. Further, we also used PIR data to find the number of programs currently offering the home-based option for preschoolers, which would also require a locally-designed variation waiver. Currently, 300 programs offer the home-based option for preschoolers. Finally, we assumed that all Early Head Start and Migrant programs serving 2-year olds (965) would apply for the associated ratio waiver. These numbers were summed to find a total number of programs that might apply for a waiver (5,472).

To estimate the cost associated with waiver applications, we assume that 50 percent of all programs that could be eligible for a waiver will apply (2,736). We also assume that submission of a waiver application will require 8 hours of a center director's time at $45.19 per hour (PIR salary data of $33.98 per hour inflated by 33% for fringe benefits). Therefore, we calculate the cost associated with the applications by multiplying the number of programs schedules by 8 hours of a center director's hourly wage ($361.52). Using this method, we calculate the total cost associated with this provision at $989,119.

Number of program schedules	Number of waiver applications	8 hours of center directors hourly wage	Estimated cost
5,472	2,736	$361.52	$989,119

[298] Ehrlich, S. B., Gwynne, J. A., Pareja, A. S., & Allensworth, E. M. (2013). Preschool Attendance in Chicago Public Schools. *Research Summary.* University of Chicago *Consortium on Chicago School Research.*

[299] Community Action Project Tulsa County. (2012) *Attendance Works Peer Learning Network Webinar.*

[300] Connolly, F., & Olson, L. S. (2012). Early Elementary Performance and Attendance in Baltimore City Schools' Pre-Kindergarten and Kindergarten. *Baltimore Education Research Consortium.*

Home Visits for Frequently Absent Children

This NPRM includes a new provision that requires programs to attempt to conduct an extra home visit with families of children who are frequently absent (for non-illness or IFSP/IEP related reasons) at § 1302.16. As described in further detail in the discussion of the proposed rule for § 1302.16, this proposed change will improve consistent attendance, which is important because research demonstrates that attendance is predictive of school success. [298] [299] [300]

We considered both monetary costs as well as opportunity costs in estimating the total cost of these new provisions in § 1302.16. In order to estimate the associated monetary costs, we used data from the Family and Child Experience Survey (FACES) and babyFACES national surveys. Using these databases, we were able to estimate the proportion of children in both Head Start and Early Head Start who are absent for more than 20 days in a given school year. For Head Start, we used this proportion (5.6%) as a proxy for the proportion of children who are frequently absent, and would trigger the requirement in the NPRM for an additional home visit. For Early Head Start, we assumed approximately half of this proportion would be children for whom absences were explained the frequency of illness among very young children and thus would not trigger this requirement. Therefore, we used half of the estimated proportion from babyFACES (34%) as a proxy for children in Early Head Start who are chronically absent and would thus trigger the extra home visit. Then, we estimated the number of extra home visits this requirement will trigger by multiplying cumulative enrollment for center-based programs in HS and EHS, respectively, by these proxy proportions. Finally, we estimated the monetary cost of this provision by multiplying the number of extra home visits by the average wage of a teacher and an assistant teacher for two hours, because we expect some home visits will be conducted by teachers or home visitors and others may be conducted by the family service worker (usually paid on par with assistant teachers). Using this method, we estimate the total monetary cost of this proposed requirement to be $1,854,026.

To calculate the opportunity cost, we estimated foregone wages for parents meeting this requirement of one additional home visit. This represents the value of their time when they participate in an additional home visit rather than working. We used the number from our estimate of children experiencing chronic absenteeism (65,071) and assumed one parent per child. We then used the average hourly wage from the Bureau of Labor Statistics and assumed two hours of time for each parent to meet this additional requirement. This results in a monetized opportunity cost of $943,530.

MONETARY COSTS

Program type	National survey proxy %	FE	Estimated number of additional HVs	Avg. wage/2 hours	Estimated cost
HS	5.6	915,672	51,278	$29.69	$1,522,433
EHS	17	81,138	13,793	$24.04	$331,593
Total					$1,854,026

OPPORTUNITY COSTS

Total number of parents	Hourly wage forgone	Number of hours	Estimated cost
65,071	$7.25	2	$943,530
Total			$943,530

Educator Quality Provisions

This NPRM also includes several provisions to improve the quality of education staff in Head Start and Early Head Start programs. Specifically, we analyzed costs associated with the following requirements: minimum of associate's degree for all Head Start teachers at § 1302.91(c); minimum of CDA or equivalent credential for all home visitors at § 1302.91(f); and mentor coaching at § 1302.92(b)(4).

Associate's Degree for Head Start Teachers

The Act detailed new degree requirements for all Head Start teachers. Specifically, one of those provisions codified a minimum requirement that all Head Start teachers have at least an associate's degree. While progress towards meeting this requirement has been substantial, a small percentage of Head Start teachers in 2012 did not have such a degree. In this NPRM, we propose adding this requirement into the staff qualifications section of the performance standards at § 1302.91(c). Given that some teachers do not have the minimum degree, we estimated the cost associated with this requirement by finding the difference in average salaries for teachers with no credential and teachers with a Child Development Associate (CDA), compared to teachers with associate's degrees, respectively. We then multiplied the additional salary needed for each group of teachers by the number of teachers who currently have no credential or the number of teachers who currently have only a CDA. Using this method, we estimate the total cost for Head Start programs to

[298] Ehrlich, S. B., Gwynne, J. A., Pareja, A. S., & Allensworth, E. M. (2013). Preschool Attendance in Chicago Public Schools. *Research Summary.* University of Chicago *Consortium on Chicago School Research.*

[299] Community Action Project Tulsa County. (2012) *Attendance Works Peer Learning Network Webinar.*

[300] Connolly, F., & Olson, L. S. (2012). Early Elementary Performance and Attendance in Baltimore City Schools' Pre-Kindergarten and Kindergarten. *Baltimore Education Research Consortium.*

fully fulfill this requirement to be $4,167,135.

Current credential	Salary differential (w/AA)	Number of teachers	Cost of additional salary for credentialed teachers
CDA	$1,983	1,595	$3,162,885
None	1,339	750	1,004,250
Total			$4,167,135

CDA for Home Visitors

In this NPRM, we also propose to require that all home visitors have, at a minimum, a home-based CDA credential or equivalent at § 1302.91(f). As described in further detail in the discussion of the proposed rule for §§ 1302.91, this proposed change will ensure that all home visitors are equipped with the critical content knowledge offered through a home-based CDA which we believe is linked to being a successful home visitor. In order to estimate the costs associated with this new minimum requirement, we estimated the proportional salary differential of teachers with associate degrees compared to teachers with CDAs and applied that proportion to the current average home visitor salary to estimate the additional costs to hire more qualified home visitors. We took this approach because our current PIR data does not differentiate between credential types for home visitor salaries, but does differentiate by credential for teacher salaries. We then applied this cost for more highly qualified home visitors to the number of home visitors who currently have no credential. This gives us an estimate of the total cost of requiring higher credentials for home visitors. Using this method, we estimate the total cost of meeting this new requirement to be $1,607,540. We would like to invite public comment specifically on whether the salary assumptions in our estimate are appropriate for home visitors.

Current credential	Proportion of salary differential (Teachers: CDA to AA)	Avg. HV salary	Additional salary	Number of HVs w/o credential	Cost of additional salary for credentialed HVs
None	6.69%	$29,170	$1,951	824	$1,607,540

Mentor Coaching

In this NPRM, we propose requirements that programs have a system of professional development in place that includes an intensive coaching strategy for teachers. As described in further detail in the discussion of the proposed rule for § 1302.92, this proposed change will ensure teaching staff receive effective professional development, based on a growing body of research demonstrating the effectiveness of intensive professional development for improving teacher practices in early care and education settings [301] [302] [303] and research demonstrating that such strategies support are associated with improved teacher practice in the classroom and a positive increase in classroom quality.[304] [305] The proposed provision also gives programs some flexibility to identify the education staff that would benefit most from this form of intensive professional development and direct their efforts accordingly.

In order to estimate the costs associated with this requirement, we assumed that in most cases, programs would assign one coach per 15 teachers or teaching teams. We also assumed the coach would receive a salary comparable to that of an education manager ($47,945 from PIR), inflated for overhead and fringe benefits, which would be estimated at $75,000 for each mentor coach. We then calculated the total number of mentor coaches needed to support all education staff by using 64,000 teachers (the number of lead Head Start and Early Head Start teachers) as a proxy for the total number of teachers and teaching teams that could receive mentor coaching. We estimated the cost of providing 4,267 coaches for 64,000 teachers or teaching teams at $320,025,000. We then assume that programs will utilize their flexibility to identify education staff or teaching teams who would most benefit from this type of professional development. We believe this will result in approximately one-third of teachers/teaching teams receiving intensive coaching. Therefore, our final estimate for the cost of the requirement is $106,675,000. Given poor quality data regarding the quality and scope of coaching strategies programs may currently be using, we do not give any credit for programs that may already utilize mentor coaches in this estimate.

[301] Buysse, V., & Wesley, P. W. (2005). *Consultation in Early Childhood Settings.* Baltimore, MD: Paul H. Brookes Publishing.

[302] Tout, K., Halle, T., Zaslow, M., & Starr, R. (2009). *Evaluation of the Early Childhood Educator Professional Development Program: Final Report:* Report prepared for the U.S. Department of Education.

[303] Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature.* Report prepared for the U.S. Department of Education.

[304] Isner, T., Tout, K., Zaslow, M., Soli, M., Quinn, K., Rothenberg, L., & Burkhauser, M. (2011). *Coaching in early care and education programs and Quality Rating and Improvement Systems (QRIS): Identifying promising features.* Child Trends.

[305] Lloyd, C. M., & Modlin, E. L. (2012). *Coaching as a key component in teachers' professional development: Improving classroom practices in Head Start settings.* Administration for Children and Families.

Mentor coach salary and benefits	Number of teachers	Number of coaches	Estimate for all teachers	Estimate for ⅓ of teachers
$75,000	64,000	4,267	$320,025,000	$106,675,000

Curriculum and Assessment Provisions

This NPRM includes several provisions to improve curriculum and assessment and eliminate redundancy in the screening process. We analyzed costs associated with the following specific requirements: Improving curriculum at § 1302.32(a)(1); monitoring the fidelity of curriculum implementation at § 1302.32(a)(3); and language assessment in home language and English for all dual language learners at § 1302.33(c)(2)(ii). We analyzed savings associated with the elimination of screening requirements for children who already have an IEP or IFSP at § 1302.33(a)(3) and the removal of Head Start designed IEPs.

Improving Curriculum

In this NPRM, we include several provisions intended to improve the quality of curricula that programs select at § 1302.32(a)(1). Specifically, these new provisions would require programs to critically analyze the curricula they use to determine whether they are appropriately aligned with and content-rich enough to support growth of all children in the domains outlined in the Head Start Early Learning Outcomes Framework (Birth–5). As described in further detail in the discussion of the proposed rule for § 1302.32, this proposed change will ensure all programs select and implement curricula with the key qualities that research suggests are critical to promoting child outcomes.[306 307 308 309 310 311 312 313 314] For some programs, these new provisions may require purchasing new curricula, or purchasing curricular add-ons or enhancements.

In order to estimate the cost associated with these provisions, we assumed that education managers would need to allocate an additional 20 hours of analysis and planning time. We estimated the average hourly rate from the average annual salary of education managers and determined the total cost per manager for twenty hours. We then multiplied the cost by the total number of all programs. In addition, we estimated the average cost of a curricular enhancement for the most frequently used curriculum in Head Start programs at $135 from online purchase forms. We know that most programs routinely upgrade their curriculum or purchase a new curriculum. For this cost estimate, we assumed an average of two-thirds of programs would identify the need to purchase additional curricular enhancements each year, and multiplied that number of programs by the average cost of an enhancement to estimate its total cost. Finally, we summed the two estimates, and found the total estimated cost of meeting this new requirement to be $1,551,065.

	Avg. Ed manager salary	Cost of 20 hours	Number of programs	Estimated cost
Additional Staff Time	$47,945	$461	2,815	$1,297,715
	Avg. cost of enhancement	Number of programs	66% of programs	
Curricular Enhancement	$135	2,815	1,877	$253,350
Total				$1,551,065

Monitoring Fidelity of Curriculum Implementation

In addition to the curriculum quality requirements described in the previous section, this NPRM also includes a provision that will require programs to monitor the fidelity of curriculum implementation at § 1302.32(a)(3). As described in further detail in the discussion of the proposed rule for § 1302.32, this proposed change will ensure all programs provide adequate supervision and regular monitoring of curriculum use to ensure effective curriculum implementation, which is critical to reaping the benefits of using high quality curricula described above.[315 316]

[306] Clements, D. H., & Sarama, J. (2008). Experimental Evaluation of the Effects of a Research-Based Preschool Mathematics Curriculum. *American Educational Research Journal, 45*(2), 443–494.

[307] Starkey, P., Klein, A., & Wakeley, A. (2004). Enhancing young children's mathematical knowledge through a pre-kindergarten mathematics intervention. *Special issue on Early Learning in Math and Science, 19*(1), 99–120.

[308] Bierman, K. L., Domitrovich, C. E., Nix, R. L., Gest, S. D., Welsh, J. A., Greenberg, M. T., . . . Gill, S. (2008). Promoting Academic and Social-Emotional School Readiness: The Head Start REDI Program. *Child Development, 79*(6), 1802–1817.

[309] Clements, D. H. (2007). Curriculum research: Toward a framework for ''Research-based Curricula''. *Journal for Research in Mathematics Education, 38*(1), 35–70.

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[311] Lonigan, C. J., Farver, J. M., Phillips, B. M., & Clancy-Menchetti, J. (2011). Promoting the development of preschool children's emergent literacy skills: A randomized evaluation of a literacy-focused curriculum and two professional development models. *Reading and Writing, 24,* 305–337.

[312] Preschool Curriculum Evaluation Research Consortium (2008). Effects of preschool curriculum programs on school readiness (NCER 2008–2009). Washington, DC: National Center for Education Research, Institute of Education Sciences, U.S. Department of Education. Washington, DC: U.S. Government Printing Office.

[313] Wasik, B. A., Bond, M. A., & Hindman, A. H. (2006). The effects of a language and literacy intervention on Head Start children and teachers. *Journal of Educational Psychology, 98,* 63–74.

[314] Riggs, N. R., Greenberg, M. T., Kusché, C. A., & Pentz, M. A. (2006). The mediational role of neurocognition in the behavioral outcomes of a social-emotional prevention program in elementary school students: Effects of the PATHS curriculum. *Prevention Science, 7,* 91–102.

[315] Lieber, J., Butera, G., Hanson, M., Palmer, S., Horn, E., Czaja, C., . . . & Odom, S. (2009). Factors that influence the implementation of a new preschool curriculum: Implications for professional

Continued

In order to estimate the cost associated with this provision, we researched the cost of curriculum fidelity kits. At present, few curricula offer such a kit. However, based on those that are available, we assessed the average cost of an implementation tool kit at $50. We then multiplied that estimate by the number of programs to find the total cost of this provision. We did not estimate additional staff time, because monitoring and staff supervision is required in the current rule and individualization of this information is included in our mentor coaching estimate. Using this method, we estimate the total cost of meeting this new requirement to be $140,750. We would like to invite public comment specifically on whether the costs associated with an implementation tool-kit represents the full costs associated with this provision or what other costs may need to be included.

Avg. cost of implementation tool kit	Number of programs	Total estimated cost
$50	2,815	$140,750

Assessments for Dual Language Learners

In this NPRM, we also propose a new requirement to codify best practice in assessing dual language learners (DLL) at § 1302.33(c)(2)(ii) that in some cases requires programs to administer language assessments to dual language learners in both English and their home language, either directly or through interpreters. As described in further detail in the discussion of the proposed rule for § 1302.33, this proposed change will ensure that screening and assessment data is collected in both languages to ensure a more complete understanding of these children's knowledge, skills and abilities.[317] In order to estimate the costs associated with this proposal, we first determined the number of DLLs across Head Start and Early Head Start by assuming all children who speak a language other than English in the home are DLLs. We then determined the proportion of DLL children who speak Spanish in the home and the number of children who speak other languages. For the purposes of this estimate, we assume that all DLLs who speak Spanish in the home will receive a direct assessment in Spanish, and for all DLLs who speak any language other than Spanish in the home will be assessed through an interpreter. For Spanish-speaking DLLs (280,752 children), we assumed the average cost of a Spanish-language assessment tool-kit (using the most frequently reported assessment as our proxy) is $200 and the average cost per pack of 25 assessment forms is $50. We determined the total number of tool-kits needed by finding the number of programs serving at least one Spanish speaking child. We determined the number of packs of assessment forms needed by dividing the total number of Spanish-speaking children by 25. We then multiplied the cost of the tool-kit by the number of programs and the cost of the assessment forms by the number of children and summed them to find the total cost of this provision for children who can be directly assessed. For DLLs speaking languages other than Spanish (51,899 children), we found the average hourly rate for an interpreter from the Bureau of Labor Statistics and assumed two hours for each assessment. We then multiplied that cost by the number of non-Spanish speaking DLLs to find the cost of this provision for children who need to be assessed through an interpreter. Finally, we summed these two estimates to produce a total cost estimate for the provision: $3,295,456.

Type of DLL	Avg. cost of spanish assessment	Avg. cost of 25 Forms	Number of programs	Number of form packs	Estimated cost
Spanish-speaking	$200	$50	2,283	8,947	$903,950
	Avg. hourly wage for interpreter	Cost/ assessment	Number of children		
Other	$23.04	$46.08		51,899	$2,391,506
Total					$3,295,456

Screenings for Children With IEPs and IFSPs

In this NPRM, we propose a new provision that explicitly eliminates the requirement to perform initial developmental screenings on children who enter the program with a current IEP or IFSP at § 1302.33(a)(3). This proposed change will eliminate unnecessary testing for children, reduce unnecessary redundancy, and eliminate an extra burden on programs. In order to estimate the total savings associated with this new provision, we first determined that in 2012, 72,774 of the 136,259 children with disabilities in Head Start and Early Head Start, entered the program with an IEP or IFSP already in place. We then estimated the cost of the developmental screening by multiplying the average hourly wage for Disabilities Coordinators by an assumed two hours of time per screening. We then multiplied this cost by the number of children who already have an IEP or IFSP in place at the beginning of the program year and summed the estimates to find the total savings associated with this provision to be $2,950,258.

development. *Early Education and Development, 20*(3), 456–481.

[316] Landry, S. H., Anthony, J. L., Swank, P. R., & Monseque-Bailey, P. (2009). Effectiveness of comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology, 101*(2), 448.

[317] Barrueco, S., Lopez, M., Ong, C., & Lozano, P. (2012). *Assessing Spanish-English bilingual preschoolers: A guide to best approaches and measures.* Baltimore, MD: Brookes.

Avg. wage for 2 hours of disability coordinator time	Number of children	Total estimated savings
$40.54	72,774	$2,950,258

Removal of Head Start-specific IEPs

The reauthorization of the Head Start Act in 2007 removed previously held authority for Head Start programs to create their own IEPs for children with disabilities. As a result, no programs currently create their own IEPs for children, prior to 2007, Head Start programs frequently created such IEPs at great cost to programs. In accordance with OMB Circular A–4, we estimate the cost/savings associated with all new provisions in the NPRM, including the removal of this authority and the extensive regulatory requirements that accompany it in § 1308 of the existing rule.

In order to estimate the savings associated with the removal of these provisions, we first estimated the number of children in the 2004–2005 program year who's IEP was created by Head Start, which was the last year in which the PIR collected this data. PIR data from that year indicate 14,758 children had IEPs but were not eligible for services under IDEA. We assumed, at a minimum, that the IEPs for all of these children were created through the Head Start process. In order to estimate the cost of an IEP, we first assumed 2 hours of staff time for both the Education Manager and the Disabilities Coordinator. We also assumed 4 hours of Special Education Specialist consultant work, at $50 per hour on average. We then multiplied this staff time by the number of IEPs. We also researched the cost of a multi-disciplinary evaluation and estimated, based on a sample of state estimates, the cost to be $2,500 on average. We multiplied this cost by the number of IEPs and then added it to the estimated cost of staff time to determine our total savings estimate for this policy change at $41,125,086. We would like to invite public comment specifically on whether the estimated $2,500 for a multi-disciplinary evaluation is appropriate.

Cost	Cost/hour for staff	Cost of consultation	Number of IEPs	Estimated cost
Staff/Consultant Time	$86.63	$200	14,758	$4,230,086
	Cost of Evaluation		Number of IEPs	
Multi-disciplinary Evaluation		$2,500	14,758	$36,895,000
Total				$41,125,086

Administrative/Managerial Provisions

This NPRM includes several provisions to improve important managerial and administrative responsibilities, and to reduce unnecessary administrative burden. We analyzed costs associated with the following specific requirements: Memoranda of Understanding at § 1302.32; and background checks at § 1302.93(c)(2)(ii). We analyzed savings associated with the following specific requirements: removal of annual audits; removal of parent committees; removal of delegate appeal process at the federal level; clarification of the facilities application process at § 1303.40; revision of community needs assessment at § 1302.11(b)(1); and revision of managerial planning at § 1302.101(b).

Memoranda of Understanding (MOU)

This NPRM includes a new provision requiring programs to establish formal agreements with the local entity responsible for publicly funded preschool at § 1302.32. This proposed change will reflect a provision of the Act that requires MOUs and has been in effect since 2008. Nonetheless, per the OMB Circular Requirements for Regulatory Impact Analysis, we must estimate the costs associated with the provision, as though no programs have implemented the statutory change.

In order to estimate the costs associated with meeting this new requirement, we first estimated that establishing an MOU with such entities will require approximately 2 hours of management time, based on grantee experience implementing similar MOUs. To estimate the cost of that time, we multiplied the average hourly salary of all management positions by 2. We then multiplied that cost by the total number of programs. Using this method, we estimated the total cost associated with this requirement to be $129,631. This may be an over-estimate of cost given that one purpose of the MOU is to better coordinate and share local resources which may lead to savings associated with implementation of the MOU. However, we have insufficient data to estimate these savings. As such, we would like to invite public comment specifically on the cost savings associated with implementation of MOUs.

Avg. wage for 2 hours of management time	Number of programs	Total estimated cost
$46.05	2,815	$129,631

Criminal Background Checks

This NPRM includes two new provisions that strengthen the requirements programs currently must meet with regard to criminal background checks for staff at § 1302.93(c)(2)(ii). As described in further detail in the discussion of the proposed rule at § 1302.93, these changes will provide alignment across federal programs about the importance and key characteristics of comprehensive background checks, which are critical to ensuring child safety in all early care and education settings. Specifically, the first provision would require programs perform both a state and FBI criminal background check on all prospective employees, whereas the current rule only requires programs perform one of the two checks. The second provision requires programs to renew criminal background checks for all employees once every five years. The FBI estimates the average cost of a criminal background check is $21. The cost of state background checks vary significantly, with some states charging significantly more than $21. However, some states cover costs of the checks for early care providers and other states reduce costs for a combined FBI and state check. Therefore, we assume $55 to be the average cost of both the FBI and state background check, together, based on information from the Office of Child Care's CCDF State Plans, in producing our cost estimate.

We considered both monetary costs and opportunity costs when estimating

the cost of the first provision. To estimate the monetary cost requiring both FBI and state background checks for new hires, we used the turnover rate of teachers from the PIR data (10%) and applied it to all staff to estimate the average number of new hires due to turnover per year. We then multiplied the number of new hires by the average cost of the FBI background check ($21) to estimate the cost associated with this provision. In addition to these monetary costs, we also estimated the opportunity cost for prospective employees to meet this requirement. This represents the value of time (measured as forgone earnings) of a prospective employee during the time they spend to complete a background check. To calculate the opportunity cost, we averaged the hourly wage for a teacher and an assistant teacher (inflated by 33% for fringe benefits), multiplied it by 1.5 hours for the estimated time it would take, and multiplied that by the average number of new hires due to turnover per year.

To estimate the cost of the second provision, we multiplied the cost of a full background check ($55) by the total number of staff for all grantees, divided by five the annual number in need of a five-year renewal. In addition, we estimated the cost associated with staff time to process each additional background check. To calculate this, we assumed the hourly wage of an administrative assistant at the same rate as teacher assistants ($11.55). We then added the applicable number of staff that would need additional background checks per year (73,591) and divided that number by 6 assuming each application will take approximately 10 minutes to process. This provided an estimate for the number of hours administrative staff would spend processing the background checks (12,265). Finally, we multiplied the number of hours by the hourly wage to estimate the total cost of processing at $141,661. Using this method, we estimate the total costs, including monetary costs and opportunity costs, associated with these provisions to be $4,081,479. We would like to invite public comment specifically on whether our assumption of 10 minutes to process each background check is appropriate.

MONETARY COSTS

Provision	Avg. cost of check	Total number of staff	Applicable staff	Estimated cost
FBI and State Check	$21	245,303	24,530	$515,130
5-year Renewal	55	245,303	49,061	2,698,355
	Hourly wage	Applicable Staff	Number of Hours	Estimated Cost
Staff time to process checks	11.55	73,591	12,265	141,661
Total				3,355,146

OPPORTUNITY COSTS

Provision	Avg. hourly wage	Estimated time in hours	Total wage cost	Applicable staff	Estimated cost
FBI and State Check	$19.75	1.5	$29.63	24,530	$726,824
Total					$726,824

Removal of Annual Audits

This NPRM eliminates the separate audit requirement for Head Start programs at § 1301.12 in favor of aligning with the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Omni Circular). As described in further detail in the discussion of the proposed rule at § 1301.12, this proposed change will eliminate unnecessary burden on small grantees and the Office of Head Start. The Omni Circular requires a Single Audit of entities if their total federal expenditures exceed $750,000. As a result of this $750,000 threshold, there are 13 grantees and 24 sub-recipients that will no longer be required to have an audit. Using an estimate of $17,000 per audit per the suggestion of regional grants management staff who oversee audit procedures, we estimate a savings of $629,000. We would like to invite public comment specifically on whether our assumption of $17,000 per annual audit is accurate.

Provision	Cost	Number of programs	Estimated savings
Removal of audit for grants less than $750,000	$17,000	37	$629,000

Removal of Parent Committees

This NPRM does not require agencies to establish parent committees at the program option level, as is currently required at § 1304.50(a)(1)(iii), as well as other provisions at § 1304.50(d)(2)(i) through (iii) and § 1304.50(e)(1) through (3). We estimate both monetary and opportunity-cost savings associated with the removal of this provision. Specifically, although this is primarily a parent-driven activity, we assume some staff involvement in coordinating meetings. For purposes of estimating the monetary cost associated with removing this requirement, we used the assistant teacher salary as a proxy for the level of staff involved in supporting the parent committee and we assume one hour per week or four hours per month for eight months. This is based on the assumption that there is one 2-hour meeting each month and 2 hours of planning time in preparation. Therefore we estimate the potential savings from the removal of this requirement to total $6,431,826. However, we assume that a

large proportion of programs will choose to retain their parent committees regardless of the fact that it is no longer a requirement. Therefore, we estimate the total actual savings to programs to be 25% of the $6,431,826 or $1,607,957.

To calculate the opportunity cost, we estimated an opportunity-cost savings associated with parent time no longer spent on parent committees. We use estimated parent wages to approximate the value of parents' time that will no longer be taken for this activity. We estimated 10% of all slots occupied by children (FY2014 Funded Enrollment 927,275) have a parent who serves on a parent committee, for a total parent number of 92,728. We then used the average hourly wage from the Bureau of Labor Statistics and assumed two hours per month (eight on average) or 16 of time for each parent to serve on a parent committee. This results in a monetized opportunity-cost savings of $10,756,390. However, we assume 75% of programs will maintain their parent committees regardless of the fact that they are no longer required. Therefore we find the estimated actual opportunity cost savings of this provision is 25% of $10,756,390, or $2,689,098.

MONETARY SAVINGS

Provision	Hourly wage for assistant teacher	Number of hours for 8 months	Number of programs	Estimated potential savings	Estimated actual savings
Removal of parent committees	$11.49	32	17,493	$6,431,826	$1,607,957

OPPORTUNITY COST SAVINGS

Total number of parents	Hourly wage forgone	Number of hours	Estimated potential savings	Estimated actual savings
92,728	$7.25	16	$10,756,390	$2,689,098

Delegate Appeals

This NPRM proposes to align with section 641A(d) of the Act, by requiring grantees to establish procedures for a delegate agency to appeal a defunding decision. As a result, we propose to eliminate the process by which current delegates can appeal grantee decisions to HHS, as outlined in § 1303.21. As described in further detail in the discussion of the proposed rule, this proposed change will eliminate unnecessary burden on grantees and the Office of Head Start. To estimate the savings associated with the removal of this process, we determined the number of delegate appeals that have occurred across ACF's 12 regions over two years (25) and then divided that number by two to find the number of appeals annually (12.5). We obtained an estimate from a grantee on the costs of their individual appeal ($66,691) and multiplied it by two to factor in both the cost to the grantee and the delegate agency of the appeal process. We then divided that total by two based on the assumption that half of the costs are spent on the HHS phase of the appeal, which we propose to remove. We then multiplied the average cost by the average number of appeals per year (12.5) to arrive at the annual savings. We estimate savings of $69,359 as a result of this change.

Avg. grantee cost of delegate appeal	Avg. cost of delegate appeal	Savings from removal of HHS phase of appeal	Number of delegate appeals/year	Estimated savings
$66,691	$133,382	$66,691	12.5	$833,638

Clarification of the Facilities Application Process

This NPRM proposes to reorder the application requirements for funds to purchase, construct or renovate facilities to align with typical project development at § 1303.40. In doing so, we anticipate savings associated with grantees who are likely to identify unfeasible projects more quickly prior to soliciting costly professional advice or unnecessary testing (*e.g.* environmental), referred to as soft costs. To estimate the savings associated with these revisions, we assumed a per project cost for facilities projects of $500,000, based on our experience with facilities costs.

Since the savings would come from the soft costs that grantees incur at the beginning of a project—which under our reordered application process could be avoided for projects that grantees realize more quickly are not fundable—we assume that approximately 30 percent of the average per project costs, or $150,000 are for soft costs. Our data systems do not capture the number of applications for facility projects each year so as a proxy, we are using the total number of facilities with federal interest for the past 10 years, which is the timeframe for which we have data, with that total divided by 10 for the number of facilities with federal interest per year (3,896). Based on our experience, and specifically the knowledge of our in-house facilities expert, we then estimate that 8 percent of the 3,896 facilities with federal interest (31.17 facilities projects) submit un-fundable applications annually. As a result, we then multiplied the $150,000 in estimated soft costs by 31.17 grantees to determine the savings that would result if those grantees realized the unfeasibility of their projects earlier and never spent those funds. We estimate the total savings associated with these revisions to total $4,675,500.

Avg. cost of facility project	Avg. "soft" costs	Facilities with federal interest/year	Unfundable facility applications/ year	Estimated savings
$500,000	$150,000	3,896	31.17	$4,675,500

Community Assessment

This NPRM also includes provisions that change the existing requirement for programs to conduct full community assessments from every three years to every five years at § 1302.11(b)(1). As described in further detail in the discussion of the proposed rule at § 1302.11, this proposed change will streamline the community assessment process and eliminate unnecessary burden on grantees and the Office of Head Start. We estimated the current cost of the community assessment and assumed a reduction in costs of 40 percent, based on the change from three to five years. To determine the average cost of a community assessment, we incorporated grantee feedback about both the frequency with which they choose to perform the assessment internally versus hiring consultants, and the average cost, in staff time and consultant fees, respectively of those assessments. From this feedback, we assumed 75 percent of programs perform their community assessments using Head Start staff, while the remaining 25 percent hire consultants. We estimated the costs associated with Head Start staff time for 75 percent of programs by calculating the average hourly wage of the entire management team (for the director, education manager, health services manager, and disabilities coordinator combined), and assumed 40 hours of the entire management team's time to complete the assessment ($3,910). We then multiplied the cost of these 40 hours by the number of programs using Head Start staff to complete their assessments. We estimated the costs associated with consultants for 25 percent of programs by the average cost for a consultant to perform the community assessment at $6,000 and assumed an additional 10 hours of the management team's support time to complete the assessment ($977.14). We then multiplied these costs by the number of programs who choose to hire consultants for their community assessment. Finally, we summed these costs and divided the total by three to find the current annual cost. We then divided that total by five to find the new annual cost, and calculated the difference, which represents the annualized savings for this policy change. We estimated the savings for this policy change to be $1,755,480. We would like to invite public comment specifically on whether the staff time associated with both options for completing a community assessment accurately reflects staff time required, and whether the savings assumptions accurately reflect the new requirement that programs update their assessment annually for significant changes in the availability of full-day public pre-kindergarten, rates of homelessness, and other demographic shifts.

Option	Cost of support staff time	Cost of consultation	Number of programs	Estimated cost	Current annual cost	New annual cost	Difference between costs/ savings
Hire Consultants	$977.14	$6,000	704	$4,912,090	$1,637,365	$982,418	$654,945
	Cost of Staff Time						
Internal		$3,910	2,111	$8,254,010	$2,751,337	$1,650,802	$1,100,535
Total Annualized Savings							$1,755,480

Managerial Planning

This NPRM includes two new provisions that lessen the administrative planning burden on programs by reducing the number and prescriptiveness of planning processes that are required at § 1302.101(b). Specifically, the first provision reduces current planning topics from four in the existing rule (Education, Health, Family & Community Partnerships, and Program Design and Management) to two in the NPRM. The second provision significantly reduces the prescriptiveness of the disabilities services plan and as a result significantly reduces the costs associated with the requirement for that planning. In order to estimate the costs associated with the first provision, we assumed the four plans required in the existing rule took approximately two weeks of the education manager's time to develop. Our proposed provision would reduce the number of required plans by half. As a result, we assume one week of the education manager's salary as savings for each program. Then we multiplied this salary by the number of programs to estimate the savings associated with this provision. For the second provision, we assumed the disabilities service plan as outlined in the existing rule took an average of one week of the disabilities coordinator's time. We also assume that the changes to this provision will result in an 80 percent decrease in burden, and as such, estimate the savings per program to be 80 percent of the disabilities coordinator's average weekly wage. We then find estimated savings associated with this provision by multiplying this amount by the total number of programs. Finally, we sum these two savings to find the total estimated savings for this policy change to be $4,419,550.

Cost	Cost of staff time/week	Savings per program	Number of programs	Estimated savings
Reduction of Plans	$922		2,815	$2,595,430

Cost	Cost of staff time/week	Savings per program	Number of programs	Estimated savings
Revision of Disabilities Plan	811	$648	2,815	1,824,120
Total				$4,419,550

Implementation of Changes in the Program Performance Standards

This NPRM includes numerous changes to Head Start's Program Performance Standards. As a result, we have included provisions at § 1302.103 that require programs to develop a program-wide approach to prepare for and implement these changes, in order to ensure their effectiveness. In order to estimate the cost associated with these provisions, we estimated the costs associated with Head Start staff time by calculating the average hourly wage of the entire management team (for the director, education manager, health services manager, and disabilities coordinator combined), and assumed 40 hours of the entire management team's time to develop the approach ($3,910). Using this method we estimate the total cost of this provision at $11,006,650.

Provision	Hourly rate of management team	40 Hours of management team time	Number of programs	Estimated cost
Implementation Planning	$97.74	$3,910	2,815	$11,006,650

1. Regulatory Impact Analysis

As part of our full regulatory analysis, we considered long-standing economic analysis of the return on investment through benefits to society of high quality early education, how they are linked to the changes we propose, and the expectation for increased return on investment that our proposed changes create. We also considered the potential for distributional effects, in which the proposed changes will benefit one distinct population, while potentially harming another. Finally, we considered the costs, savings, and potential benefits associated with several regulatory alternatives.

Cost-benefit analysis

There is no question that high quality early learning programs yield significant benefits to children and society.[318] Early learning programs provide a unique opportunity to intervene and support children's development during a period in which learning and growth is at its most rapid.[319] [320] [321] Early learning programs have short and long term effects on children's math, reading and behavior skills, and can reduce grade retention, teen pregnancy, and the need for special education services and in the long-term can increase lifetime earnings and reduce crime.[322] [323] [324] [325] [326] [327] [328] [329] [330] [331] [332] [333] [334] Numerous evaluations of both small-scale and large-scale early education programs demonstrate that the benefits to children and our society outweigh the financial costs of funding these programs. Studies examining the return on investment for early learning programs find a range of levels for positive returns. For example, the Perry Preschool project, a two-year early learning intervention for children from low-income families, netted approximately 7–10 dollars back for every dollar spent on the program, with a baseline estimate of $8.60.[335] [336] Most of these financial benefits came from later reductions in crime. Evaluations of the Chicago Child-Parent Center program (CPC) also show benefits from medium and long-term positive effects. When CPC participants reach age 21, analyses demonstrates that one and a half years of CPC preschool participation yielded a return for society

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[319] National Scientific Council on the Developing Child (2007). *The Timing and Quality of Early Experiences Combine to Shape Brain Architecture: Working Paper No. 5.* Retrieved from *www.developingchild.harvard.edu.*

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[323] Schweinhart, L. J., Montie, J., Xiang, Z., Barnett, W. S., Belfield, C. R., & Nores, M. (2005). *Lifetime effects: The HighScope Perry Preschool study through age 40.* Ypsilanti, MI: HighScope Press.

[324] Barnett, W. S., & Hustedt, J. T. (2005). Head start's lasting benefits. *Infants & Young Children, 18*(1), 16–24.

[325] Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., . . . Zaslow, M. (2013). Investing in our future: The evidence base on preschool education. Foundation for Child Development. New York, NY.

[326] Camilli, G., Vargas, S., Ryan, S., & Barnett, W. S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *The Teachers College Record, 112*, 579–620.

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[328] Reynolds, A.J. (2000). Success in early intervention: The Chicago Child-Parent Centers. Lincoln, Nebraska: University of Nebraska Press.

[329] Schweinhart, L. J., Montie, J., Xiang, Z., Barnett, W. S., Belfield, C. R., & Nores, M. (2005). *Lifetime effects: The HighScope Perry Preschool study through age 40.* Ypsilanti, MI: HighScope Press.

[330] Gormley, W., Gayer, T., Phillips, D.A., & Dawson, B. (2005). The effects of universal Pre-K on cognitive development. *Developmental Psychology, 41*, 872–884.

Campbell, F. A., Ramey, C. T., Pungello, E., Sparling, J., & Miller-Johnson, S. (2002). Early childhood education: Young adult outcomes from the Abecedarian project. *Applied Developmental Science, 6*, 42–57.

[331] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84*, 2112–2130.

[332] Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012-2013 evaluation study.* Chapel Hill: The University of North Carolina, FPG Child Development Institute.

[333] Campbell, F. A., Ramey, C. T., Pungello, E., Sparling, J., & Miller-Johnson, S. (2002). Early childhood education: Young adult outcomes from the Abecedarian project. *Applied Developmental Science, 6*, 42–57.

[334] The Council of Economic Advisers. (December, 2014). *The Economics of Early Childhood Investments.* Washington, DC: Authors.

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[336] The Council of Economic Advisers. (December, 2014). *The Economics of Early Childhood Investments.* Washington, DC: Authors.

of $7.10. In comparison to preschool children who did not participate in CPC, the preschool participants had lower rates of special education placement and grade retention and a higher rate of high school completion. They also had lower rates of juvenile arrests and lower arrest rates for a violent offense.[337] A recent analysis by some of the country's premier child development and early intervention experts conclude universal pre-kindergarten returns $3–5 in benefits for every dollar spent.[338] Nobel Prize winning economist James Heckman concludes that educational interventions in the first five years of life show much greater benefits than later interventions.[339]

However, early learning programs must be sufficiently high quality to reap these benefits. While there are some direct estimates of Head Start's return on investment,[340] [341] these estimates rely largely on outdated data (when children who did not receive Head Start received no other early education experiences) and generally provide imprecise estimates that vary widely. These studies and other data give us confidence that Head Start programs presently yield some return on the federal investment. However, based on monitoring data, including CLASS, and findings from FACES and the Head Start Impact Study, we also know that there is significant variance in quality among Head Start programs and more must be done to ensure every Head Start program is providing high quality services that will promote strong and lasting child outcomes.[342] [343] [344]

The proposals in this NPRM are designed to strengthen Head Start quality, improve child outcomes, and increase the return on taxpayer dollars. Proposed changes to improve teaching practices, including implementation of content-rich curriculum and effective use of assessment data, and proposed changes to professional development are central to our effort to ensure every child in Head Start receives high quality early learning experiences that will build the skills they need to succeed in school and beyond. In order to maximize the effectiveness of Head Start and yield a high rate of return on investment, we believe it is essential to pair these improvements to the early learning experiences provided by Head Start with increases in program dosage.

The Secretary's Advisory Committee recommended Head Start look to ''optimize dosage,'' and our new proposed minimums are more aligned with state pre-kindergarten programs that have shown strong effects.[345] [346] For example, North Carolina pre-kindergarten, which is offered to lower income families and operates 6.5 hours per day and 180 days per year, demonstrates strong effects. Children who attend the program make gains in language, literacy, math, general knowledge and social skills. At the end of 3rd grade, children from low income families who had attended state pre-kindergarten scored higher on math assessments than children from low income families who did not attend. Moreover, children who are dual language learners make gains at even faster rates than other children.[347] New Jersey's state pre-kindergarten, which operates between 6–10 hours per day and 180–245 days per year shows significant impacts for child learning. Children who attend New Jersey pre-kindergarten show improvements in language, print awareness, and math at kindergarten entry, 1st grade, and 2nd grade. Gains still exist in language arts, literacy, math, and science at 4th and 5th grade. They also show a 40 percent decrease in grade retention and a 31 percent decrease in special education placement.[348]

Other states with dosage consistent with our proposed minimums find strong results for children. For example, Georgia pre-kindergarten, which operates 6.5 hours per day and typically runs 180 days per year, finds medium to large effects on children's language, literacy, and math skills at kindergarten entry.[349] Tulsa pre-kindergarten also shows strong effects for children in language and math skills. This program operates 180 days per year and is mainly a full-day program for low-income children. There is some evidence that full-day attendance in Tulsa supports better outcomes for low income and minority children.[350] Boston pre-kindergarten, which also operates for a full school day and school year, demonstrates large effects on children's language and math skills.[351]

Only a small amount of research with young children has been able to isolate the impact of dosage on child learning, but what does exist links increasing the length of the program day and program year to improved children's outcomes. For example, a randomized control study in which one group of children attended pre-kindergarten for 8 hours per day for 45 weeks and another group of children attended the same program for 2.5–3 hours per day for 41 weeks found that by the spring of kindergarten, the children who had attended full-day pre-kindergarten had improved almost twice as much on vocabulary and math skills compared to the children who attended half day.[352] Research with children in child care settings found 30 hours of participation each week to be necessary for low and middle income

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[345] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84,* 2112–2130.

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[347] Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study.* Chapel Hill: The University of North Carolina, FPG Child Development Institute.

[348] Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up.* National Institute for Early Education Research Rutgers—The State University of New Jersey.

[349] Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study.* Chapel Hill: The University of North Carolina, FPG Child Development Institute.

[350] Gormley, G.T., Gayer, T., Phillips, D., & Dawson, B. (2005). The effects of universal pre-k on cognitive development. *Developmental Psychology, 4(6),* 872–884.

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[352] Robin, K.B., Frede, E.C., Barnett, W.S. (2006). Is More Better? The Effects of Full-Day vs. Half-Day Preschool on Early School Achievement. *NIEER Working Paper.*

children to see stronger learning outcomes.[353]

Moreover, research on effective teaching practices for children at risk of school difficulties also support the need for full-day operation. A six hour program day will better support delivery of high quality learning experiences that are developmentally appropriate and targeted to improve individualization and skill growth. A meta-analysis of pre-kindergarten programs found that those that focused on intentional teaching and small group and one-to-one interactions had larger impacts on child outcomes.[354] It is very difficult for a half-day program to provide sufficient time for teachers to conduct learning activities and intentional instruction in small group and one-on-one interactions in the areas of skill development experts believe are important to later school success.

Researchers believe meaningful skill development in language, literacy, and math requires intentional, frequent, and specific methods of instruction and teacher-child interactions. These types of interactions are often complex, require a variety of types of interactions and intensities, and for many children in Head Start, need to be conducted in small groups to allow sufficient individualized scaffolding and skill development.[355] Experts believe math curriculum and instruction must support development of broad and deep mathematical thinking and knowledge, including development of abstract thought and reasoning.[356] Targeted instruction and small group activities are teaching practices that are particularly important to include for supporting the learning of children who are behind.[357] [358] Language and literacy experts believe teachers must take an active role in supporting language and literacy development for children at risk of reading difficulties. That requires systematic and explicit instruction to foster vocabulary breadth and depth. Research with toddlers and preschool age children also finds that greater exposure to rich vocabulary enrichment allows for better scaffolding that can lead to improved language and literacy.[359] [360] As such, experts recommend in addition to integration into group learning and free play, language and literacy instruction should be explicitly structured and sequenced in 15–20 minutes small group session at least three times per week.[361] Math experts have similar time estimates for supporting adequate high quality learning experiences.[362] [363]

This targeted instruction in key school readiness areas requires more time than what is provided in a half-day program. Thus, it is not surprising to note that a recent analysis of the Head Start Impact data found the more effective programs were full-day.[364] Therefore, we believe for Head Start to better reach its potential for closing the achievement gap and helping children arrive at school ready to succeed, a full-day program is central to providing a supportive and warm learning environment that promotes positive social and emotional skill development and supports Head Start children learning key academic skills.

Research with slightly older children also finds longer program days are important for children's skill development and academic success. Numerous studies on kindergarten find children learn more in full-day kindergarten than half-day kindergarten.[365] [366] [367] [368] [369] This is not surprising since more instruction is delivered in full-day classrooms.[370] A recent meta-analysis of studies examining the effects of full-day kindergarten finds that full-day kindergarten led to better skills in 1st grade than half-day kindergarten.[371] Analysis of the large national Early Childhood Longitudinal Study (ECLS) data also found children in full-day kindergarten improved more in math and reading than children in half-day kindergarten.[372] Another study found full-day kindergarten helped narrow the achievement gap for dual language learners in particular.[373] This finding is important since a large and increasing portion of Head Start children are dual language learners.

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Research on summer learning loss demonstrates the importance of extending the minimum days of operation in Head Start. Research on reading skills found high-income students gained skills over summer break, middle income students maintained their skill level, and children from lower income families lost skills.[374] Experts conclude the average student loses one month worth of skills and development over the summer break.[375] The amount of learning loss is even greater for children from low income families who may not have as much access to educational resources and experiences during the summer and who are already behind their more advantaged peers and need extra time to learn skills and strengthen development.[376] [377] [378] [379] [380] [381] This pattern is also true for the youngest children in elementary school. Analysis of the ECLS finds that children from families with higher incomes learn more over the summer between kindergarten and 1st grade than do children from families with lower incomes.[382] In fact, researchers believe the effects of summer learning loss for children from low-income families is cumulative and that the disparity in summer gains and losses over the first four summers of elementary school is greater than the differential between children from high and low income families at school entry.[383] Experts also conclude summer learning loss in elementary school predicts poor academic achievement in high school.[384]

Research on attendance also finds exposure to additional learning time is important for skill development.[385] [386] Research with elementary school children has shown an increase in school attendance predicted improved reading scores.[387] A recent study of preschool attendance in Chicago found that even when accounting for children's skill level at the beginning of preschool, attendance predicted better academic outcomes at the end of preschool and beyond and that attendance was most beneficial for children starting preschool with the lowest skills. Children who missed more preschool had lower math, letter recognition, and social-emotional skills and were also rated as lower on work habits by their teachers.[388]

Current Head Start minimums permit 4 months of summer break, making the likelihood of skill loss between program years even higher than what we see in elementary and secondary education. The majority of Head Start programs operate with a 4 month break between program years, which we believe undermines the progress Head Start children make during the year and lessens the overall impact of the program.

In sum, providing high quality early education is not a simple task. Standards must be high to create learning environments that allow teachers to facilitate effective early learning experiences and support must be provided that continuously build teachers' skills and knowledge. Taken together, the full-day, instructional time, summer loss, and attendance research clearly indicate current Head Start minimums for program operations are inadequate to achieve the results researchers and economist have shown are possible. This rule aims to ensure every Head Start program implements the standards and supports necessary to foster effective teaching practices and strong child outcomes, and meet the mandates of the Act, leading to larger returns on the federal investment.

It is our goal that this rule will be implemented with sufficient funds to avoid slot loss resulting from costs associated with this rule. The President's FY2016 Budget includes a request for $1.5 billion in additional Head Start funding, with more than $1 billion of that to support the extension of the Head Start program day and year, which are the two provisions associated with the largest costs in this NPRM. If Head Start appropriations increase by this or a similar amount, the programmatic costs currently estimated in this section would be borne in full by the federal government, and there would be no lost benefit to society as a result of a reduction in Head Start slots. Instead, the changes we propose would result in a significant increase in the quality of Head Start for children and the associated benefits of Head Start participation for all children.

In the absence of additional funding, this proposed rule will result in approximately 13 percent decrease in available slots. This slot loss has costs to society since fewer children will have access to Head Start in the future. This cost to society may be mitigated by the availability of other early learning programs, given findings from the Head Start Impact Study that indicate a wide range of ECE utilization among children who do not have access to Head Start.[389] In this case, determining how the loss of slots impacts society depends on how benefits differ between Head Start and the alternative ECE programs. Among children whose future Head Start slots are eliminated, those that enroll in alternative ECE programs of similar quality would not experience a loss of benefits, while children who enroll in programs of lower quality or no program at all would experience lost benefits. To be sure, quality and affordable early learning programs for poor families are limited and there is significant unmet need. A reduction in Head Start slots

[374] Benson, J., & Borman, G.D. (2010). Family, Neighborhood, and School Settings Across Seasons: When Do Socioeconomic Context and Racial Composition Matter for the Reading Achievement Growth of Young Children? *Teacher's College Record, 112*(5), 1338–1390.

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[388] Ehrlich, S.B., Gwynne, J.A. . . . Sorice, E. (2014). *Preschool Attendance in Chicago Public Schools: Relationships with Learning Outcomes and Reasons for Absences.* University of Chicago Consortium on Chicago School Research. Research Report.

[389] Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. *US Department of Health and Human Services Office of Planning, Research and Evaluation.*

may not be fully absorbed by other programs.

Continuing to operate under widely varying minimums for program dosage, in the face of the mounting evidence provided here, limits Head Start's overall effectiveness and undermines Head Start's mission. Our proposal, and specifically the most costly changes proposed in this NPRM, are designed to ensure every child in Head Start receives the highest quality program and thus are inextricably linked to reaping the full range of benefits that researchers and economists have demonstrated are possible.

Accounting Statement—Table of Quantified and Non-Quantified Benefits, Costs, and Transfers

As required by OMB Circular A–4, we have prepared an accounting statement table showing the classification of the impacts associated with implementation of this proposed rule. We decided to use a 10-year window for this regulatory impact analysis and distinguish between average annual costs in year 1, year 2, and average annual ongoing costs in subsequent years 3–10. As required by the Office of Management and Budget (OMB), we discount costs at 3 percent and 7 percent and have included total present value as well as annualized value of these estimates in our analyses below.

We chose to distinguish between the first two years of costs and the ongoing costs because we have delayed the majority of the regulatory changes for the first year to allow time for programs to plan, and because some of the costs we estimate will only occur in the first year of implementation (second year of costs estimated here), while most of the costs will recur annually. We also include here several costs and savings to society, separate from those identified for programs, which are described in detail above.

	Year 1	Year 2	Years 3–10 (Annually)
Programmatic Savings	($57,996,468)	($104,635,321)	($104,635,321)
Programmatic Costs	$14,491,427	$1,142,984,610	$1,141,433,545
Societal Opportunity Costs and Savings	$726,824	$40,106,342	$40,106,342
Net Costs*	($42,778,217)	$1,078,455,630	$1,076,904,565

* Note these costs do not include the potential lost benefits of children who no longer have access to Head Start or the impact on children who attend other ECE programs.

These costs were then discounted and annualized using the 10 year window and the OMB discounting rates. In total, the 10-year present value of the costs associated with the proposed changes in this NPRM are estimated to be $8,343,623,913, discounted at 3 percent, and $6,974,954,727, discounted at 7 percent. The annualized costs of the proposed changes in this NPRM are estimated to be $949,638,115 discounted at 3 percent, and $928,109,005, discounted at 7 percent.

	Average annualized (years 1–10)		10 Year Total	
	Discounted 3%	Discounted 7%	Discounted 3%	Discounted 7%
Net Costs	$949,638,115	$928,109,005	$8,343,623,913	$6,974,954,727

Distributional Effects

As part of our regulatory analysis, we considered whether the changes we propose would disproportionately benefit or harm a particular subpopulation. If the funding proposed in the President's Budget is not provided, the proposal will result in a loss in the number of children being served by Head Start and an improvement in quality for the much larger group of low-income children who continue to participate. We do not expect the children who may lose access to Head Start if the funding is not provided to be systematically different in terms of meaningful subpopulations from the children who will be receiving greater benefits from higher quality services. We also acknowledge that, if the funding in the President's Budget is not provided, 9,432 teachers, assistant teachers, and home visitors will no longer be employed as a result of this proposal. Again, while these teachers will be economically harmed as a result of this proposal, the remaining 105,621 teachers, assistant teachers, and home visitors whose employment is not terminated, should receive pay increases as a result of working longer hours and longer program years. We do not expect the teachers who are no longer employed to be systematically different in terms of meaningful subpopulations from the teachers who will see increased pay as a result of this proposal.

We also considered whether there would be a differential impact of the proposed changes, specifically the extended day and year provisions, on both children and teachers based upon geographic location or tribal affiliation. While we found significant variation at the state level with regard to the percentage of slots that meet the new proposed minimums, there were no systematic differences based on the region of the country (*e.g.,* North vs. South; Midwest vs. West, etc.). We also found no systematic differences between tribal programs and non-tribal programs with regard to meeting the new proposed minimums.

Regulatory Alternatives

As part of our full regulatory analysis, we have considered several regulatory alternatives, which we outline below. Specifically, we have considered alternatives to the policy changes we have determined to be our largest cost-drivers: Extension of the program year, extension of the program day, and mentor coaching. We consider alternatives to these policy changes by analyzing the effect of the net cost in dollars, slots, and teacher jobs of making no change to the existing rule, as well as more costly policy changes. We also consider how these regulatory alternatives might be impacted by the availability of additional funds consistent with the President's FY2016 Budget request to support the extension of the program day and year. Our justification for choosing to make a policy change is provided in depth in the relevant sections of this NPRM.

However, we do provide additional rationale for not opting to propose the more costly regulatory alternatives in this section.

Extension of the Program Year

This NPRM proposes to extend the minimum Head Start year to 180 days, and to codify current interpretation of a ''full-year'' of Early Head Start at 230 days. As described in great detail above, these proposed changes will increase the amount of instructional time in Head Start programs, which research suggests is critical to reaping the full benefits of the other quality improvement provisions we have proposed.[390] [391] In our cost analysis, we estimated the total cost of these new minimums to be $560,596,307.

As part of our full regulatory analysis, we considered two alternatives to this policy change. Specifically, we considered the alternative of making no change to our current minimums, thus eliminating the associated cost of $560,596,307. Using the calculation enumerated above, making no change to this policy would be associated with 67,424 fewer slots lost and 7,746 fewer teachers no longer employed. However, not making this change would also prevent the significant predicted increase in impacts on child outcomes we have described below. If Head Start receives the appropriations requested in the President's FY2016 Budget, the cost associated with this provision would be borne by the federal government and there would be no associated slot or teacher job loss for our proposal, but the benefits described below would be maintained.

We also considered the alternative of extending the program year for Head Start to a true ''full-year'' as is often implemented in child care programs. This alternative would involve increasing the minimum program year for all programs to 230 days, as is interpreted for Early Head Start. Using the same method employed in our original cost analysis, the total associated costs of this alternative would be $1,534,726,851, which would result in a total of 184,585 slots lost and 21,206 teachers no longer employed for this provision alone. For this regulatory alternative, we also calculated the cost and associated slot and teacher job loss if Head Start receives the appropriations requested in the President's FY2016 Budget. In this case, the additional associated costs of this alternative, assuming the proposed regulatory change as a base, would be $974,130,544 more than our proposed change (and more than the budget request supports), which would result in 117,161 additional slots lost and 13,460 additional teachers no longer employed.

While it is possible that increasing the program year for all programs to 230 days would result in greater impacts on child outcomes, our proposed regulatory action of increasing to 180 days is modeled after high quality pre-kindergarten programs that have, in fact, demonstrated significant impacts on child outcomes. We also believe that extending the program year for all programs to 230 days would be an inappropriate regulatory mandate. Head Start is not a one-size fits all program, especially considering the range of ages and needs of the children we serve. Extending the program year for preschoolers to 180 days achieves our goal of increasing dosage without unnecessarily limiting program flexibility to best meet the needs of their communities.

ESTIMATES WITHOUT ADDITIONAL FUNDING

	Status quo (128 days minimum)	Proposed (180 days minimum)	230 days
Programmatic Cost	0	$560,596,307	$1,534,726,851
Slot Loss	0	67,424	184,585
Loss in teacher jobs	0	7,746	21,206
Estimates if FY2016 Budget Request is Appropriated			
Programmatic Cost	0	0	$974,130,544
Slot Loss	0	0	117,161
Loss in teacher jobs	0	0	13,460

Extension of the Program Day

This NPRM proposes a new minimum number of hours for all center-based Head Start, Early Head Start programs and family child care programs. As also discussed in great detail above, these proposed changes will increase the amount of exposure to learning experiences which research suggests will result in larger impacts on child outcomes.[392] [393] As part of our full regulatory analysis, we also considered two alternatives to this policy change. Specifically, we considered the alternative of making no change to our current minimums, thus eliminating the associated cost of $449,052,165. Making no change to this policy would be associated with 54,009 fewer slots lost and 1,110 fewer teachers no longer employed. It is important to note that fewer teachers are lost in this estimate because we anticipate maintaining all double session teachers. However, given the arguments we have made in prior sections, we believe extending the program day is necessary to ensure all children receive an adequate dosage of high quality early learning experiences in order to improve child outcomes. If Head Start receives the appropriations requested in the President's FY2016 Budget, the cost associated with this provision would be borne by the federal government and there would be no associated slot or teacher job loss for our proposal, but the benefits of extending the program day would be maintained.

We also considered the alternative of extending the program day to a true ''full-day'' as is often implemented in child care programs. This alternative would involve increasing the minimum

[390] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84,* 2112–2130.

[391] Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up.* National Institute for Early Education Research Rutgers—The State University of New Jersey.

[392] Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development, 84,* 2112–2130.

[393] Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up.* National Institute for Early Education Research Rutgers—The State University of New Jersey.

program day to 10 hours. This may be more beneficial to supporting parental employment and allows even more time for exposure to rich early learning experiences. Using the same method employed in our original cost analysis, the associated costs of this alternative would be $609,930,063, which would result in 73,358 slots lost and 3,333 teachers no longer employed for this provision alone. We estimate the addition of these hours is substantially less than the estimated cost of moving from a 3.5 hour minimum to a 6 hour minimum. It is important to understand that this estimate is in addition to our original estimate which includes the cost of converting double session programs. For non-double session programs, the cost of adding each additional hour of program duration is significantly less. For this regulatory alternative, we also calculated the cost and associated slot and teacher job loss if Head Start receives the appropriations requested in the President's FY2016 Budget. In this case, the additional associated costs of this alternative, assuming the proposed regulatory changes as a base, would be $160,877,898 more than our proposed change (and more than the budget request supports), which would result in 19,349 slots lost and 2,223 teachers no longer employed.

While it is again possible that extending the minimum program day for all programs to 10 hours would result in greater impacts on child outcomes, as with our proposed regulatory action to extend the program year, our proposal to extend the program day to 6 hours is sufficient for implementation of content-rich learning experiences that support strong child outcomes in key areas of school readiness and is modeled after high quality pre-Kindergarten programs that have demonstrated significant impacts on child outcomes. We also believe that extending the program day for all programs to 10 hours would be an inappropriate federal mandate. Head Start is not a one-size fits all program, especially considering the range of ages and needs of the children we serve. Extending the program day to 6 hours achieves our goal of increasing dosage without unnecessarily limiting program flexibility to best meet the needs of their communities, especially where parents do not need extended child care.

ESTIMATES WITHOUT ADDITIONAL FUNDING

	Status quo (3.5 hours minimum)	Proposed (6 hours minimum)	10 hour minimum
Financial Cost	0	$449,052,165	$609,930,063
Loss in students served	0	54,009	73,358
Loss in teacher jobs	0	1,110	3,333
Estimates if FY2016 Budget Request is Appropriated			
Financial Cost	0	0	$160,877,898
Loss in students served	0	0	19,349
Loss in teacher jobs	0	0	2,233

Mentor Coaching

In this NPRM, we propose requirements that programs have a system of professional development in place that includes an intensive coaching strategy. As with our other largest cost drivers, as part of our full regulatory analysis, we considered two alternatives to this policy change. Specifically, we considered the alternative of not requiring mentor coaches for any teachers, thus eliminating the associated cost of $106,675,000. This alternative would be associated with 12,830 fewer slots lost and 1,474 fewer teachers no longer employed. We also considered the alternative of requiring mentor coaches for all 64,000 teachers, rather than allowing programs to allocate mentor coaches to the teachers which need intensive professional development most (an estimated one-third of all teachers). Using the same method employed in our original cost analysis, the additional associated costs of this alternative would be $320,025,000 total or $213,350,000 more than our proposed change, which would result in 38,490 total or 25,660 additional slots lost and 4,422 total or 2,948 additional teachers no longer employed. As described in previous sections, we strongly believe that more intensive, focused professional development is critical to improving teaching quality and thereby increasing impacts on child outcomes. However, we believe it would be inefficient to mandate that every teacher receive intensive individualized coaching when other local professional development needs may need to be met. The regulatory action we propose will achieve our goal of improving teacher practices by targeting teachers most in need of coaching to improve their teaching practices while still maintaining local flexibility for individualized professional development.

	Status quo (no coaching)	Proposed (one third of teachers receiving coaching)	All 64,000 receiving coaching
Financial Cost	0	$106,675,000	$320,025,000
Loss in students served	0	12,830	38,490
Loss in teacher jobs	0	1,474	4,422

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (UMRA)[394] was enacted to avoid imposing unfunded federal mandates on state, local, and tribal governments, or on the private sector. Most of UMRA's provisions apply to proposed and final rules for which a general notice of proposed rulemaking was published, and that include a federal mandate that may result in expenditures by state, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. This NPRM will not impose unfunded mandates on state, local, and tribal governments, or on the private sector.

Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. This rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, we conclude that it is not necessary to prepare a family policymaking assessment.[395]

Federalism Assessment Executive Order 13132

Executive Order 13132 requires federal agencies to consult with state and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This proposed rule will not have substantial direct impact on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Congressional Review

The Congressional Review Act (CRA) allows Congress to review ''major'' rules issued by federal agencies before the rules take effect.[396] The CRA defines a major rule as one that has resulted or is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[397] This regulation is a major rule because it will likely result in an annual effect of more than $100 million on the economy.

Paperwork Reduction Act of 1995

Sections 1302 and 1303 contain new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), the Administration for Children and Families has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review. OMB regulations define ''information'' as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic or other media.[398] This includes requests for information to be sent to the government, such as forms, written reports, and surveys, recordkeeping requirements, and third-party or public disclosures.[399] Descriptions of the information collections and estimates of the annual reporting, recordkeeping, and third-party disclosure burden are as follows:

Title: Head Start Grants Administration.

Description: We propose information collections related to the protection for the privacy of child records. These requirements include a new collection of parental written consent before disclosing personally identifiable information from child records, an annual notice that notify parents of their rights described in § 1303.20 through 1303.24, applicable definitions in 1305, and a description of PII that may be disclosed without parental consent, and a recordkeeping requirement that the program must maintain, with each child's record, a list of all individuals, agencies, or organizations that have requested or obtained access to PII from child records and their expressed interests.

Title: Head Start Performance Standards.

Description: We propose a new requirement to codify best practice in assessing dual language learners (DLL). Specifically, we require programs to administer language assessments to dual language learners in both English and their home language, either directly or through interpreters.

We propose to strengthen background check procedures by requiring both state/local/tribal and federal criminal background checks, as well as clearance through available child abuse and neglect and sex offender registries. Making this requirement consistent with the Office of Child Care's requirement will minimize burden on programs that operate with both Head Start and Child Care Development Funds. This will increase the record-keeping burden related to criminal record checks.

Description of Respondents and Burden Estimate: The total annual burden hours estimated is 472,894 hours. For some items, burden hours are calculated for individual children and families, for others the burden hours are calculated for staff. The burden hours table and Key that follows the table indicate the basis for each calculation. See the Regulatory Impact Analysis section for cost estimations.

ACF estimates the burden for these collections of information as follows:

[394] 2 U.S.C. 1501 *et seq.*

[395] Pub. L. 105–277

[396] 5 U.S.C. 802(a).

[397] 5 U.S.C. Chapter 8.

[398] 5 CFR 1320.3(h).

[399] 5 CFR 1320.3(c).

Information collection	OMB Control No.	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours
Annual Reporting Burden Estimates					
N/A	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*
Annual Recording Keeping Burden Estimates					
Head Start Grants Administration—§ 1303.22, 1303.24 Parental Consent, Annual Notice, and Recordkeeping of PII Disclosure.	0970–0423	988,923 (F)	1	20 minutes	329,641
Head Start Performance Standards—§ 1302.33 Language Assessments of Dual Language Learners.	0970–0148	332,651 (C)	1	2 hours	665,302
Head Start Performance Standards—§ 1302.93 Background Checks.	0970–0148	73,591 (S)	1	20 minutes	24,530
Annual Third-Party Disclosure Burden Estimates					
N/A	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*
Total Burden Hours					1,019,473

Key: C = Children, F = Families, S = Staff

ACF invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of Head Start and Early Head Start Grants, including whether the information will have practical utility; (2) the accuracy of ACF's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate and other forms of information technology. To ensure that public comments have maximum effect in developing the final regulations, ACF urges that each comment clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations.

For informational purposes, collections of information that will no longer be required are described below:

- *Head Start Grants Administration.* The NPRM, at part 1301, removed certain requirements for grantee agencies including the submission of audits, accounting systems certifications, and provisions applicable to personnel management.
- *Appeal Procedures for Head Start. Grantees and Current or Prospective Delegate Agencies*—The NPRM removed the appeal procedures by delegate agencies that came from denials or failure to act by grantees. It also removed the appeal procedures by a grantee of a suspension continuing for more than 30 days.
- *Head Start Program Performance Standards.* Numerous record-keeping requirements were removed which will result in a decrease in burden, *i.e.* documentation of the level of effort undertaken to establish community partnerships, written records of roles and responsibilities for each governing body members, the annual written and approval of plans for implementation services for each program area, provisions applicable to personnel management, and record-keeping and sharing of a set of community services and resources.
- *Purchase, Construction and Major Renovation of Head Start Facilities.* Some requirements were removed that involved collection of information that will result in a reduction in burden, including the submission of drawings and specifications, costs related to installation of modular unit, statement of procurement procedure for modular units, and obtaining an independent analysis of the cost comparison.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, or *oira_submission@omb.eop.gov*, Attention: Desk Officer for the Administration for Children and Families. All comments should be identified with the title, ''NPRM for Head Start Performance Standards''.

List of Subjects

45 CFR Part 1301

Administrative practice and procedure, Education of disadvantaged, Grant programs-social programs.

45 CFR Part 1302

Education of disadvantaged, Grant programs-social programs.

45 CFR Part 1303

Administrative practice and procedure, Education of disadvantaged, Grant programs-social programs, Reporting and recordkeeping requirements.

45 CFR Part 1304

Dental health, Education of disadvantaged, Grant programs-social programs, Health care, Mental health programs, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1305

Education of disadvantaged, Grant programs-social programs.

45 CFR Part 1306

Education of disadvantaged, Grant programs-social programs.

45 CFR Part 1307

Education of disadvantaged, Grant programs-social programs

45 CFR Part 1308

Education of disadvantaged, Grant programs-social programs, Health care, Individuals with disabilities, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1309

Education of disadvantaged, Grant programs-social programs, Real property acquisition.

45 CFR Part 1310

Education of disadvantaged, Grant programs-social programs, Transportation.

45 CFR Part 1311

Education of disadvantaged, Grant programs-social programs, Scholarships and fellowships.

Dated: January 6, 2015.

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families.

Approved: January 6, 2015.

Sylvia M. Burwell,

Secretary.

Proposed Regulation Text

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 9801 *et seq.,* we propose to revise subchapter B of 45 CFR Chapter XIII to read as follows:

SUBCHAPTER B—THE ADMINISTRATION FOR CHILDREN AND FAMILIES, HEAD START PROGRAM

PART 1301—PROGRAM GOVERNANCE

PART 1302—PROGRAM OPERATIONS

PART 1303—FINANCIAL AND ADMINISTRATIVE REQUIREMENTS

PART 1304—FEDERAL ADMINISTRATIVE PROCEDURES

PART 1305—DEFINITIONS

PART 1301—PROGRAM GOVERNANCE

Sec.

1301.1 In general.
1301.2 Training.
1301.3 Governing body.
1301.4 Policy councils and policy committees.
1301.5 Impasse procedures.

Authority: 42 U.S.C. 9801 *et seq.*

§ 1301.1 In general.

An agency must establish and maintain a formal structure for program governance that includes a governing body and policy groups. Governing bodies have a legal and fiscal responsibility to administer and oversee the agency's Head Start and Early Head Start programs. Policy councils are responsible for the direction of the agency's Head Start and Early Head Start programs.

§ 1301.2 Training.

An agency must provide appropriate training and technical assistance or orientation to the governing body and any advisory committee members and the policy council, including training on program performance standards to ensure the members understand the information they receive and can effectively oversee and participate in the programs in the Head Start agency.

§ 1301.3 Governing body.

(a) *Composition.* The composition of a governing body must be in accordance with the requirements specified at section 642(c)(1)(B) of the Act, except where specific exceptions are authorized in the case of public entities at section 642(c)(1)(D) of the Act. Agencies must ensure members of the governing body do not have a conflict of interest, pursuant to section 642(c)(1)(C) of the Act.

(b) *Duties and responsibilities.* (1) The governing body is responsible for activities specified at section 642(c)(1)(E) of Act.

(2) The governing body must rely on ongoing monitoring results, school readiness goals, and information described at section 642(d)(2) of the Act to conduct its responsibilities.

(c) *Advisory committees.* A governing body may, at its own discretion, establish an advisory committee to oversee key responsibilities related to program governance, including supervision of program management, provided the governing body establishes written procedures that:

(1) Specify that the governing body retains legal and fiscal responsibility for the Head Start agency as required under section 642 (c)(1)(A) of the Act even if it establishes an advisory committee;

(2) Describe key responsibilities, specific duties, actions, and obligations the advisory committee must fulfill in overseeing responsibilities related to program governance;

(3) Specify how and with what frequency, but not less than twice a year, the advisory committee will keep the governing body apprised of its decisions related to program governance; and,

(4) Describe the membership of the advisory committee and the process for how members are selected, including requiring that members of the advisory committee meet the same composition requirements that apply to governing bodies in section 642(c)(1)(B) of the Act. Such procedures must prohibit any conflict of interest described in section 642(c)(1)(C). If a governing body intends to establish an advisory committee to oversee key responsibilities related to program governance, it must do so by written agreement and must notify the responsible HHS official by submission of such agreement prior to its effective date.

§ 1301.4 Policy councils and policy committees.

(a) *In general.* Each agency must establish and maintain a policy council responsible for the direction of the Head Start program at the agency level and a policy committee at the delegate level. If an agency has delegated operational responsibility for the entire Head Start or Early Head Start program to one delegate agency, the policy council and policy committee can be the same entity.

(b) *Composition.* A program must establish a policy council in accordance with section 642(c)(2)(B) of the Act, or a policy committee at the delegate level in accordance with section 642(c)(3) of the Act, as early in the program year as possible. Parents of children currently enrolled in a program option must be proportionately represented on policy groups. The program must ensure members of policy groups do not have a conflict of interest pursuant to sections 642(c)(2)(C) and 642(c)(3)(B) of the Act.

(c) *Duties and responsibilities.* (1) A policy council is responsible for activities specified at section 642(c)(2)(D) of the Act. A policy committee must approve and submit to the delegate agency its decisions in each of the following areas referenced at section 642(c)(2)(D)(i) through (vii) of the Act.

(2) A policy council, and a policy committee at the delegate level, must rely on ongoing monitoring results, school readiness goals, and information described in section 642(d)(2) of the Act to conduct its responsibilities.

(d) *Term.*(1) A member will serve for one year.

(2) If the member intends to serve for another year, s/he must stand for re-election.

(3) The policy group must include in its bylaws how many one-year terms, not to exceed five terms, a person may serve.

(4) A program cannot dissolve a policy group until a successor group is seated.

(e) *Reimbursement.* A program must enable low-income members to participate fully in their policy council or policy committee responsibilities by providing, if necessary, reimbursements for reasonable expenses incurred by the members.

§ 1301.5 Impasse procedures.

(a) Each agency's governing body and policy group jointly must establish written procedures for resolving internal disputes that include impasse procedures between the governing board and policy group.

(b) A program must establish and follow impasse procedures that:

(1) Demonstrate that the governing body considers recommendations from the policy group;

(2) Require the governing body to notify the policy group in writing why it does not accept a recommendation;

(3) Describe a process and a timeline to resolve issues and reach decisions that are not arbitrary, capricious, or illegal; and,

(4) Require the governing body to notify the policy group in writing of its final decision.

PART 1302—PROGRAM OPERATIONS

Sec.
1302.1 Overview.

Subpart A—Eligibility, Recruitment, Selection, Enrollment, and Attendance

1302.10 In general.
1302.11 Determining community strengths and needs.
1302.12 Determining, verifying, and documenting eligibility.
1302.13 Recruitment of children.
1302.14 Selection process.
1302.15 Enrollment.
1302.16 Attendance.
1302.17 Suspension and expulsion.
1302.18 Fees.

Subpart B—Program Structure

1302.20 In general.
1302.21 Center-based option.
1302.22 Home-based option.
1302.23 Family child care option.
1302.24 Locally-designed program option variations.

Subpart C—Education and Child Development Program Services

1302.30 In general.
1302.31 Teaching and the learning environment.
1302.32 Curriculum.
1302.33 Child screenings and assessments.
1302.34 Parent involvement.
1302.35 Education in home-based programs.

Subpart D—Health Program Services

1302.40 In general.
1302.41 Collaboration and communication with parents.
1302.42 Child health status and care.
1302.43 Tooth brushing.
1302.44 Child nutrition.
1302.45 Child mental health.
1302.46 Family support services for health, nutrition, and mental health.
1302.47 Safety practices.

Subpart E—Family & Community Partnership Program Services

1302.50 In general.
1302.51 Parent activities to promote child learning and development.
1302.52 Family partnership services.
1302.53 Community partnerships.

Subpart F—Additional Services for Children With Disabilities

1302.60 In general.
1302.61 Additional services for children.
1302.62 Additional services for parents.
1302.63 Coordination and collaboration with the local agency responsible for implementing the IDEA.

Subpart G—Transition Services

1302.70 Transitions from Early Head Start.
1302.71 Transitions from Head Start to kindergarten.
1302.72 Transitions between programs.

Subpart H—Services to Enrolled Pregnant Women

1302.80 Enrolled pregnant women.
1302.81 Prenatal and postpartum services.
1302.82 Family partnership services for enrolled pregnant women.

Subpart I—Human Resources Management

1302.90 Personnel policies.
1302.91 Staff qualification requirements.
1302.92 Training and professional development.
1302.93 Staff health and wellness.
1302.94 Volunteers.

Subpart J—Program Management and Quality Improvement

1302.100 In general.
1302.101 Management system.
1302.102 Achieving program performance goals.
1302.103 Implementation of program performance standards.

Authority: 42 U.S.C. 9801 *et seq.*

§ 1302.1 Overview.

(a) Section 645 of the Act directs the Secretary to prescribe by regulation who is eligible to participate in Head Start programs. Section 645A gives the Secretary the authority to prescribe requirements for Early Head Start programs. Section 641A(a)(1) directs the Secretary of Health and Human Services to review and revise, as necessary, Head Start program performance standards including those standards related to health, parent involvement, nutritional and social services, transition activities and other services. This section was amended in 2007 to include ''scientifically based and developmentally appropriate education performance standards related to school readiness that are based on the Head Start Child Outcomes Framework.'' The section further requires the Office of Head Start to include standards for management, conditions for facilities, and any other standards the Secretary determines. The section requires that revisions do not result in the elimination of or any reduction in quality, scope or types of services required by the 2007 amendments.

(b) This part implements these statutory requirements by describing all of the program performance standards which are required to operate Head Start, Early Head Start, American Indian/Alaska Native and Migrant and Seasonal Head Start programs. The part covers the full range of operations from enrolling eligible children and providing program services to those children and their families, to managing programs to ensure staff are qualified and supported to effectively provide services. This part also focuses on using data through ongoing program improvement to ensure high quality service. As required in the Act, these provisions do not narrow the scope or quality of services covered in previous regulations. Instead, these regulations raise the quality standard to reflect science and best practices, and streamline and simplify requirements so programs can better understand what is required for quality services.

Subpart A—Eligibility, Recruitment, Selection, Enrollment, and Attendance

§ 1302.10 In general.

This subpart describes requirements of prospective grantees for determining community needs and recruitment areas. It contains requirements and procedures for the eligibility determination, recruitment, selection, enrollment and attendance of children and explains the policy concerning the charging of fees.

§ 1302.11 Determining community strengths and needs.

(a) *Service area.* (1) A program must propose a service area in the grant application and define the area by county or sub-county area, such as a municipality, town or census tract or jurisdiction of a federally recognized Indian reservation.

(i) A tribal program may propose a service area that includes areas where members of Indian tribes or those eligible for such membership reside, including but not limited to Indian reservation land, areas designated as near-reservation by the Bureau of Indian Affairs (BIA) provided that the service area is approved by the tribe's governing

council, Alaska Native Villages, Alaska Native Regional Corporations with land-based authorities, Oklahoma Tribal Statistical Areas, and Tribal Designated Statistical Areas where federally recognized Indian tribes do not have a federally established reservation.

(ii) If the tribe's service area includes any land-base specified in paragraph (a)(1)(i) of this section, and that area is also served by another program, the tribe may serve children from families who are members of or eligible to be members of such tribe and who reside in such areas as well as children from families who are not members of the tribe, but who reside within the tribe's established land-base.

(2) If a program decides to change the service area after ACF has approved its grant application, the program must submit to ACF a new service area proposal.

(b) *Community assessment.* (1) To design a program that meets community needs, a program must conduct a community assessment at least once over the 5-year grant period. The community assessment must include current service area estimates of:

(i) Eligible infants, toddlers, preschool age children, and expectant mothers, including their geographic location, race, ethnicity, and languages they speak;

(ii) Families with young children experiencing homelessness;

(iii) Young children in foster care;

(iv) Other child development, child care centers, and family child care programs that serve eligible children, including home visiting, publicly funded state and local preschools, and the approximate number of eligible children served;

(v) Typical work, school, and training schedules of parents with eligible children;

(vi) Children with disabilities, four years old or younger, including types of disabilities and relevant services and resources provided to these children by community agencies;

(vii) The education, health, nutrition and social service needs of eligible children and their families; and,

(viii) Resources that are available in the community to address the needs of eligible children and their families.

(2) A program must annually review and update the community assessment to reflect any significant changes including increased availability of publicly-funded full-day pre-kindergarten, rates of family and child homelessness, and significant shifts in community demographics.

(3) A program must consider whether the characteristics of the community allow it to operate classrooms that include children from diverse economic backgrounds, in addition to the program's eligible funded enrollment.

§ 1302.12 Determining, verifying, and documenting eligibility.

(a) *Process overview.* (1) Program staff must:

(i) Conduct an in-person interview with each family, unless paragraph (a)(2) of this section applies;

(ii) Verify information as required in paragraphs (h) through (i) of this section; and,

(iii) Create an eligibility determination record for enrolled participants according to paragraph (k) of this section.

(2) Program staff may interview the family over the telephone if an in-person interview is not possible. In addition to meeting the criteria provided in paragraph (a)(1) of this section, program staff must note in the eligibility determination record reasons why the in-person interview was not possible.

(3) If a program has an alternate method to reasonably determine eligibility based on its community assessment, geographic and administrative data, or from other reliable data sources, it may petition the responsible HHS official to waive requirements in paragraphs (a)(1)(i) and (ii).

(b)*Age requirements.* (1) For Early Head Start, except when the child is transitioning to Head Start, a child must be an infant or a toddler younger than three years old.

(2) For Head Start, a child must:

(i) Be at least three years old or, turn three years old by the date used to determine eligibility for public school in the community in which the Head Start program is located; and,

(ii) Be no older than the age required to attend school.

(3) For Migrant or Seasonal Head Start, a child must be younger than compulsory school age by the date used to determine public school eligibility for the community in which the program is located.

(c) *Eligibility requirements.* (1) A pregnant woman or a child is eligible if:

(i) The family's income is equal to or below the poverty line; or

(ii) The family is eligible for or, in the absence of child care, would be potentially eligible for public assistance; or

(iii) The child is homeless, as defined in part 1305 of this chapter; or

(iv) The child is in foster care.

(2) If the family does not meet a criterion under paragraph (c)(1) of this section, a program may enroll a pregnant woman or a child who would benefit from services, provided that these participants only make up to 10 percent of a program's enrollment in accordance with paragraph (d) of this section.

(d) *Additional allowances for programs.* (1) A program may enroll an additional 35 percent of participants whose families do not meet a criterion described in paragraph (c) of this section and whose incomes are below 130 percent of the poverty line, if the program:

(i) Establishes and implements outreach, and enrollment policies and procedures to ensure it is meeting the needs of eligible pregnant women, children, and children with disabilities, before serving ineligible pregnant women or children; and,

(ii) Establishes criteria that ensure eligible pregnant women and children are served first.

(2) If a program chooses to enroll participants who do not meet a criterion in paragraph (c) of this section, and whose family incomes are between 100 and 130 percent of the poverty line, it must be able to report to the Head Start regional program office:

(i) How it is meeting the needs of low-income families or families potentially eligible for public assistance, homeless children, and children in foster care, and include local demographic data on these populations;

(ii) Outreach and enrollment policies and procedures that ensure it is meeting the needs of eligible children or pregnant women, before serving over-income children or pregnant women;

(iii) Efforts, including outreach, to be fully enrolled with eligible pregnant women or children;

(iv) Policies, procedures, and selection criteria it uses to serve eligible children;

(v) Its current enrollment and its enrollment for the previous year;

(vi) The number of pregnant women and children served, disaggregated by whether they are eligible or meet the over-income requirement in paragraph (c)(2) of this section; and,

(vii) The eligibility criteria category of each child on the program's waiting list.

(e) *Additional allowances for Indian tribes.* (1) Notwithstanding paragraph (c)(2) of this section, a tribal program may fill more than 10 percent of its enrollment with participants who are not otherwise eligible, if:

(i) The program has served all eligible pregnant women or children who wish to be enrolled from Indian and non-Indian families living within the land-base of the tribal agency;

(ii) The program has served all eligible Indian pregnant women or children who wish to be enrolled residing in the program's approved service area;

(iii) The tribe has resources within its grant, without using additional funds from HHS intended to expand Early Head Start or Head Start services, to enroll pregnant women or children whose family incomes exceed low-income guidelines or who are not categorically eligible; and,

(iv) At least 51 percent of the program's participants meet an eligibility criterion under paragraph (c) of this section.

(2) If another program does not serve a non-reservation area, the program must serve all eligible Indian and non-Indian pregnant women or children who wish to enroll before serving over-income pregnant women or children.

(3) A program that meets the conditions of this paragraph must annually set criteria that are approved by the policy council and the tribal council for selecting over-income pregnant women or children who would benefit from program services.

(4) An Indian tribe or tribes that operates both an Early Head Start program and a Head Start program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian tribe or tribes during a year may not serve as a basis for any reduction of the base grant for either program in succeeding years.

(f) *Migrant or Seasonal eligibility requirements.* A child is eligible for Migrant or Seasonal Head Start, if the family meets an eligibility criterion in paragraph (c) of this section; or, the family meets a categorical requirement in paragraph (d) of this section; and the family's income comes primarily from agricultural work.

(g) *Eligibility requirements for communities with 1,000 or fewer individuals.* (1) A program may establish its own criteria for eligibility provided that it meets the criteria outlined in section 645(a)(2) of the Act.

(2) No child residing in such community whose family is eligible under criteria described in paragraphs (c) through (f) of this section, may be denied an opportunity to participate in the program under the eligibility criteria established under this paragraph.

(h) *Verifying age.* Program staff must verify a child's age according to program policies and procedures. A program's policies and procedures cannot require staff to collect documents that confirm a child's age, if doing so creates a barrier for the family to enroll the child.

(i) *Verifying eligibility.* (1) To verify eligibility based on income, program staff must use tax forms, pay stubs, or other proof of income to determine the family income for the relevant time period.

(i) If the family cannot provide all tax forms, pay stubs, or other proof of income for the relevant time period, program staff may accept written statements from employers for the relevant time period and use information provided to calculate total annual income with appropriate multipliers.

(ii) If the family reports no income for the relevant time period, a program may accept the family's signed declaration to that effect, if program staff describes efforts made to verify the family's income, and explains how the family's total income was calculated or seeks information from third parties about the family's eligibility, if the family gives written consent. If a family gives consent to contact third parties, program staff must adhere to program safety and privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2) of this section.

(iii) If the family can demonstrate a significant change in income for the relevant time period, program staff may consider current income circumstances.

(2) To verify whether a family is eligible for, or in the absence of child care, would be potentially eligible for public assistance, the program must have documentation from either the state, local, or tribal public assistance agency that shows the family either receives public assistance or that shows the family is potentially eligible to receive public assistance.

(3) To verify whether a family is homeless, a program may accept a written statement from a homeless services provider, school personnel, or other service agency attesting that the child is homeless or any other documentation that indicates homelessness, including documentation from a public or private agency, a declaration, information gathered on enrollment or application forms, or notes from an interview with staff to establish the child is homeless, as defined in § 1305.2 of this chapter; or any other document that establishes homelessness.

(i) If a family can provide one of the documents described in paragraph (i)(1) of this section, program staff must described efforts made to verify the accuracy of the information provided and, states whether the family is categorically eligible.

(ii) If a family cannot provide one of the documents described in paragraph (i)(5) of this section to prove the child is homeless, a program may accept the family's signed declaration to that effect, if, in a written statement, program staff:

(A) Describe the efforts made to verify that a child is homeless, as defined in part1305 of this chapter; and,

(B) Describe the child's living situation, including the specific condition described in § 1305.2 of this chapter under which the child was determined to be homeless.

(iii) Program staff may seek information from third parties who have first-hand knowledge about a family's living situation, if the family gives written consent. If the family gives consent to contact third parties, program staff must adhere to program privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2)(i)(B) of this section.

(4) To verify whether a child is in foster care, program staff must accept either a court order or other legal or government-issued document, a written statement from a government child welfare official that demonstrates the child is in foster care, or proof of a foster care payment.

(j) *Eligibility duration.* (1) If a child is determined eligible under this section and is participating in a Head Start program, he or she will remain eligible through the end of the succeeding program year except that the Head Start program may choose not to enroll a child when there are compelling reasons for the child not to remain in Head Start, such as when there is a change in the child's family income and there is a child with a greater need for Head Start services.

(2) Children who are enrolled in a program receiving funds under the authority of section 645A of the Act remain eligible while they participate in the program.

(3) If a child moves from an Early Head Start program to a Head Start program, program staff must verify the family's eligibility again.

(4) If a program operates both an Early Head Start and a Head Start program, and the parents wish to enroll their child who has been enrolled in the program's Early Head Start, the program must ensure, whenever possible, the child receives Head Start services until enrolled in school.

(k) *Records.* (1) A program must keep eligibility determination records for each participant and ongoing training records for program staffs. A program may keep these records electronically.

(2) Each eligibility determination record must include:

(i) Copies of any documents or statements, including declarations, that are deemed necessary to verify eligibility under paragraphs (h) and (i) of this section;

(ii) A statement that program staff has made reasonable efforts to verify information by:

(A) Conducting either an in-person, or a telephonic interview with the family as described under paragraph (a) of this section; and

(B) Describing efforts made to verify eligibility, as required under paragraphs (h) through (i) of this section; and, collecting documents required for third party verification that includes the family's written consent to contact each third party, the third parties' names, titles, and affiliations, and information from third parties regarding the family's eligibility.

(iii) A statement that identifies whether:

(A) The family's income is below income guidelines for its size, and lists the family's size;

(B) The family is eligible for or, in the absence of child care, potentially eligible for public assistance;

(C) The child is a homeless child, as defined at part 1305 of this chapter including the specific condition described in part 1305 under which the child was determined to be homeless, or the child is in foster care;

(D) The family meets the over-income requirement in paragraph (c)(2) of this section; or

(E) The family meets alternative criteria under paragraph (d) of this section.

(3) A program must keep eligibility determination records for those currently enrolled, as long as they are enrolled, and, for one year after they have either stopped receiving services; or are no longer enrolled.

(l) *Program policies and procedures on violating eligibility determination regulations.* A program must establish policies and procedures that describe all actions taken against staff who intentionally violate federal and program eligibility determination regulations and who enroll pregnant women and children that are not eligible to receive Early Head Start or Head Start services.

(m) *Training.* (1) A program must train all governing body, policy council, management, and staff who determine eligibility on applicable federal regulations and program policies and procedures. Training must, at a minimum:

(i) Include methods on how to collect complete and accurate eligibility information from families and third party sources;

(ii) Incorporate strategies for treating families with dignity and respect and for dealing with possible issues of domestic violence, stigma, and privacy; and,

(iii) Explain program policies and procedures that describe actions taken against staff, families, or participants who attempt to provide or intentionally provide false information.

(2) A program must train management and staff members who make eligibility determinations within 90 days following the effective date of this rule, and as soon as possible, but within 90 days of hiring new staff after the initial training has been conducted.

(3) A program must train all governing body and policy council members within 180 days following the effective date of this rule, and within 180 days of the beginning of the term of a new governing body or policy council member after the initial training has been conducted.

(4) A program must develop policies on how often training will be provided after the initial training.

§ 1302.13 Recruitment of children.

In order to reach those most in need of services, a program must develop and implement a recruitment process designed to actively inform all families with eligible children within the recruitment area of the availability of program services, encourage and assist them in applying for admission to the program, and include specific efforts to actively locate and recruit children with disabilities.

§ 1302.14 Selection process.

(a) *Selection criteria.* (1) A program must annually establish selection criteria that weighs the prioritization of selection of participants, based on community needs identified in the community needs assessment as described in § 1302.11(b), and including family income, whether the child is homeless, whether the child is in foster care, the child's age, whether the child is eligible for special education and related services, or early intervention services, as appropriate, as determined under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*) and, other relevant family or child risk factors.

(2) If a program serves migrant or seasonal families, it must select participants according to criteria in paragraph (a)(1) of this section, and give priority to children whose families can demonstrate they have relocated frequently within the past two-years to pursue agricultural work.

(3) If a program operates in a service area with high quality publicly funded pre-kindergarten that is available for a full school day, the program must prioritize child age to serve younger children.

(4) A program must not deny enrollment based on a disability or chronic health condition or its severity.

(b) *Children eligible for IDEA services.* (1) A program must ensure at least 10 percent of its total enrollment is children eligible for IDEA services, unless the responsible HHS official grants a waiver.

(2) If the requirement in paragraph (b)(1) of this section has been met, children eligible for IDEA services should be prioritized for the available slots in accordance with the program's selection criteria.

(c) *Waiting lists.* A program must develop at the beginning of each enrollment year and maintain during the year a waiting list that ranks children according to the program's selection criteria.

§ 1302.15 Enrollment.

(a) *Funded enrollment.* A program must maintain its funded enrollment level and fill any vacancy within 30 days.

(b) *Continuity of enrollment.* (1) A program must make efforts to maintain enrollment of eligible children for the following year.

(2) Children who are enrolled in a program receiving funds under the authority of section 645A of the Act remain income eligible while they participate in the program. When a child moves from a program serving infants and toddlers to a Head Start program serving children age three and older, the program must verify family income again.

(3) Under exceptional circumstances, a program may maintain a child's enrollment for a third year, provided that family income is verified again.

(4) If a program serves homeless children or children in foster care, it must make efforts to maintain the child's enrollment regardless of whether the family or child moves to a different service area, or transition the child to a program in a different service area, as required in § 1302.72(b), according to the family's needs.

(c) *Reserved slots.* If a program determines from the community assessment there are families experiencing homelessness in the area, or children in foster care that could benefit from services, the program may reserve one or more enrollment slots for pregnant women and children experiencing homelessness and children in foster care, when a vacancy occurs. No more than 3 percent of a program's funded enrollment slots may be reserved. If the reserved enrollment slot is not filled within 30 days, the enrollment slot becomes vacant and then must be filled within 30 days in accordance with paragraph (a) of this section.

(d) *Other enrollment.* A program should consider whether it is feasible to enroll children from diverse economic backgrounds who would be funded from other sources that include private pay, in addition to the program's eligible funded enrollment.

(e) *State immunization enrollment requirements.* A program must comply with state immunization enrollment and attendance requirements, with the exception of homeless children as described in § 1302.16(c)(1).

§ 1302.16 Attendance.

(a) *Promoting regular attendance.* A program must track attendance for each child.

(1) If a child is unexpectedly absent and a parent has not contacted the program within 1 hour of program start time, the program must contact the parent to ensure the child is safe.

(2) If a child has four or more consecutive unexcused absences or is frequently absent program staff must conduct a home visit or other direct contact with the child's parents to emphasize the benefits of regular attendance, while at the same time remaining sensitive to family circumstances, and, provide support services, as necessary, to promote the child's regular attendance.

(3) If a child ceases to attend a program and the program is either unable to contact the child's family and the program makes appropriate effort, as described in paragraph (a)(2) of this section, and the child's attendance does not resume, then the program must consider that slot vacant. This action is not considered expulsion as described in § 1302.17.

(b) *Managing systematic program attendance issues.* If a program's monthly average daily attendance rate falls below 85 percent, the program must analyze the causes of absenteeism to identify any systematic issues that contribute to the program's absentee rate. The program must use this data to make necessary changes in a timely manner as part of ongoing oversight and correction as described in § 1302.102(b) and inform its continuous improvement efforts as described in § 1302.102(c).

(c) *Supporting attendance of homeless children.* (1) If a program determines a child is categorically eligible under § 1302.12(c)(1)(iii), it must allow the child to attend for up to 90 days, without immunization and other medical records, proof of residency, birth certificates, or other documents to give the family reasonable time to present these documents.

(2) If a child experiencing homelessness is unable to attend classes regularly because the family does not have transportation to and from the program facility, the program must utilize community resources, where possible, to provide transportation for the child.

§ 1302.17 Suspension and expulsion.

(a) *Limitations on suspension.* (1) A program must prohibit or severely limit the use of suspension.

(2) Temporary suspensions for challenging behavior must only be used as a last resort in extraordinary circumstances where there is a serious safety threat that cannot be reduced or eliminated by the provision of reasonable modifications.

(3) When a temporary suspension is deemed necessary, a program must engage a mental health consultant, collaborate with parents, and utilize appropriate community resources, as needed, to help the child return to full participation in all program activities, as quickly as possible while ensuring child safety.

(b) Prohibition on expulsion. (1) A program cannot expel or unenroll children from Head Start because of a child's behavior.

(2) When children exhibit persistent and serious challenging behaviors, a program must employ exhaustive steps to address such problems, and facilitate the child's safe participation in the program. Such steps must be guided by the program's mental health consultant and, at a minimum, engage a mental health consultant as described in § 1302.45(b), and include consultation with the parents and with the child's physician, and if the child:

(i) Has an IFSP or IEP, the program must consult with the agency responsible for the IFSP or IEP to ensure that the child receives the needed support services; or,

(ii) Does not have an IFSP or IEP, the program must collaborate, with parental consent, with the local agency responsible for administering IDEA to determine the child's eligibility for services.

(3) If, after completing the exhaustive steps described in paragraph (b)(2) of this section, a program, in consultation with the parents, the child's physician, the agency responsible for IDEA, and the mental health consultant, determines that the child's continued enrollment presents a continued serious safety threat to the child or other enrolled children and determines the program is not the most appropriate placement for the child, the program must work with such entities to directly facilitate the transition of such child to a more appropriate placement.

(c) *Voluntary parent participation.* Parent participation in any program activity is voluntary, including consent for data sharing, and not required as a condition of the child's enrollment.

§ 1302.18 Fees.

(a) *Policy on fees.* A program must not charge eligible families a fee to participate in Head Start, and cannot in any way condition an eligible child's enrollment or participation in the program upon the payment of a fee.

(b) *Allowable fees.* (1) A program can accept a fee from eligible families for hours that extend beyond the Head Start funded day.

(2) In order to support programs serving children from diverse economic backgrounds or using multiple funding sources, including private pay, a program may charge a fee to families who are not part of the Head Start funded enrollment.

(3) A program may use other funding sources for the provision of services under Part C of the IDEA that are not part of the Early Head Start or Head Start services, consistent with the State's system of payments on file under 34 CFR part 300.

Subpart B—Program Structure

§ 1302.20 In general.

(a) *Choose a program option.* (1) A program must choose to operate one or more of the following program options: center-based, home-based for Early Head Start programs, family child-care, or an approved locally-designed variation as described in § 1302.24. The program option(s) chosen must meet the needs of children and families based on the community assessment described in § 1302.11(b). Existing programs must annually consider whether they would better meet local needs through conversion of existing part-day slots to full-day or full-working day slots, extending services to a full calendar

year, or conversion of existing preschool slots to Early Head Start slots as described in paragraph (c) of this section.

(2) To develop a program calendar, a program must consider options that would allow it to operate for the full year, promote continuity of care and services, and meet child and family needs identified in the community assessment.

(3) A program must work to identify alternate sources to support extended hours. If no additional funding is available, program resources may be used.

(b) *Comprehensive services.* All program options must deliver the full range of services, as described in subparts C, D, E, F, and G of this part, except that §§ 1302.30 through 1302.32 and § 1302.34 do not apply to home-based options.

(c) *Conversion.* (1) Consistent with section 645(a)(5) of the Head Start Act, grantees may request to convert Head Start slots to Early Head Start slots through the re-funding application process or as a separate grant amendment.

(2) Any grantee proposing a conversion of Head Start services to Early Head Start services must obtain governing body approval and submit the request to their Regional Office.

(3) With the exception of American Indian and Alaska Native grantees as described in paragraph (c)(4) of this section, the request to the Regional Office must include:

(i) A grant application budget and a budget narrative that clearly identifies the funding amount for the Head Start and Early Head Start programs before and after the proposed conversion;

(ii) The results of the community needs assessment demonstrating how the proposed used of funds would best meet the needs of the community, including a description of how the needs of eligible Head Start children will be met in the community when the conversion takes places;

(iii) A revised program schedule that describes the program option(s) and the number of funded enrollment slots for Head Start and Early Head Start programs before and after the proposed conversion;

(iv) A description of how the needs of pregnant women, infants, and toddlers will be addressed;

(v) A discussion of the agency's capacity to carry out an effective Early Head Start program in accordance with the requirements of section 645A(b) of the Head Start Act and all applicable regulations;

(vi) Assurances that the agency will participate in training and technical assistance activities required of all Early Head Start grantees;

(vii) A discussion of the qualification and competencies of the child development staff proposed for the Early Head Start program, as well as a description of the facilities and program infrastructure that will be used to support the new or expanded Early Head Start program;

(viii) A discussion of any one-time funding necessary to implement the proposed conversion and how the agency intends to secure such funding; and

(ix) The proposed timetable for implementing this conversion.

(4) Consistent with section 645(d)(3) of the Act, any American Indian and Alaska Native grantees operating both an Early Head Start program and a Head Start program may reallocate funds between the programs at its discretion and at any time during the grant period involved, in order to address fluctuations in client populations. Any American Indian and Alaska Native grantee that exercises this discretion must notify the Regional Office prior to the effective date of such reallocation.

§ 1302.21 Center-based option.

(a) *Setting.* The center-based option provides education and early childhood development services to children primarily in classroom settings.

(b) *Ratios and class size.* (1) Staff-child ratios and class size maximums must be determined by the age of the majority of children and the needs of children present. A program must determine the age of the majority of children in a classroom at the start of the year. A program may use their judgment as to whether this determination should be adjusted during the program year. Where state or local licensing requirements are more stringent than the teacher-child ratios and class size specifications in this section, a program must meet the stricter requirements. Programs must maintain appropriate ratios during all hours of program operation.

(2) A classroom that serves children under 36 months old, must have no more than 8 children and have two teachers. Each teacher must be assigned consistent, primary responsibility for no more than four children to promote continuity of care for individual children. Programs must minimize teacher changes throughout a child's enrollment, whenever possible, and consider mixed age group classrooms to support continuity of care.

(3) A classroom that serves a majority of children who are three years old must have no more than 17 children and a teacher and teaching assistant or two teachers.

(4) A classroom that serves a majority of children, four and five years old, must have no more than 20 children and a teacher and a teaching assistant or two teachers.

TABLE TO § 1302.21(b)—RATIOS AND CLASS SIZE

4 and 5 year olds.	No more than 20 children enrolled in any class.
3 year olds	No more than 17 children enrolled in any class.
Under 3 year olds.	No more than 8 children enrolled in any class.

(c) *Service*—(1) *Days per year.* At a minimum, a program that serves preschool age children must offer no less than 180 days of planned operation per year, and Early Head Start programs must offer no less than 230 days of planned operation per year. A program must:

(i) Plan their year using a reasonable estimate of the number of days during a year that classes may be closed due to problems such as inclement weather, based on their experience in previous years; and,

(ii) Make every effort to schedule makeup days using existing resources if days of planned operation fall below the number required per year.

(2) *Exemption for Migrant or Seasonal Head Start programs.* A Migrant or Seasonal program is not subject to the requirement for a minimum number of days of planned operation per year, but must make every effort to provide as many days of service as possible to each child and family.

(3) *Hours per day.* A program must offer a minimum of six hours of operation per day but is encouraged to offer longer service days if it meets the needs of children and families.

(d) *Licensing and square footage requirements.* (1) The facilities used by a program must meet state, tribal, or local licensing requirements. When state, tribal, or local requirements vary from Head Start requirements, the most stringent provision takes precedence.

(2) A center-based program must have at least 35 square feet of usable indoor space per child available for the care and use of children (exclusive of bathrooms, halls, kitchen, staff rooms, and storage places) and at least 75 square feet of usable outdoor play space per child.

§ 1302.22 Home-based option.

(a) *Setting.* The home-based option delivers education and early childhood development services, consistent with § 1302.20(b), through visits with the child's parents, primarily in the child's home and provides group socialization opportunities in a Head Start classroom, community facility, home, or on field trips. The home-based option is only a standard program option for children under 36 months of age. When serving children 36 months and older in the home-based option would better meet a community's need, programs can apply to operate a locally designed option.

(b) *Caseload.* A program that implements a home-based option must maintain an average caseload of 10 to 12 families per home visitor with a maximum of 12 families for any individual home visitor. Programs must maintain appropriate ratios during all hours of program operation.

(c) *Service duration.* A program that implements a home-based option must:

(1) Provide one home visit per week per family that lasts at least an hour and a half and provide a minimum of 46 visits per year;

(2) Provide, at a minimum, two group socialization activities per month for each child, with a minimum of 22 group socialization activities each year;

(3) Make up planned home visits or scheduled group socialization activities that were canceled by the program when this is necessary to meet the minimums stated above; and,

(4) Not replace home visits or scheduled group socialization activities for medical or social service appointments for the purposes of meeting the minimum requirements described in this paragraph (c).

(d) *Licensing requirements.* The facilities used for group socializations in the home-based option must meet state, tribal, or local licensing requirements. When state, tribal or local requirements vary from Head Start requirements, the most stringent provision applies.

§ 1302.23 Family child care option.

(a) *Setting.* The family child care program option provides a full range of education and early childhood development services, described in subparts C, D, E, F, and G of this part, primarily by a family child care provider to provide services in their home or other family-like setting. A program may choose to offer the family child care option if:

(1) The program is the employer of the family child care provider or the program has a legally binding agreement with the family child care provider that clearly defines the provider's roles and responsibilities to ensure that children and families enrolled in this option receive the full range of services described in subparts C, D, E, F, and G of this part; and,

(2) The program ensures there are family child care homes available that are accessible and can serve children with disabilities and parents with disabilities, as appropriate.

(b) *Ratios and group size.* (1) A program that operates the family child care option, where Head Start children are enrolled, must ensure group size does not exceed the limits specified in this section. If the family child care provider's own children under the age of 6 are present, they must be included in the group size.

(2) When there is one family child care provider, the maximum group size is six children and no more than two of the six may be under two years of age. When there is a provider and an assistant, the maximum group size is twelve children with no more than four of the twelve children under two years of age.

(3) One family child care provider may care for up to four infants and toddlers, with no more than two of the four children under the age of 18 months.

(4) Programs must maintain appropriate ratios during all hours of program operation.

(c) *Service duration.* Whether family child care option services are provided directly or via contractual arrangement, a program must ensure that family child care providers operate sufficient hours to meet the child care needs of families and at a minimum, offer planned Head Start or Early Head Start class operations at least six hours each day and for a minimum of 230 days per year for children in Early Head Start and at least six hours each day and for a minimum of 180 days to children over 36 months old. A migrant or seasonal program is not subject to the requirement for a minimum number of days of planned operation per year, but must make every effort to provide as many days of service as possible to each child or family.

(d) *Licensing requirements.* A family child-care provider must be licensed by the state, tribal, or local entity to provide services in their home or family like setting. When state, tribal, or local requirements vary from Head Start requirements, the most stringent provision applies.

(e) *Child development specialist.* A program that offers the family child care option must provide a child development specialist to support family child care providers and ensure the provision of quality services at each family child care home. Child development specialists must:

(1) Conduct regular visits to each home, some of which are unannounced, not less than once every two weeks;

(2) Periodically verify compliance with either contract requirements or agency policy;

(3) Facilitate ongoing communication between program staff, family child care providers, and enrolled families; and,

(4) Provide recommendations for technical assistance and support the family child care provider in developing relationships with other child care professionals.

§ 1302.24 Locally-designed program option variations.

(a) *In general.* Programs may request to operate a locally-designed program option that innovates to meet the unique needs of their communities or to demonstrate or test alternative approaches for providing program services. In order to operate a locally-designed program option, programs must seek a waiver as detailed in paragraph (c), must comply with the requirements of paragraphs (b) and (c) of this section, and must deliver the full range of services, as described in subparts C, D, E, F, and G of this part.

(b) *Request for approval.* A request for operating a locally-designed variation must be approved by the responsible HHS official every two years. Such approval may be revoked based on ongoing assessment and monitoring as described in subpart J of this part.

(c) *Waiver requirements.* (1) The responsible HHS official may waive one or more of the requirements contained in §§ 1302.21 through 1302.23, including service duration, ratios and group size, and caseload, with the exception of licensing, square footage and ratios for children under 24 months requirements, for a program seeking to provide a locally-designed variation, including a combination of program options, consistent with the minimums described in section 640(k)(1) of the Act for center-based programs. In order to receive a waiver, a program must demonstrate that the locally-designed variation effectively supports appropriate skill development and progress in the goals described in the Head Start Early Learning Outcomes Framework (Birth-5) and provide supporting evidence that demonstrates:

(i) The locally-designed variation better meets the needs of the community than the other options described in §§ 1302.21 through 1302.23; or,

(ii) The locally-designed variation better supports continuity of care for individual children.

(2) Locally-designed variations providing a double-session model that are approved under paragraph (c)(1) of this section must:

(i) Limit group size for three year olds to no more than 15 children and employ at least one teacher and teacher's assistant or two teachers;

(ii) Limit group size for four and five year olds to no more than 17 children and employ at least one teacher and a teacher's assistant or two teachers; and,

(iii) Operate for at least three and a half hours per session.

(3) Locally-designed variations providing a home-based option for children at least 36 months of age that are approved under paragraph (c)(1) of this section must comply with § 1302.22(d) and:

(i) Provide one home visit per family that lasts at least an hour and a half and provide a minimum of 36 visits per year; and,

(ii) Provide, at a minimum, two group socializations per month for each family with a minimum of 18 group socialization activities each year.

Subpart C—Education and Child Development Program Services

§ 1302.30 In general.

A center-based or family child care program must provide high quality education and child development services, including for children with disabilities, that promote children's cognitive, social, and emotional growth for later success in school. A program must embed positive and effective teacher-child interactions, a research-based curriculum, and screening and assessment procedures that support individualization during the program year, and family engagement. A program must deliver developmentally, culturally, and linguistically appropriate learning experiences in language, literacy, mathematics, social and emotional functioning, approaches to learning, science, physical skills, and creative arts. To deliver such high quality education and child development services, a program must implement, at a minimum, the elements contained in §§ 1302.31 through 1302.34.

§ 1302.31 Teaching and the learning environment.

(a) *Teaching and the learning environment.* A center-based and family child care program must ensure teachers and other relevant staff provides an effective teaching and organized learning environment that promotes healthy development and children's skill growth aligned with the Head Start Early Learning Outcomes Framework (Birth-5), including for children with disabilities. A program must also support implementation of such environment with integration of regular and ongoing supervision and a system of individualized and ongoing professional development, as appropriate.

(b) *Effective teaching practices.* (1) A program must ensure teaching practices:

(i) Focus on promoting growth in the skill development described in the Head Start Early Learning Outcomes Framework (Birth-5) by using the Framework and the curricula to direct planning of organized activities, schedules, lesson plans, and the implementation of high quality early learning experiences that are sensitive to and build upon each child's individual pattern of development and learning;

(ii) Emphasize nurturing and responsive interactions and environments that foster trust and emotional security; are communication and language rich; promote critical thinking, problem-solving, social emotional, behavioral, and language development; provide supportive feedback for learning; motivate continued effort; and support all children's engagement in activities and learning;

(iii) Integrate child assessment data in individual and group planning; and,

(iv) Include developmentally appropriate learning experiences in language, literacy, social and emotional development, math, science, social studies, creative arts, and physical development that are focused toward achieving progress outlined in the Head Start Early Learning Outcomes Framework (Birth-5).

(2) For dual language learners, a program must recognize bilingualism as a strength and implement research-based teaching practices that support its development. These practices must include, to the extent possible:

(i) For an infant or toddler dual language learner, a program must ensure teaching practices that focus on the development of the home language, when there is a teacher with appropriate language competency, and provide experiences that expose the child to English; and

(ii) For a preschool age dual language learner, a program must ensure teaching practices that focus on both English language acquisition and the continued development of the home language.

(c) *Learning environment.* A program must ensure teachers implement well-organized classrooms with developmentally appropriate schedules, lesson plans, and indoor and outdoor learning experiences that provide adequate opportunities for choice, play, exploration, and experimentation among a variety of learning, sensory, and motor experiences and:

(1) For preschool age children, include teacher-directed and child-initiated activities, active and quiet learning activities, and opportunities for individual, small group, and large group learning activities; and,

(2) For infants and toddlers, promote relational learning and include individualized and small group activities that integrate appropriate daily routines into a flexible schedule of learning experiences.

(d) *Materials and space for learning.* To support implementation of the curriculum and the requirements described in paragraphs (a), (b), (c), and (e) of this section a program must provide age-appropriate equipment, materials, supplies and physical space for indoor and outdoor learning environments, including functional space. The equipment, materials and supplies must include any necessary accommodations and the space must be accessible to children with disabilities. Programs must change materials intentionally and periodically to support children's interests, development, and learning.

(e) *Promoting learning through approaches to rest, meals, and routines.* (1) A program must implement an intentional, age appropriate approach to accommodate children's need to nap or rest, and that, for preschool age children in a full-day program provides a regular time every day at which preschool age children are encouraged but not forced to rest or nap. A program must provide alternative quiet learning activities for children who do not need or want to rest or nap.

(2) A program must approach snack and meal times as learning opportunities that support staff-child interactions and foster conversations that contribute to a child's learning, development, and socialization. For bottle-fed infants, this approach must include holding infants during feeding to support socialization. This approach must also provide sufficient time for children to eat, not use food as reward or punishment, and not force children to finish their food.

(3) A program must approach routines, such as hand washing and diapering, and transitions between activities, as opportunities for

strengthening development, learning, and skill growth.

§ 1302.32 Curriculum.

(a) *Curriculum.* (1) Center-based and family child care programs must implement developmentally appropriate research-based early childhood curriculum, including additional curricular enhancements, as appropriate that:

(i) Is based on scientifically valid research and has standardized training procedures and curriculum materials to support implementation;

(ii) Is aligned with the Head Start Early Learning Outcomes Framework (Birth-5) and, as appropriate, state early learning and development standards; and,

(iii) Includes an organized developmental scope and sequence and is sufficiently content-rich within the Head Start Early Learning Outcomes Framework (Birth-5) to promote measurable progress toward development outlined in such Framework.

(2) A program must provide systemic and intensive support for appropriate staff through the system of training and professional development and supervision that ensures effective implementation of curriculum.

(3) A program must regularly monitor staff implementation of the curriculum and use the monitoring information to improve how effectively the curriculum is implemented.

(b) *Variation.* In order to better meet the needs of one or more specific populations, a program may choose to develop or significantly adapt a curriculum, such that it does not meet the requirements in paragraphs (a)(1)(iii) and (a)(3) of this section. If a program chooses to implement such a variation, it must work with early childhood education expert staff or consultants from a college, university, or a research organization, to develop and evaluate the effectiveness of the variation. Programs must report the use of such variations to the responsible HHS official. Programs must use the evaluation of effectiveness to determine the continued use of such variation, consistent with the process described in subpart J of this part.

§ 1302.33 Child screenings and assessment.

(a) *Screening.* (1) In collaboration with each child's parent and with parental consent, and within 45 calendar days of the child's entry into the program, a program must complete a developmental screening to identify concerns regarding a child's developmental, behavioral, motor, language, social, cognitive, and emotional skills. A program must use one or more research-based developmental standardized screening tools to complete the screening. A program must use as part of the screening additional information from family members, teachers, and relevant staff familiar with the child's typical behavior.

(2) With direct guidance from a mental health or child development professional, as appropriate, a program must promptly and appropriately address any needs identified through screening and additional relevant information through:

(i) Referrals to the local agency responsible for administering IDEA for formal evaluation to assess the child's eligibility for services under IDEA; and,

(ii) Partnership with the child's parents and the relevant local agency to ensure the formal evaluation is completed promptly.

(3) A program is not required to conduct the screening in paragraph (a)(1) of this section for children who have a current IFSP or IEP as long as the program has record of such IFSP or IEP.

(4) If a child is determined to be eligible for IDEA services, the program must partner with parents and the local agency responsible for implementing IDEA, as appropriate, and deliver the services in subpart F of this part.

(5) If, after the formal evaluation described in paragraph (a)(2)(i) of this section, the local agency responsible for implementing IDEA determines the child is not eligible for IDEA under the state definition, but the program determines, with guidance from mental health or child development professional, that the formal evaluation shows the child has a significant delay in one or more areas of development that are likely to interfere with the child's development and school readiness:

(i) The program must ensure appropriate staff partner with parents to meet the child's needs, including accessing needed services and supports; and,

(ii) Program funds may be used for such services and supports when no other sources of funding are available but programs must be able to demonstrate efforts were first made to access other available sources of funding.

(b) *Assessment for individualization.* (1) A program must conduct standardized and structured assessments for each child that provide ongoing information to evaluate the child's developmental level and progress in outcomes aligned to the goals described in the Head Start Early Learning Child Outcomes Framework. Such assessments must result in usable information for teachers, home visitors, and parents and be conducted with sufficient frequency to allow for individualization within the program year.

(2) A program must use information from paragraph (b)(1) of this section with informal teacher observations and additional information from family and staff, as relevant, to determine a child's strengths and needs, adjust strategies to better support individualized learning and improve classroom practices in center-based and family child care settings and improve home visit strategies in home based models.

(3) If warranted from the information gathered from paragraphs (b)(1) and (b)(2) of this section and with direct guidance from a mental health or child development professional, a program must refer the child to the local agency responsible for IDEA for a formal evaluation to assess a child's eligibility for IDEA services.

(c) *Characteristics of screenings and assessments.* (1) Screenings and assessments must be valid and reliable for the population and purpose for which they will be used, including by being conducted by qualified personnel, and being age, developmentally, culturally and linguistically appropriate; and appropriate for children with disabilities, as needed.

(2) If a program serves a child who speaks a language other than English, the program must:

(i) Conduct screenings and assessments in the language or languages that best capture the child's development and skills in the specific domain;

(ii) Assess language skills in English and the child's home language, to assess both the child's progress in the home language and in English language acquisition; and,

(iii) Ensure that those conducting the screening or assessment know and understand the child's language and culture and have sufficient skill level in the child's home language to accurately administer the screening or assessment and to record and understand the child's responses, interactions, and communications. If such a person is unavailable, or an interpreter needs to be used to conduct the screening or assessment, the program must use multiple sources of information, including speaking with the family, to best capture the child's development and skill level and progress.

(d) *Prohibitions on use of screening and assessment data.* The use of screening and assessment items and data on any screening or assessment authorized under this subchapter by any agent of the federal government is prohibited for the purposes of ranking, comparing, or otherwise evaluating individual children for purposes other than research, training, or technical assistance and is prohibited for the purposes of providing rewards or sanctions for individual children or teachers. A program must not use screening or assessments to exclude children from enrollment or participation.

§ 1302.34 Parent involvement.

(a) *In general.* Center-based and family child care programs must structure education and child development services to encourage parents to engage in their child's education.

(b) *Engaging parents and family members.* Such structure must include varied opportunities for parents and family members to be involved in a program's education services and implement policies to ensure:

(1) The program's settings are open to parents during all program hours;

(2) Teachers hold parent conferences, as needed, but no less than two times per program year, to enhance the knowledge and understanding of both staff and parents of the child's education and developmental progress and activities in the program;

(3) Parents and family members have the opportunity to learn about and to provide feedback on selected curricula and instructional materials used in the program;

(4) Parents and family members have opportunities to volunteer in the classroom and during group activities;

(5) Appropriate staff inform parents and family members, about the purposes of and the results from screenings and assessments and discuss their child's progress;

(6) Teachers, except those described in paragraph (b)(7) of this section, conduct two home visits annually with each family, including one before the program year begins, if feasible, to engage the family in the child's learning and development, except that such visits may take place at a program site or another safe location that affords privacy at the parent's request, or if a visit to the home presents significant safety hazards for staff; and,

(7) Teachers that serve migrant or seasonal families make every effort to conduct home visits to engage the family in the child's learning and development.

§ 1302.35 Education in home-based programs.

(a) *In general.* A home-based program must implement a research-based curriculum that delivers developmentally, linguistically, and culturally appropriate home visits and group socialization activities that support children's cognitive, social, and emotional growth for later success in school. Such visits and activities must promote secure parent-child relationships and help parents provide high quality learning experiences in language, literacy, mathematics, social and emotional development, approaches to learning, science, physical skills, and creative arts.

(b) *Home-based program design.* A home-based program must ensure that all home visits are:

(1) Planned jointly by the home visitor and parents, and reflect the critical role of parents in the early learning and development of their children;

(2) Planned using information from ongoing assessments that individualize learning experiences;

(3) Scheduled with sufficient time to serve all enrolled children in the home and conducted with parents and are not conducted when only babysitters or other temporary caregivers are present;

(4) Scheduled with sufficient time and appropriate staff to ensure effective delivery of services described in subparts D, E, F, and G of this part through home visiting, to the extent possible.

(c) *Home-based curriculum.* A program that operates the home-based option must:

(1) Ensure home-visiting and group socializations implement an evidence based curriculum that:

(i) Promotes the parent's role as the child's teacher through experiences focused on the parent-child relationship and, as appropriate, the family's traditions, cultural skills, values, and beliefs;

(ii) Aligns with the Head Start Early Learning Outcomes Framework (Birth-5) and, as appropriate, state early learning standards; and,

(iii) Includes organized developmental scope and sequence and is sufficiently content-rich within the Head Start Early Learning Outcomes Framework (Birth-5) to promote measurable progress toward goals outlined in the Framework;

(2) Provide systemic and intensive support for appropriate staff through training, professional development, and supervision to ensure effective implementation of the curriculum;

(3) Regularly monitor staff implementation of the curriculum and use the monitoring information to improve how effectively the curriculum is implemented; and,

(4) Provide parents with an opportunity to review selected curricula and instructional materials used in the program.

(5) In order to better meet the needs of one or more specific populations, a program may choose to develop or significantly adapt a home-based curriculum, such that it does not meet the requirements in paragraphs (c)(1)(iii) and (c)(3) of this section. If a program chooses to implement such a variation, it must work with early childhood education expert staff or consultants from a college, university, or a research organization, to develop and evaluate the effectiveness of the variation. Programs must report the use of such variations to the responsible HHS official. Programs must use the evaluation of effectiveness to determine the continued use of such variation, consistent with the process described in Subpart J.

(d) *Home visit experiences.* A program that operates the home-based option must ensure all home visits focus on promoting high quality early learning experiences in the home and growth towards the goals outlined in the Head Start Early Learning Outcomes Framework (Birth-5) and must use such goals and the curriculum to plan home visit activities that implement:

(1) Age and developmentally appropriate, structured child-focused learning experiences;

(2) Strategies and activities that promote parents' ability to support the child's cognitive, social, emotional, and physical development;

(3) Strategies and activities that promote the home as a learning environment that is safe, nurturing, responsive, and language- and communication- rich, and parents' ability to support children's language development and literacy skills;

(4) Research-based strategies and activities for children who are dual language learners that, to the extent possible:

(i) Focus on the development of the home or Native language, while providing experiences that expose both parents and children to English for infants and toddlers; and,

(ii) Focus on both English language acquisition and the continued development of the home or Native language for preschoolers receiving

homes-based services under a locally designed option; and,

(5) Follow-up with the families to discuss learning experiences provided in the home between each visit, address concerns, and inform strategies to promote progress toward school readiness goals.

(e) *Group socialization.* (1) A program that operates the home-based option must ensure that group socializations are planned jointly with families, conducted with both child and parent participation, occur in a classroom, community facility, home or field trip setting, as appropriate.

(2) Group socializations must be structured to:

(i) Provide age appropriate activities for participating children that are intentionally aligned to school readiness goals, the Head Start Early Learning Outcomes Framework (Birth-5) and the home-based curriculum; and

(ii) Encourage parents to share experiences related to their children's development with other parents in order to strengthen parent-child relationships and to help promote parents understanding of child development;

(3) For preschoolers receiving home-based services under a locally designed option, group socializations also must provide opportunities for parents to participate in workshop activities, as appropriate and must emphasize peer group interactions designed to promote children's social, emotional and language development, and progress towards school readiness goals, while encouraging parents to observe and actively participate in activities, as appropriate.

(f) *Screening and assessments.* A program that operates the home-based option must implement provisions in § 1302.33.

Subpart D—Health Program Services

§ 1302.40 In general.

A program must provide high quality health, mental health, and nutrition services that are developmentally and linguistically appropriate and that will support each child's growth and school readiness.

§ 1302.41 Collaboration and communication with parents.

(a) For all activities described in this part, programs must collaborate with parents as partners in the health and well-being of their children in a linguistically and culturally appropriate manner and communicate with parents about their child's health needs and development concerns in a timely and effective manner.

(b) At a minimum, a program must:

(1) Obtain advance parent or guardian authorization for all health and developmental procedures administered through the program or by contract or agreement, and, maintain written documentation if a parent or guardian refuses to give authorization for health services; and

(2) Share policies for health emergencies that require rapid response on the part of staff or immediate medical attention.

§ 1302.42 Child health status and care.

(a) *Source of health care.* (1) A program, within 30 calendar days from the child's enrollment, must determine whether each child has ongoing sources of continuous, accessible health care—provided by a health care professional that maintains the child's ongoing health record and is not primarily a source of emergency or urgent care—and health insurance coverage.

(2) If the child does not have such a source of ongoing care and health insurance coverage, the program must assist families in accessing a source of care and health insurance that will meet these criteria, as quickly as possible.

(b) *Ensuring up-to-date child health status.* (1) Within 90 calendar days from the child's enrollment, with the exceptions noted in paragraph (b)(3) of this section, a program must:

(i) Obtain a determination from a health care professional as to whether the child is up-to-date on a schedule of age appropriate preventive and primary medical and oral health care, which incorporates the requirements for a schedule of well-child visits as prescribed by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the State in which they operate, immunization recommendations issued by the Centers for Disease Control and Prevention and any additional recommendations from the local Health Services Advisory Committee that are based on prevalent community health problems;

(ii) Assist parents with making necessary arrangements to bring the child up-to-date as quickly as possible; and

(iii) If necessary directly facilitate provision of health services to bring the child up-to-date, as necessary, with parent consent as described in § 1302.41(b)(1).

(2) Within 45 calendar days of the child's enrollment, a program must either perform or obtain screening procedures to identify concerns regarding a child's visual and auditory sensory development.

(3) If a program operates for 90 days or less, it has 30 days from the date the child enrolled to satisfy paragraphs (b)(1) and (2) of this section.

(4) A program must identify each child's nutritional health needs, taking into account staff and family discussions concerning height, weight, hemoglobin/hematocrit, body mass index and any other relevant nutrition-related assessment data, special dietary requirements, including food allergies, and information about major community nutritional issues, as identified through the community assessment or by the health services advisory committee or the local health department.

(c) *Ongoing care.* (1) A program must help parents continue to follow recommended schedules of well-child and oral health care.

(2) A program must implement periodic observations or other appropriate strategies for program staff and parents to identify any new or recurring medical or mental health concerns.

(3) A program must facilitate and monitor necessary oral health treatment and follow-up, including fluoride supplements and topical fluoride treatments as recommended by oral health professionals in communities where a lack of adequate fluoride levels has been determined or for every child with moderate to severe tooth decay and other necessary preventive measures and further oral health treatment as recommended by the oral health professional.

(d) *Extended follow-up care.* (1) Facilitate further diagnostic testing, examination, and treatment, as appropriate, by a licensed or certified professional for each child with a health or developmental problem; and,

(2) Develop a system to track referrals and services provided and monitor the implementation of a follow-up plan to meet any treatment needs associated with a health or developmental problem.

(3) Assist parents, as needed, in obtaining any prescribed medications, aids or equipment for medical and oral health conditions.

(e) *Use of funds.* Program funds may be used for professional medical and oral health services when no other source of funding is available. When program funds are used for such services, grantee and delegate agencies must have written documentation of their efforts to access other available sources of funding.

§ 1302.43 Tooth brushing.

A program must promote effective oral health hygiene by ensuring children age one and over are assisted by appropriate staff, or volunteers, if available, in brushing their teeth once daily.

§ 1302.44 Child nutrition.

(a) *Nutrition service requirements.* (1) A program must design and implement nutrition services that meet the nutritional needs of and accommodate the feeding requirements of each child, including children with special dietary needs and children with disabilities.

(2) Specifically, a program must:

(i) Ensure each child in a part-day center-based setting receives meals and snacks that provide at least one third of the child's daily nutritional needs;

(ii) Ensure each child in a center-based full-day program receives meals and snacks that provide one half to two thirds of the child's daily nutritional needs, depending upon the length of the program day;

(iii) Serve 3- to 5-year-olds meals and snacks that conform to USDA requirements in 7 CFR parts 210, 220, and 226, and are high in nutrients and low in fat, sugar, and salt;

(iv) Feed infants and toddlers according to their individual developmental readiness and feeding skills as recommended in USDA requirements outlined in 7 CFR parts 210, 220, and 226, and ensure that infants and young toddlers are fed on demand to the extent possible;

(v) Ensure bottle-fed infants are never laid down to sleep with a bottle;

(vi) Serve all children in morning center-based settings who have not received breakfast upon arrival at the program a nourishing breakfast;

(vii) Provide appropriate snacks and meals to each child during group socialization activities in the home-based option; and,

(viii) Promote breastfeeding, including providing facilities to properly store and handle breast milk and make accommodations, as necessary, for mothers who wish to breastfeed during program hours.

(b) *Payment sources.* A program must use funds from USDA Food and Consumer Services Child Nutrition Programs as the primary source of payment for meal services. Early Head Start and Head Start funds may be used to cover those allowable costs not covered by the USDA.

§ 1302.45 Child mental health.

(a) *Wellness promotion.* A program must work with mental health consultants, as needed to implement:

(1) Program-wide positive behavioral practices and supports that promote healthy emotional well-being through effective classroom management and supportive teacher practices;

(2) Strategies for supporting children with challenging behaviors and mental health issues; and

(3) Community partnerships to facilitate access to additional mental health resources and services, as needed.

(b) *Mental health consultants.* (1) A program must have access to mental health consultants to help teachers improve classroom management and teacher practices, that include using classroom observations as needed, to address teacher and individual child needs.

(2) A program must ensure that a mental health consultant is available to partner with staff in a timely and effective manner to identify and intervene in behavioral and mental health concerns, and at the request of parents or staff to address specific concerns.

§ 1302.46 Family support services for health, nutrition, and mental health.

(a) *Parent collaboration.* Programs must collaborate with parents to promote children's health and well-being by providing medical, oral, nutrition, and mental health education support services that are understandable to individuals with low health literacy.

(b) *Opportunities.* (1) Such collaboration must include opportunities for parents to:

(i) Learn about preventive medical and oral health care, emergency first aid, environmental hazards, and safety practices for the home;

(ii) Discuss their child's nutritional status with staff, including the importance of physical activity and learn how to select and prepare nutritious foods that meet the family's nutrition and food budget needs;

(iii) Learn about healthy pregnancy and postpartum care, as appropriate; and,

(iv) Discuss and identify issues related to child mental health and emotional well-being such that staff can solicit parent information and concerns about their child's mental health, share observations, discuss the child's behavior and development, and how to appropriately respond to the child's behaviors.

(v) Learn about appropriate vehicle and pedestrian safety for keeping children safe.

(2) A program must provide ongoing support to assist parents' navigation through health systems to meet the general health and specifically identified needs of their children and must assist parents:

(i) In understanding how to access health insurance for themselves and their families;

(ii) In understanding the results of diagnostic and treatment procedures as well as plans for ongoing care; and,

(iii) In familiarizing their children with services they will receive while enrolled in the program and to enroll and participate in a system of ongoing family health care.

§ 1302.47 Safety practices.

(a) A program must establish, train staff on, implement, and enforce health and safety practices that ensure children are kept safe at all times. Programs should consult *Caring for our Children Basics* for additional information to develop and implement adequate safety policies and practices described in this subpart.

(b) A program must develop and implement a system of management including ongoing training, oversight, correction and continuous improvement in accordance with § 1302.102 that includes policies and practices to ensure all facilities, equipment and materials, background checks, safety training, safety and hygiene practices and administrative safety procedures are adequate to ensure child safety. At a minimum this system must ensure that:

(1) *Facilities.* All facilities where children are served, including areas for learning, playing, sleeping, toileting, and eating are:

(i) Licensed in accordance with § 1302.21(d)(1) and § 1302.23(d);

(ii) Clean and free from pests;

(iii) Free from pollutants, hazards and toxins that are accessible to children and could endanger children's safety;

(iv) Designed to prevent child injury and free from hazards, including choking, strangulation, electrical, and drowning hazards, hazards posed by appliances and all other safety hazards;

(v) Well lit, including emergency lighting;

(vi) Equipped with safety supplies that are readily accessible to staff, including, at a minimum, fully-equipped and up-to-date first aid kits and appropriate fire safety supplies;

(vii) Free from firearms or other weapons that are accessible to children; and,

(viii) Designed to separate toileting and diapering areas from areas for cooking, eating, or children's activities.

(2) *Equipment and materials.* All equipment and materials, including indoor and outdoor equipment and play spaces, including cribs are:

(i) Clean and safe for children's use and are appropriately disinfected;

(ii) Accessible only to children for whom they are age appropriate;

(iii) Meet standards set by CPSC and ASTM;

(iv) Are designed to ensure appropriate supervision of children at all times; and,

(v) Allow for the separation of infants and toddlers from preschoolers during play in center-based programs.

(3) *Background checks.* All staff have complete background checks in accordance with § 1302.90(b).

(4) *Safety training.* All staff have initial orientation training within three months of hire and ongoing training in all state, local, tribal, federal and program developed health, safety and child care requirements to ensure the safety of children in their care; including, at a minimum training in:

(i) Methods for identifying and reporting child abuse and neglect as described in § 1302.92(b)(1);

(ii) CPR and first aid;

(iii) The storage, record and administration of medication;

(iv) Safe sleep practices, including the prevention of Sudden Infant Death Syndrome;

(v) Food safety, including procedures for addressing food allergies;

(vi) The program's emergency and disaster preparedness procedures;

(vii) Infectious disease procedures;

(viii) Sun safety; and,

(ix) Prevention of shaken baby syndrome and head trauma.

(5) *Safety practices.* All staff follow appropriate practices to keep children safe during all activities, including, at a minimum:

(i) Reporting of suspected or known child abuse and neglect, including that staff comply with applicable federal, state, local, or tribal laws;

(ii) Safe sleep practices, including ensuring that all sleeping arrangements for children under 18 months of age use firm mattresses or cots, as appropriate, and for children under 12 months avoid soft bedding materials;

(iii) Appropriate indoor and outdoor supervision of children at all times;

(iv) Only releasing children to an authorized adult, and;

(v) All standards of conduct described in § 1302.90(c).

(6) *Standards of conduct.* Staff properly supervise children at all times, only release children to an authorized adult, and follow all standards of conduct described in § 1302.90(c);

(7) *Hygiene practices.* All staff systematically and routinely implement hygiene practices that at a minimum ensure:

(i) Appropriate toileting, hand washing, and diapering procedures are followed;

(ii) Safe food preparation; and,

(iii) Spills of bodily fluids are handled consistent with standards of the Occupational Safety Health Administration.

(8) *Administrative safety procedures.* Programs establish, follow, and practice, as appropriate, procedures for, at a minimum:

(i) Emergencies;

(ii) Fire prevention and response;

(iii) Protection from contagious disease, including appropriate inclusion and exclusion policies for when a child is ill, and from an infectious disease outbreak, including appropriate notifications of any reportable illness;

(iv) The handling, storage, administration, and record of administration of medication;

(v) Maintaining procedures and systems to ensure that children are only released to an authorized adult; and,

(vi) Child specific health care needs and food allergies that include accessible plans of action for emergencies. For food allergies, a program must also post individual child food allergies prominently where staff can view wherever food is served.

(9) *Disaster preparedness plan.* The program has disaster preparedness and response plans for more and less likely events including natural disasters and violence in or near programs.

(c) A program must report any safety incidents in accordance with § 1302.102(d)(1)(iii).

Subpart E—Family & Community Partnership Program Services

§ 1302.50 In general.

(a) A program must integrate parent and family engagement strategies into all systems and program components and develop community partnerships to support family well-being in order to promote child learning and development and foster parental confidence and skills that will promote the early learning and development of their children.

(b) A program must:

(1) Promote shared responsibility with parents for children's early learning and development, provide parents with information about the importance of their child's regular attendance, and partner with parents, as necessary, to promote consistent attendance;

(2) Develop relationships with parents and structure services to encourage trust and respectful ongoing two-way communication between staff and parents to create welcoming program environments that are responsive to and reflect the unique cultural, ethnic, and linguistic backgrounds of families in the program and community, including conducting family engagement services in the family's preferred language, or through an interpreter, to the extent possible;

(3) Implement intentional strategies to engage parents in their children's learning and development, including specific strategies for father engagement;

(4) Provide parents with opportunities to participate in the program as employees or volunteers;

(5) Offer families the choice of sharing personal information in an environment in which they feel safe, and allow this to occur at the same time as the home visit conducted by the child's teacher; and,

(6) Implement procedures for teachers, home visitors, and family support staff to share information with each other, as appropriate, to ensure coordinated family engagement strategies with children and families in the classroom, home, and community.

§ 1302.51 Parent activities to promote child learning and development.

(a) A program must recognize parents as a child's primary influence and implement family engagement strategies that are designed to foster parental confidence and skills in promoting children's learning and development, including parent child-activities that support language and literacy development.

(b) A program must, at a minimum, offer opportunities for parents to participate in research-based parenting curriculum in which they practice parenting skills and developmentally appropriate parent-child activities to foster confidence and skills in promoting children's learning and development.

§ 1302.52 Family partnership services.

(a) *Family partnership process.* A program must implement a family partnership process that includes the sequence of activities described in this section to support family well-being, to support child learning and development, to foster parental confidence and skills that promote the early learning and development of their children. The process must be initiated as early in the program year as possible and continue for as long as the family participates in the program, based on parent interest and need.

(b) *Identification of family strengths and needs.* A program must implement intake and assessment procedures together with parents to identify family

strengths and needs in the areas listed, as appropriate, in the Head Start Parent Family and Community Engagement Framework. These areas must include family well-being and financial stability, parent-child relationships and parenting skill development, parent engagement and involvement in child education, parent literacy, adult and post-secondary education, and employment, transitions within and between the early learning and school environment, family connections to peers and the local community, and parent leadership in the program and community.

(c) *Individualized family partnership services.* A program must offer parents the opportunity to collaborate with staff to identify, prioritize, and access individualized family partnership services and supports. Such services and supports may be accessed through the program or through community partnerships to address identified family strengths and needs, including, as appropriate, pathways to achieving family goals. To support family access to individualized family partnership services and supports, a program must:

(1) Take into consideration the urgency and intensity of identified family needs and goals and assign appropriate staff based on such needs and goals and the availability of program resources;

(2) Implement strategies to ensure that both parents and staff are aware of, intentionally measure progress towards, and evaluate whether identified needs and goals are met, and take alternative actions, if necessary.

(d) *Existing plans and community resources.* In implementing this section, a program must take into consideration any existing plans for the family made with other community agencies and availability of other community resources to address family needs, strengths, and goals, in order to avoid duplication of effort.

§ 1302.53 Community partnerships.

(a) *Community systems.* A program must take an active role in promoting coordinated systems of comprehensive early childhood services to low-income children and families in their community through communication, cooperation, and the sharing of information among agencies and their community partners, in accordance with the program's confidentiality policies.

(b) *Partnerships.* (1) A program must establish ongoing collaborative relationships and partnerships with community organizations such as establishing joint agreements, procedures, or contracts and arranging for onsite delivery of services as appropriate, to facilitate access of children and families to community services that are responsive to their strengths, needs, and goals as described in § 1302.52 and to community needs, as determined by the community assessment described in § 1302.11(b).

(2) A program must establish necessary collaborative relationships and partnerships, with community organizations that may include:

(i) Health care providers, including child and adult mental health professionals, dentists, other health professionals, nutritional service providers, providers of prenatal and postnatal support, and substance abuse treatment providers;

(ii) Individuals and agencies that provide services to children with disabilities and their families, elementary schools, state preschool providers, and providers of child care services;

(iii) Family preservation and support services and child protective services and any other agency to which child abuse must be reported under state or tribal law;

(iv) Educational and cultural institutions, such as libraries and museums, for both children and families;

(v) Temporary Assistance for Needy Families, nutrition, and housing assistance agencies, workforce development and training programs, adult or family literacy, adult education, and post-secondary education institutions, and agencies or financial institutions that provide asset-building education, products and services to enhance family financial stability and savings;

(vi) Providers of support to homeless children and families, including local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*);

(vii) Agencies that are funded by federal or state entities for the design, development, or implementation of a statewide data system including early childhood programs;

(viii) Domestic violence prevention and support providers; and,

(ix) Any other organizations or businesses that may provide support and resources to families.

(c) *Health services advisory committee.* Each grantee directly operating an Early Head Start or Head Start program, and each delegate agency, must establish and maintain a Health Services Advisory Committee, which includes Head Start parents, professionals, and other volunteers from the community.

(d) *Memorandum of understanding.* A program must enter into a memorandum of understanding with the appropriate local entity responsible for managing publicly funded preschool programs in the service area of the program, as described in section 642(e)(5) of the Act.

(e) *Quality Rating and Improvement Systems.* A program should participate in their state or local Quality Rating and Improvement System if their state or local system has been validated to show that the tiers accurately reflect differential levels of quality, are related to progress in learning and development, and build toward school readiness and that Head Start programs are able to participate in the same way as other early childhood programs in the state.

Subpart F—Additional Services for Children With Disabilities

§ 1302.60 In general.

A program must ensure enrolled children with disabilities, including but not limited to those who are eligible for IDEA services, and their families receive all applicable program services and fully participate in all program activities.

§ 1302.61 Additional services for children.

(a) *Additional services for children with disabilities.* Programs must ensure the individualized needs of children with disabilities, including but not limited to those eligible for IDEA services, are being met and all children have access to and can fully participate in the full range of activities and services. Programs must provide any necessary modifications to the environment, multiple and varied formats for instruction, and individualized accommodations and supports as necessary to support the full participation of children with disabilities. Programs must ensure that all individuals with disabilities are protected from discrimination under and provided with all services and program modifications required by section 504 of the Rehabilitation Act (29 U.S.C. 794), the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*), and their implementing regulations.

(b) *Services during IDEA eligibility determination.* While the local agency responsible for implementing IDEA determines a child's eligibility, a program must provide individualized services and supports, to the maximum extent possible, to meet the child's needs.

(c) *Additional services for children with an IFSP or IEP.* To ensure the

individualized needs of children eligible for IDEA services are met, programs must:

(1) Work closely with the local agency responsible for implementing the IDEA, the family, and other service partners, as appropriate, to ensure:

(i) Services for a child with disabilities will be planned and delivered as required by their IFSP or IEP, as appropriate;

(ii) Children are working towards the goals in their IFSP or IEP;

(iii) Elements of the IFSP or IEP that the program cannot implement are implemented by other appropriate agencies; and,

(iv) IFSP's and IEP's are being revised and updated as required and needed;

(2) Plan and implement the transition services described in subpart G of this part, including at a minimum:

(i) For children with an IFSP who are transitioning out of Early Head Start, collaborate with the parents, and the local agency responsible for the implementation of IDEA, to ensure appropriate steps are undertaken in a timely and appropriate manner to determine the child's eligibility for services under Part B of IDEA; and,

(ii) For children with an IEP who are transitioning out of Head Start to kindergarten, collaborate with the parents, and the local agency responsible for the implementation of IDEA, to ensure steps are undertaken in a timely and appropriate manner to support the child and family as they transition to a new setting.

§ 1302.62 Additional services for parents.

(a) *Parents of all children with disabilities.* (1) A program must collaborate with parents of children with disabilities, including but not limited to children eligible for IDEA, to ensure the needs of their children are being met, including support to help parents become advocates for services that meet their children's needs and information and skills to help parents understand their child's disability and how to best support the child's development;

(2) A program must assist parents to access services and resources for their family, including securing adaptive equipment and devices, creating linkages to family support programs, and helping parents establish eligibility for additional support programs, as needed and practicable.

(b) *Parents of children eligible for IDEA services.* For parents of children eligible for IDEA services, programs must also help parents:

(1) Understand the referral, evaluation, and service timelines required under IDEA;

(2) Actively participate in the eligibility process and IFSP or IEP development process with the local agency responsible for implementing IDEA, including by informing parents of their right to invite the program to participate in all meetings;

(3) Understand the purposes and results of evaluations and services provided under an IFSP or IEP; and,

(4) Ensure their children's needs are accurately identified in, and addressed through, the IFSP or IEP.

§ 1302.63 Coordination and collaboration with the local agency responsible for implementing IDEA.

(a) A program must coordinate with the local agency responsible for implementing IDEA to identify children enrolled or who intend to enroll in a program that may be eligible for IDEA services, including through the process described in § 1302.33(a)(2) and through participation in the local agency Child Find efforts.

(b) A program must work to develop interagency agreements with the local agency responsible for implementing IDEA to improve service delivery to children eligible for IDEA services, including the referral and evaluation process, service coordination, and transition services and, other appropriate agencies that would improve service delivery to children with disabilities.

(c) A program must participate in the development of the IFSP or IEP if requested by the child's parents, and the implementation of the IFSP or IEP. At a minimum, the program must offer:

(1) To provide relevant information from its screenings, assessments, and observations to the team developing a child's IFSP or IEP; and,

(2) To participate in meetings with the local agency responsible for implementing the IDEA to develop or review an IEP or IFSP for a child being considered for Head Start enrollment, a currently enrolled child, or a child transitioning from a program.

(d) A program must retain a copy of the IEP or IFSP for any child enrolled in Head Start for the time the child is in the program, consistent with the IDEA requirements in 34 CFR parts 300 and 303.

Subpart G—Transition Services

§ 1302.70 Transitions from Early Head Start.

(a) *Implementing transition strategies and practices.* An Early Head Start program must implement strategies and practices to support successful transitions for children and their families transitioning out of Early Head Start.

(b) *Timing for transitions.* To ensure the most appropriate placement and service following participation in Early Head Start, such programs must, at least six months prior to each child's third birthday, implement transition planning for each child and family that:

(1) Takes into account the child's developmental level and health status, progress made by the child and family while in Early Head Start, current and changing family circumstances and, the availability of Head Start, other public pre-kindergarten, and other early education and child development services in the community that will meet the needs of the child and family; and,

(2) Transitions the child into Head Start or another program as soon as possible after their third birthday but permits the child to remain in Early Head Start for a limited number of additional months following their third birthday if necessary for an appropriate transition.

(c) *Family collaborations.* A program must collaborate with parents of Early Head Start children to implement strategies and activities that support successful transitions from Early Head Start, and at a minimum, provide information about the child's progress during the program year and provide strategies for parents to continue their involvement in and advocacy for the education and development of their child.

(d) *Early Head Start and Head Start collaboration.* Early Head Start and Head Start programs must work together to maximize enrollment transitions, from Early Head Start to Head Start, consistent with the eligibility provisions in subpart A of this part, and promote successful transitions through collaboration and communication.

(e) *Transition services for children with an IFSP.* A program must provide additional transition services for children with an IFSP, at a minimum, as described in subpart F of this part.

1302.71 Transitions from Head Start to kindergarten.

(a) *Implementing transition strategies and practices.* A program that serves children who will enter kindergarten in the following year must implement transition strategies to support a successful transition to kindergarten.

(b) *Family collaborations for transitions.* (1) A program must collaborate with parents of enrolled children to implement strategies and

activities that will help parents advocate for and promote successful transitions to kindergarten for their children, including their continued involvement in the education and development of their child.

(2) At a minimum, such strategies and activities must:

(i) Help parents understand their child's progress during Head Start;

(ii) Help parents understand and use the parenting practices that will effectively provide academic and social support for their children during their transition to kindergarten and foster their continued involvement in the education of their child;

(iii) Prepare parents to exercise their rights and responsibilities concerning the education of their children in the elementary school setting, including the availability and appropriateness of participation for their child in language instruction educational programs, including those focused on Native language instruction; and,

(iv) Assist parents in the ongoing communication with teachers and other school personnel so that parents can participate in decisions related to their children's education.

(c) *Community collaborations for transitions.* (1) A program must collaborate with local education agencies to support parental involvement under section 642(b)(13) of the Act and state departments of education, as appropriate, and kindergarten teachers to implement strategies and activities that promote successful transitions to kindergarten for children, their families, and the elementary school.

(2) At a minimum, such strategies and activities must include:

(i) Coordination with schools or other appropriate agencies to ensure children's relevant records are transferred to the school or next placement in which a child will enroll, consistent with privacy requirements in part 1303 of this chapter;

(ii) Communication between appropriate staff and their counterparts in the schools to facilitate continuity of learning and development, consistent with privacy requirements in subpart C of part 1303 of this chapter; and,

(iii) Participation, as possible, for joint training and professional development activities for Head Start and kindergarten teachers and staff.

(3) A program that does not operate during the summer must collaborate with school districts to determine the availability of summer school programming for children who will be entering kindergarten and work with parents and school districts to enroll children in such programs, as appropriate.

(d) *Learning environment activities.* A program must implement strategies and activities in the learning environment that promote successful transitions to kindergarten for enrolled children, and at a minimum, include approaches that familiarize children with the transition to kindergarten and foster confidence about such transition.

(e) *Transition services for children with an IEP.* A program must provide additional transition services for children with an IEP, at a minimum, as described in subpart F of this part.

§ 1302.72 Transitions between programs.

(a) For families and children moving out of the community in which they are currently served, including homeless families and foster children, a program must undertake efforts to support effective transitions to other Early Head Start or Head Start programs.

(b) A program that serves children whose families have decided to transition them to other high quality early education programs, including public pre-kindergarten, in the year prior to kindergarten entry must undertake strategies and activities described in § 1302.71(b), (c)(1), and (c)(2), as practicable and appropriate.

(c) A migrant and seasonal Head Start program must undertake efforts to support effective transitions to other migrant and seasonal Head Start, Early Head Start, or Head Start programs for families and children moving out of the community in which they are currently served.

Subpart H—Services to Enrolled Pregnant Women

§ 1302.80 Enrolled pregnant women.

(a) Within 30 days of enrollment, a program must determine whether each pregnant woman has an ongoing source of continuous, accessible health care—provided by a health care professional that maintains her ongoing health record and is not primarily a source of emergency or urgent care—and, as appropriate, health insurance coverage;

(b) If the enrolled pregnant woman does not have such a source of ongoing care and, as appropriate, health insurance coverage, a program must, as quickly as possible, facilitate her access to such a source of care that will meet their needs; and,

(c) A program must facilitate the ability of all enrolled pregnant women to access comprehensive services through referrals that, at a minimum, include nutritional counseling, food assistance, oral health care, mental health services, substance abuse prevention and treatment, and emergency shelter or transitional housing in cases of domestic violence.

§ 1302.81 Prenatal and postpartum services.

(a) A program must provide enrolled pregnant women, fathers, and partners or other relevant family members the prenatal and postpartum services that address, as appropriate, prenatal and postpartum education, fetal development, the importance of nutrition, the risks of alcohol, drugs, and smoking, labor and delivery, postpartum recovery, infant care and safe sleep practices, and the benefits of breastfeeding.

(b) A program must also address, as appropriate, supports for emotional well-being, nurturing and responsive caregiving, and father engagement during pregnancy and early childhood.

§ 1302.82 Family partnership services for enrolled pregnant women.

(a) A program must engage enrolled pregnant women and other relevant family members in the family partnership services as described in § 1302.52 and include a specific focus on factors that influence prenatal and postpartum maternal and infant health.

(b) A program must provide a health staff visit to each mother and newborn within two weeks after the infant's birth to ensure the well-being of both the mother and the child; and,

(c) A program must engage enrolled pregnant women in discussions about program options, plan for the infant's transition to program enrollment, and support the mother during the transition process, where appropriate.

Subpart I—Human Resources Management

§ 1302.90 Personnel policies.

(a) *In general.* A program must establish written personnel policies and procedures that are approved by the policy council or policy committee.

(b) *Recruitment and selection procedures for all staff.* (1) Before an individual is hired, a program must conduct an interview, verify references, and obtain the following to ensure child safety:

(i) (A) State or tribal criminal history records, including fingerprint checks; or,

(B) Federal Bureau of Investigation criminal history records, including fingerprint checks; and,

(ii) Clearance through child abuse and neglect registry, if available; and,

(iii) Clearance through sex offender registries, if available.

(2) Within 90 days after an employee is hired, a program must complete the background check process by obtaining whichever check listed in (b)(1)(i) was not obtained prior to employment.

(3) A program must review each employment application to assess the relevancy of any issue uncovered by the complete background check including any arrest, pending criminal charge, or conviction and must use State licensing disqualification factors in any employment decisions.

(4) A program must conduct a complete background check as described at paragraph (b) of this section for each staff member at least once every five years.

(5) A program must consider current and former program parents for employment vacancies for which such parents are qualified.

(6) A program must conduct the background screening described in paragraphs (b)(1)(ii) and (iii) of this section for individuals with whom the agencies contract to transport children.

(c) *Standards of conduct.* (1) A program must ensure all staff, consultants, and volunteers abide by the program's standards of conduct that:

(i) Ensure staff behavior does not endanger the health or safety of children, including, at a minimum, that staff must not:

(A) Use corporal punishment;

(B) Use isolation to discipline a child;

(C) Bind or tie a child to restrict movement or tape a child's mouth;

(D) Use or withhold food as a punishment or reward;

(E) Use toilet learning/training methods that punish, demean, or humiliate a child;

(F) Use any form of emotional abuse, including rejecting, terrorizing, extended ignoring, or corrupting a child;

(G) Physically abuse or maltreat a child;

(H) Use abusive, profane, sarcastic language or verbal abuse, threats, or derogatory remarks about the child or child's family;

(I) Use any form of public or private humiliation; and,

(J) Take away a child's physical activity/outdoor time as punishment;

(ii) Ensure staff respect and promote the unique identity of each child and family and refrain from stereotyping on the basis of gender, race, ethnicity, culture, religion, disability, or family composition;

(iii) Require staff comply with program confidentiality policies concerning information about children, families, and other staff members; and,

(iv) Ensure no child is left alone or unsupervised by staff while under their care.

(2) Personnel policies and procedures must include appropriate penalties for staff who violate the standards of conduct.

(d) *Communication with dual language learners and their families.* (1) A program must ensure staff and program consultants are familiar with the ethnic backgrounds and heritages of families in the program and are able to serve and effectively communicate, either directly or through interpretation and translation, with children who are dual language learners and families with limited English proficiency.

(2) If a majority of children in a classroom or home-based program speak the same language, at least one classroom staff member or home visitor must speak such language.

§ 1302.91 Staff qualification requirements.

(a) *In general.* A program must ensure that all staff and consultants, including family service, health, and disabilities staff and consultants providing program services have sufficient knowledge, training and experience to fulfill the roles and responsibilities of their positions and to ensure high quality service delivery in accordance with the program performance standards.

(b) *Early Head Start center-based teachers.* As prescribed in section 645A(h) of the Act, a program must ensure:

(1) All center-based teachers that provide direct services to infants and toddlers in Early Head Start centers have a minimum of a Child Development Associate (CDA) credential, and have been trained or have equivalent coursework in early childhood development with a focus on infant and toddler development; and,

(2) All center-based teachers demonstrate competency to provide effective and nurturing teacher-child interactions, plan and implement high quality learning experiences that ensure effective curriculum implementation and promote children's progress across the standards described in the Head Start Early Learning Outcomes Framework (Birth-5);

(c) *Head Start center-based teachers.* The Secretary must ensure that no less than fifty percent of all Head Start teachers, nationwide, have a baccalaureate degree in child development, early childhood education, or equivalent coursework. As prescribed in section 648A(a)(2)(A) of the Act, a program must ensure:

(1) All center-based teachers have at least an associate's or bachelor's degree in child development or early childhood education, or equivalent coursework; and,

(2) All center-based teachers demonstrate competency to provide effective and nurturing teacher-child interactions, plan and implement learning experiences that ensure effective curriculum implementation and promote children's progress across the standards described in the Head Start Early Learning Outcomes Framework (Birth-5) and applicable State early learning and development standards, including for children eligible for IDEA.

(d) *Head Start assistant teachers.* As prescribed in section 648A(a)(2)(B)(ii) of the Act, a program must ensure all Head Start assistant teachers, at a minimum, have a CDA credential, are, are enrolled in a program that will lead to an associate or baccalaureate degree or, are enrolled in a CDA credential program to be completed within two years of the time of hire.

(e) *Education coordinators.* As prescribed in section 648A(a)(2)(B)(i) of the Act, a program must ensure staff and consultants that serve as education coordinators, including those that serve as curriculum specialists, have a baccalaureate or advanced degree in early childhood education or a baccalaureate or advanced degree and equivalent coursework in early childhood education with early education teaching experience.

(f) *Home visitors.* A program must ensure home visitors providing home-based education services:

(1) Have a minimum of a home-based CDA credential, or equivalent coursework as part of an associate's or bachelor's degree, and have training or experience in early childhood education, prenatal and child development, strength-based parent education, and family support; and the knowledge of community resources to link families with appropriate agencies and services; and,

(2) Demonstrate competency to plan and implement home-based learning experiences that ensure effective implementation of the home visiting curriculum and promote children's progress across the standards described in the Head Start Early Learning Outcomes Framework (Birth-5).

(g) *Family child care providers.* (1) A program must ensure that family child care providers have previous early child care experience and, at a minimum, are enrolled in a Family Child Care CDA program or state equivalent, or an associates or baccalaureate degree program in child development or early childhood education prior to beginning service provision. In addition, the program must ensure family child care providers acquire the CDA credential, at

a minimum, within eighteen months of beginning service provision.

(2) A program that operates a family child-care option must make substitute staff and assistant providers with the necessary training and experience available to ensure quality services to children are not interrupted.

(3) At the time of hire, a child development specialist must have, at a minimum, an associate degree in child development or early childhood education.

(h) *Additional staff qualifications.* (1) A program must use staff or consultants, who are registered dietitians or nutritionists, to support nutrition services.

(2) A program must use staff or consultants, who are licensed or certified mental health professionals, to support mental health services.

(3) A program must assess staffing needs in order to meet federal financial management requirements and secure regularly scheduled or ongoing services of a fiscal officer qualified to meet their needs.

(i) *Early Head Start or Head Start director.* If a program hires an Early Head Start or Head Start director after the effective date of this regulation, it must ensure the director has either a baccalaureate or an advanced degree, at a minimum, and experience in staff and fiscal management.

§ 1302.92 Training and professional development.

(a) A program must provide to all new staff, consultants, and volunteers an orientation that focuses on, at a minimum, the goals and underlying philosophy of the program and on the ways they are implemented.

(b) A program must establish and implement a systematic approach to staff training and development designed to assist staff in acquiring or increasing the knowledge and skills needed to provide high quality services within the scope of their job responsibilities, and attached to academic credit as appropriate. At a minimum, the system must include:

(1) Training on methods to handle suspected or known child abuse and neglect cases, that comply with applicable federal, state, local, or tribal laws;

(2) Training on best practices to support parent engagement strategies, as described in §§ 1302.50 and 1302.52, and training for family services staff and home visitors on the knowledge and skills outlined in the relationship based competencies;

(3) Research-based approaches to professional development for teachers, assistant teachers, home visitors, and family child care providers, that are focused on effective curricula implementation, knowledge of the content in Head Start Early Learning Outcomes Framework (Birth-5) providing effective and nurturing teacher-child interactions, supporting dual language learners as appropriate, addressing challenging behaviors, preparing children for transitions (as described in subpart G of this part), and improving child outcomes for all children; and,

(4) A coordinated coaching strategy that aligns with the program's school readiness goals, curricula, and other approaches to professional development, and that:

(i) Utilizes a coach with adequate training and experience in using assessment data to drive coaching strategies aligned with program performance goals;

(ii) Ensures the coach has training or experience in adult learning; and,

(iii) Ensures ongoing communication between the coach, program director, education director, and any other relevant staff.

(5) Coaching strategies must include:

(i) Clearly articulated goals informed by the program's performance goals, as described in § 1302.102(a), and a process for achieving those goals;

(ii) An assessment for all education staff to identify areas of needed support to achieve program performance goals;

(iii) At a minimum, for education staff who would benefit the most from intensive coaching, opportunities to be observed and receive feedback and modeling of effective teacher practices directly related to program performance goals;

(iv) At a minimum, for education staff members who do not need intensive coaching, opportunities to receive other forms of research-based professional development aligned with program performance goals, which may include a group coaching approach; and,

(v) Policies that ensure needs assessment results are not used to solely determine punitive actions for staff identified as needing support, without providing time and resources for staff to improve.

(c) A program must ensure all teachers, assistant teachers, home visitors, and family child care providers complete a minimum of 15 clock hours of professional development per year through the professional development system described in paragraph (b) of this section.

(d) If a program wishes to develop an approach to professional development to better meet the training needs of program staff, the program may adapt or be exempt from the requirements in paragraphs (b)(4) and (5) of this section, if the program works with early childhood education expert staff or consultants from a college, university, or a research organization, to develop and evaluate the effectiveness of the professional development. Programs must report the use of such variations to the responsible HHS official. Programs must use the evaluation of effectiveness to determine the continued use of such professional development consistent with the process laid out in subpart J of this part.

§ 1302.93 Staff health and wellness.

(a) A program must ensure each staff member has an initial health examination (that includes screening for tuberculosis) and a periodic re-examination (as recommended by their health care provider or as mandated by state, tribal, or local laws). The program must ensure staff do not, because of communicable diseases, pose a significant risk to the health or safety of others in the program that cannot be eliminated or reduced by reasonable accommodation, in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

(b) A program must make mental health and wellness information available to staff regarding health issues that may affect their job performance.

§ 1302.94 Volunteers.

(a) A program must ensure that regular volunteers have been screened for tuberculosis in accordance with state, tribal or local laws. In the absence of state, tribal or local law, the Health Services Advisory Committee must be consulted regarding the need for such screenings.

(b) A program must ensure children are never left under the sole supervision of volunteers.

Subpart J—Program Management and Quality Improvement

§ 1302.100 In general.

A program must provide management and a process of ongoing monitoring and self-improvement for achieving program performance goals that ensures child safety and the continuous delivery of effective, high quality program services.

§ 1302.101 Management system.

(a) *Implementation.* A program must implement a management system with adequate record keeping for effective oversight of all program areas that:

(1) Includes program directors and management staff who provide oversight

for all program areas, to enable delivery of high quality services in all of the program services described in subparts C, D, E, F, G, and H of this part;

(2) Provides regular and ongoing supervision to support individual staff professional development and continuous program quality improvement; and,

(3) Ensures budget and staffing patterns to promote continuity of care for all children enrolled that provide sufficient time for staff to participate in appropriate training and professional development, and for provision of the full range of services described in subparts C, D, E, F, G, and H of this part.

(b) *Coordinated approaches.* At the beginning of each program year, and on an ongoing basis throughout the year, a program must design and implement program-wide coordinated approaches that ensure:

(1) The system of training and professional development, as described in § 1302.92, effectively supports staff delivery and continuous improvement of high quality services;

(2) The full and effective participation of children who are dual language learners and their families, by providing services with appropriate program materials, curriculum, instruction, staffing, supervision, and partnerships, at a minimum;

(3) The full and effective participation of all children with disabilities, including but not limited to children eligible for IDEA services, by providing services with appropriate facilities, program materials, curriculum, instruction, staffing, supervision, and partnerships, at a minimum, consistent with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act; and

(4) The data system and data governance procedures effectively support the overall management of Head Start data, including the availability, usability, integrity, and security of data. As part of these procedures, a program should:

(i) Identify a data governance body or council with clear roles and responsibilities, establish a framework for decision-making and/or procedures on data management, including how data quality will be monitored, how data will be shared while protecting privacy and confidentiality, a plan to execute those procedures, and an accountability structure for meeting these requirements;

(ii) Consult with the Head Start State Collaboration Office and/or the state's Early Childhood Advisory Council (HSSCO/ECAC) and the State Educational Agency (SEA) in developing these procedures, as appropriate;

(iii) Integrate Head Start data with other early childhood data systems or sources and work with the state's K–12 Statewide Longitudinal Data System to share relevant data, to the extents practicable; and

(iv) Align Head Start data collection and definitions, where possible, with the Common Education Data Standards.

§ 1302.102 Achieving program performance goals.

(a) *Establishing program performance goals.* A program, in collaboration with the governing body and policy council, must establish goals and measurable objectives that include:

(1) Effective health and safety practices to ensure children are safe at all times, per the requirements in §§ 1302.47, 1302.90(b) and (c), 1302.92(b)(1), 1302.94, and part 1303, subpart F of this chapter.

(2) School readiness goals that are aligned with the Head Start Early Learning Outcomes Framework (Birth-5), state and tribal early learning standards, as appropriate, and requirements and expectations of schools Head Start children will attend, per the requirements of subpart B of part 1304 of this chapter;

(3) Goals for the provision of educational, health, nutritional, and family and community engagement services as described in the program performance standards to further promote the school readiness of enrolled children; and

(4) Strategic long-term goals for ensuring programs are and remain responsive to community needs as identified in their community assessment as described in subpart A of this part.

(b) *Monitoring program performance.* (1) *Ongoing compliance oversight and correction.* In order to ensure effective ongoing oversight and correction, a program must establish and implement ongoing oversight procedures that ensure effective implementation of the program performance standards, including ensuring child safety, and other applicable federal regulations as described in this part, and must:

(i) Correct quality and compliance issues immediately, or as quickly as possible;

(ii) Work with the governing body and the policy council to address issues during the ongoing oversight and correction process and during federal oversight; and,

(iii) Implement procedures that prevent recurrence of previous quality and compliance issues, including previously identified deficiencies, safety incidents, and audit findings.

(2) *Ongoing assessment of program performance goals.* Programs must effectively oversee progress towards performance goals on an ongoing basis and annually must:

(i) Conduct a self-assessment that evaluates the program's progress towards meeting goals established under paragraph (a) of this section, using aggregated child assessment data where applicable, compliance with program performance standards throughout the program year, and the effectiveness of the professional development and family engagement systems in promoting school readiness, using classroom, professional development, and parent and family engagement data, as appropriate;

(ii) Communicate and collaborate with the governing body or policy council, program staff, and parents of enrolled children when conducting the annual self-assessment; and,

(iii) Submit findings of the self-assessment, including information listed in paragraph (b)(3)(i) of this section to the responsible HHS official.

(c) *Using data for continuous improvement.* (1) A program must implement a process for using data to identify program strengths and needs, develop and implement plans that address program needs, and continually evaluate progress towards achieving program performance goals described in paragraph (a) of this section and complying with program performance standards.

(2) This process must:

(i) Ensure data is aggregated, analyzed and compared in such a way to assist agencies in identifying risks and informing strategies for continuous improvement in all program service areas;

(ii) Ensure child assessment data is aggregated and analyzed at least three times a year, including for sub-groups, such as dual language learners and children with disabilities, as appropriate, and used with other program data to direct continuous improvement related to curriculum choice and implementation, teaching practices, professional development, program design and other program decisions, including changing or targeting scope of services; and,

(iii) Use lessons from ongoing monitoring and the annual self-assessment, and program data on standardized teacher observations, staffing and professional development, child assessments, family needs assessments, and comprehensive services, to identify program needs, and

develop, and implement plans for program improvement; and,

(iv) Use program improvement plans as needed to either strengthen or adjust content and strategies for professional development, change program scope and services, refine school readiness and other program performance goals, and use strategies to better address the needs of sub-groups.

(d) *Reporting.* (1) A program must submit:

(i) Status reports, determined by ongoing oversight data, to the governing body and policy council, at least semi-annually;

(ii) Reports, as appropriate, to the responsible HHS official immediately or as soon as practicable, related to any risk affecting the health and safety of program participants;

(iii) Reports, as appropriate, to the responsible HHS official immediately or as soon as practicable, regarding circumstances affecting the financial viability of the program, or program involvement in legal proceedings, including at a minimum:

(A) Any matter for which notification or a report to state, tribal, or local authorities is required by applicable law;

(B) Any reports regarding agency staff or volunteer compliance with federal, state, tribal, or local laws governing sex offenders or laws addressing child abuse and neglect;

(C) Incidents that require classrooms or centers to be closed for any reason;

(D) Legal proceedings by any party that involve the program, management, program staff, or volunteer as a party; and,

(E) All conditions required to be reported under § 1304.13 of this chapter.

(2) Annually, a program must release a report that complies with section 644(a)(2) of the Act and includes the community needs assessment as described in § 1302.11(b), consistent with privacy protections in subpart C of part 1303 of this chapter.

(3) If a program has had a deficiency identified, it must submit, to the responsible HHS official, a quality improvement plan as required in section 641A(e)(2) of the Act.

1302.103 Implementation of program performance standards.

(a) A current program at the time of the publication of this part, must implement a program-wide approach for the effective and timely implementation of the changes to the program performance standards, including the purchase of materials and allocation of staff time, as appropriate.

(b) A program's approach to implementation of the changes included in parts 1301 through 1304 of this chapter must ensure:

(1) Adequate preparation for effective and timely service delivery to children and their families including, at a minimum, review of community assessment data to determine the most appropriate strategy for implementing any slot reductions, as necessary, the purchase of and training on any curriculum, assessment, or other materials, as needed, assessment of program-wide professional development needs, assessment of staffing patterns, the development of coordinated approaches described in § 1302.101(b), and the development of appropriate protections for data sharing; and

(2) Currently enrolled children are not displaced during a program year and that children leaving Early Head Start or Head Start at the end of the program year following the publication of this rule as a result of any slot reductions received services described in § 1302.72 to facilitate successful transitions to other programs.

(c) A program may request a one year extension from the responsible HHS official of the requirements outlined in §§ 1302.21(c)(1), 1302.22(c)(1) and 1302.23(c), if an extension is necessary to ensure currently enrolled children are not displaced from the Early Head Start or Head Start program as described in paragraph (b)(2) of this section.

PART 1303—FINANCIAL AND ADMINISTRATIVE REQUIREMENTS

Sec.

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Authority: 42 U.S.C. 9801 *et seq.*

§ 1303.1 Overview

Section 641A of the Act requires that the Secretary modify as necessary program performance standards including administrative and financial management standards (section 641A(a)(1)(C)). This part specifies the financial and administrative requirements of agencies. Subpart A outlines the financial requirements consistent with sections 640(b) and 644(b) and (c) of the Act. Subpart B of this part specifies the administrative requirements consistent with sections 644(a)(1), 644(e), 653, 654, 655, 656, and 657A of the Act. Subpart C of this part implements the statutory provision at section 641A(b)(4) of the Act that directs the Secretary to ensure the confidentiality of any personally identifiable data, information, and records collected or maintained. Subpart D of this part prescribes regulations for the operation of delegate agencies consistent with section 641(A)(d) of the Act. Subpart E of this part implements the statutory requirements in section 644(c), (f) and (g) of the Act related to facilities. Subpart F of this part prescribes

regulations on transportation consistent with section 640(i) of the Act.

Subpart A—Financial Requirements

§ 1303.2 In general.

This subpart establishes regulations applicable to program administration and grants management for all grants under the Act.

§ 1303.3 Other requirements.

The following chart includes HHS regulations that apply to all grants made under the Act:

Cite	Title
45 CFR part 16.	Department grant appeals process.
45 CFR part 30.	HHS Standards and Procedures for Claims collection.
45 CFR part 46.	Protection of human subjects.
45 CFR part 75.	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
45 CFR part 80.	Nondiscrimination under programs receiving federal assistance through the Department of Health and Human Services—Effectuation of title VI of the Civil Rights Act of 1964.
45 CFR part 81.	Practice and procedure for hearings under part 80.
45 CFR part 84.	Nondiscrimination on the basis of handicap in federally assisted programs.
45 CFR part 87.	Equal treatment for faith based organizations.
2 CFR 170	FFATA Sub-award and executive compensation.
2 CFR 25.110.	CCR/DUNS requirement.

§ 1303.4 Federal financial assistance, non-federal share matching and waiver requirements.

In accordance with section 640(b) of the Act, federal financial assistance to a grantee will not exceed 80 percent of the approved total program costs. A grantee must contribute 20 percent as non-federal share match each budget period. The responsible HHS official may approve a waiver of all or a portion of the non-federal share matching requirement on the basis of the grantee's written application submitted during the budget period and any supporting evidence the responsible HHS official requires. In deciding whether to grant a waiver, the responsible HHS official will consider the circumstances specified at section 640(b) of the Act and whether the grantee has made a reasonable effort to comply with the non-federal share matching requirement.

§ 1303.5 Limitations on development and administrative costs.

(a) *In general.* (1) Costs to develop and administer a program cannot be excessive or exceed 15% of the total approved program costs. Allowable costs to develop and administer a Head Start program cannot exceed 15 percent of the total approved program costs, which includes both federal costs and non-federal match, unless the responsible HHS official grants a waiver under paragraph (b) of this section that approves a higher percentage in order to carry out the purposes of the Act.

(2) To assess total program costs and determine whether a grantee meets the requirement specified in paragraph (a) of this section, the grantee must:

(i) Determine the costs of developing and administering its program, including the local costs of necessary resources;

(ii) Categorize total costs as development and administrative or program costs;

(iii) Identify and allocate the portion of dual benefits costs that are for development and administration;

(iv) Identify and allocate the portion of indirect costs that are for development and administration versus program costs; and,

(v) Delineate all development and administrative costs in the grant application and calculate the percentage of total approved costs allocated to development and administration.

(b) *Waivers.* (1) The responsible HHS official may grant a waiver for each budget period of a specific time not to exceed 12 months, if a delay or disruption to program services is caused by circumstances beyond the agency's control, or if an agency is unable to administer the program within the 15 percent limitation and if the agency can demonstrate efforts to reduce its development and administrative costs.

(2) If at any time within the grant funding cycle, a grantee estimates development and administration costs will exceed 15 percent of total approved costs, it must submit a waiver request to the responsible HHS official that explains why costs exceed the limit, that indicates the time period the waiver will cover, and that describes what the grantee will do to reduce its development and administrative costs to comply with the 15 percent limit after the waiver period.

Subpart B—Administrative Requirements

§ 1303.10 In general.

A grantee must observe standards of organization, management, and administration that will ensure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of the Act and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism.

§ 1303.11 Limitations and prohibitions.

An agency must adhere to sections 644(e), 644(g)(3), 653, 654, 655, 656, and 657A of the Act. These sections pertain to union organizing, the Davis-Bacon Act, limitations on compensation, nondiscrimination, unlawful activities, political activities, and obtaining parental consent.

§ 1303.12 Insurance and bonding.

An agency must have an ongoing process to identify risks and have cost-effective insurance for those identified risks; a grantee must require the same for its delegates. The agency must specifically consider the risk of accidental injury to children while participating in the program. The grantee must submit proof of appropriate coverage in its initial application for funding. The process of identifying risks must also consider the risk of losses resulting from fraudulent acts by individuals authorized to disburse Head Start funds. Consistent with 45 CFR part 75, if the agency lacks sufficient coverage to protect the federal government's interest, the agency must maintain adequate fidelity bond coverage.

Subpart C—Protections for the Privacy of Child Records

§ 1303.20 In general.

A program must establish procedures to ensure the protection of the confidentiality of any personally identifiable information in child records and which procedures meet the requirements in §§ 1303.21 through 1303.24 and applicable definitions in part 1305 of this chapter.

§ 1303.21 Program procedures—Applicable confidentiality provisions.

If a program is an educational agency or institution subject to the confidentiality provisions under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99, it must comply with those confidentiality provisions of FERPA and those provisions govern (if they differ in any respect) from the provisions in §§ 1303.20 through 1303.24. A program must also comply with the confidentiality provisions under the Individuals with Disabilities Education Act (IDEA) under either 34 CFR 300.610

through 300.626 (Part B of IDEA) or 34 CFR 303.401 through 303.417 (Part C of IDEA) to protect the personally identifiable information in records of children served by the Head Start or Early Start program who are also eligible for, or receiving services, under Parts B and C of the IDEA and those provisions under the IDEA govern (if they differ in any respect) from the provisions in §§ 1303.20 through 1303.24 and the provisions in FERPA.

§ 1303.22 Disclosures with, and without, parental consent.

(a) *Disclosure with parental consent.* (1) Subject to the provisions referenced in § 1303.21 and the exceptions in paragraph (b) and (c) of this section, the procedures must require the program to obtain a parent's written consent before the program may disclose personally identifiable information from child records.

(2) The procedures must require the program to ensure that the parent's written consent specifies what child records will be disclosed and explains why and to whom the records will be disclosed. The written consent must be signed and dated.

(3) ''Signed and dated written consent'' under this part may include a record and signature in electronic form that—

(i) Identifies and authenticates a particular person as the source of the electronic consent; and

(ii) Indicates such person's approval of the information.

(4) The program must explain to the parent that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (*i.e.,* it does not apply to an action that occurred before the consent was revoked).

(b) *Disclosure without parental consent but with parental notice and opportunity to refuse.* Subject to the provisions in § 1303.21, the procedures must allow the program to disclose personally identifiable information from child records without parental consent if the program notifies the parent about the disclosure, provides the parent, upon the parent's request, a copy of the personally identifiable information from child records to be disclosed in advance, and gives the parent an opportunity to challenge and refuse disclosure of the information in the records, before the program forwards the records to officials at a program, school, or school district in which the child seeks or intends to enroll or where the child is already enrolled so long as the disclosure is related to the child's enrollment or transfer.

(c) *Disclosure without parental consent.* Subject to the provisions referenced in § 1303.21, the procedures must allow the program to disclose personally identifiable information from child records without parental consent to:

(1) Officials within the program or acting for the program (*i.e.* individuals in the Head Start or Early Head Start program who provide program services to the child), if the program determines the official has legitimate educational interests and informs parents of this provision at enrollment;

(2) Authorized representatives of local, state or federal officials in connection with the audit or evaluation of Federally or State-supported education, including early childhood, programs, or for enforcement of, or compliance with, the Federal legal requirements of these programs; Provided, that except when collection of personally identifiable information is specifically authorized by Federal law, the official agrees in writing (not including any authorized representative of the responsible HHS officials) that any data collected shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials and their authorized representatives, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements;

(3) Organizations that conduct studies to improve child and family outcomes, including improving the quality of programs, for, or on behalf of, the program, as long as the organization agrees in writing to protect personally identifiable information from disclosure to individuals other than representatives of the organization conducting the study that have a legitimate interest in the information, to use personally identifiable information for specific purposes intended, and to destroy personally identifiable information when no longer needed for the purpose for which the research was conducted;

(4) Appropriate parties in order to address a disaster or other health or safety emergency during the period of the emergency, if the program determines that disclosing the personally identifiable information from child records are necessary to protect the health or safety of children or other persons;

(5) Comply with a judicial order or lawfully issued subpoena, provided the program makes a reasonable effort to notify the parent about all such subpoenas and court orders in advance of the compliance therewith, except if:

(i) A disclosure is in compliance with a federal grand jury subpoena or with any other subpoena that a court has issued and has ordered that neither the subpoena nor its contents be disclosed or

(ii) A parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the program is not required;

(6) The Secretary of Agriculture or an authorized representative from the Food and Nutrition Service to conduct program monitoring, evaluations, and performance measurements for the Child and Adult Care Food Program under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, if the results will be reported in an aggregate form that does not identify any individual: provided, that any data collected must be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary of Agriculture and any personally identifiable data must be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements; and,

(7) A caseworker or other representative from a state, local, or tribal child welfare agency, who has the right to access a case plan for a child who is in foster care placement, when such agency is legally responsible for the child's care and protection, under state or tribal law, if the agency agrees in writing to protect personally identifiable information, to use information from the child's case plan for specific purposes intended of addressing the child's needs, and to destroy information that is no longer needed for those purposes.

(d) *Written agreements.* If a program establishes a written agreement with a third party identified in paragraph (c) of this section, the procedures must require the program to review and update the agreement annually, if necessary, and to prohibit the third party from access to records for at least 5 years, if the third party violates the agreement.

(e) *Annual notice.* The procedures must require the program to annually notify parents of their rights in writing described in §§ 1303.20 through

1303.24, and applicable definitions in part 1305, and include in that notice, a description of the personally identifiable information that may be disclosed without parental consent.

§ 1303.23 Parents' rights.

(a) *Inspect record.* A parent has the right to inspect child records. If the parent requests to inspect child records, the program must make the child records available within a reasonable time, but no more than 45 days after receipt of request. If a program maintains child records that contain information on more than one child, the program must ensure the parent only inspects information that pertains to the parent's child.

(b) *Amend record.* (1) A parent has the right to ask the program to amend information in the child record that the parent believes is inaccurate, misleading, or violates the child's privacy.

(2) The program must consider the parent's request and, if the request is denied, render a written decision to the parent within a reasonable time that informs the parent of the right to a hearing.

(c) *Hearing.* (1) If the parent requests a hearing to challenge information in the child record, the program must schedule a hearing within a reasonable time, notify the parent, in advance, about the hearing, and ensure the person who conducts the hearing does not have a direct interest in its outcome.

(2) The program must ensure the hearing affords the parent a full and fair opportunity to present evidence relevant to the issues.

(3) If the program determines from evidence presented at the hearing that the information in the child records is inaccurate, misleading, or violates the child's privacy, the program must either amend or remove the information and notify the parent in writing.

(4) If the program determines from evidence presented at the hearing that information in the child records is accurate, does not mislead, or otherwise does not violate the child's privacy, the program must inform the parent of the right to place a statement in the child records that either comments on the contested information or that states why the parent disagrees with the program's decision, or both.

(d) *Right to copy of record.* The program must provide a parent, free of charge, an initial copy of child records disclosed to third parties with parental consent and, upon parent request, an initial copy of child records disclosed to third parties under one of the exceptions to parental consent in §§ 1303.21, and 1303.22(b) and (c).

(e) *Right to inspect written agreements.* A parent has the right to review any written agreements with third parties as provided under § 1303.22(d).

§ 1303.24 Maintaining records.

(a) A program must maintain child records in a manner that ensures only parents, and officials within the program or acting for the program have access.

(b) A program must maintain, with the child records, for as long as the records are maintained, information on all individuals, agencies, or organizations to whom a disclosure of personally identifiable information from the child records was made (except for program officials and parents) and that indicates their expressed interests in the child records. If a program uses a web-based data system to maintain child records, the program must ensure that such child records are adequately protected and maintained according to current industry security standards.

(c) If a parent places a statement in the child record in accordance with § 1303.23(c)(4), the program must maintain the statement with the contested part of the child record for as long as the program maintains the record and, disclose the statement whenever it discloses the portion of the child record to which the statement relates.

Subpart D—Delegation of Program Operations

§ 1303.30 In general.

A grantee is accountable for the services its delegate agencies provide. The grantee supports, oversees and ensures delegate agencies provide high quality services to children and families and meet all applicable Head Start requirements. The grantee can only terminate a delegate agency if the grantee shows cause why termination is necessary and provides a process for delegate agencies to appeal termination decisions. The grantee retains legal responsibility and authority and bears financial accountability for the program when services are provided by delegate agencies.

§ 1303.31 Determining and establishing delegate agencies.

(a) If a grantee enters into an agreement with another entity to serve children, the grantee must determine whether the agreement meets the definition of ''delegate agency'' in section 637(3) of the Act.

(b) A grantee must not award a delegate agency federal financial assistance unless there is a written agreement and the responsible HHS official approves the agreement before the grantee delegates program operations.

§ 1303.32 Evaluations and corrective actions for delegate agencies.

A grantee must evaluate and ensure corrective action for delegate agencies according to section 641A(d) of the Act.

§ 1303.33 Termination of delegate agencies.

(a) If a grantee shows cause why termination is appropriate or demonstrates cost effectiveness, the grantee may terminate a delegate agency's contract.

(b) The grantee's decision to terminate must not be arbitrary or capricious.

(c) The grantee must establish a process for defunding a delegate agency, including an appeal of a defunding decision and must ensure the process is fair and timely.

(d) The grantee must notify the responsible HHS official about the appeal and its decision.

Subpart E—Facilities

§ 1303.40 In general.

This subpart prescribes what a grantee must establish to show it is eligible to purchase, construct and renovate facilities as outlined at section 644(c), (f) and (g) of the Act. It explains how a grantee may apply for funds, details what measures a grantee must take to protect federal interest in facilities purchased, constructed or renovated with grant funds, and concludes with other administrative provisions. This subpart applies to major renovations. It only applies to minor renovations and repairs, when they are included with a purchase application and are part of purchase costs.

§ 1303.41 Approval of previously purchased facilities.

If a grantee purchased a facility beginning in 1987, and continues to pay purchase costs for the facility or seeks to refinance current indebtedness, the grantee may apply for funds to meet those costs. The grantee must submit an application that conforms to requirements in this part and in the Act to the responsible HHS official. If the responsible HHS official approves the grantee's application, the grantee may only use the funds to pay purchase costs, which include amortizing, principal, and interest on loans.

§ 1303.42 Eligibility to purchase, construct, and renovate facilities.

(a) *Preliminary eligibility.* Before a grantee can apply for funds to purchase, construct, or renovate a facility under § 1303.44, it must establish that:

(1) The facility will be available to Indian tribes, or rural or other low-income communities;

(2) The proposed purchase, construction or major renovation is within the grantee's designated service area; and,

(3) The proposed purchase, construction or major renovation is necessary because the lack of suitable facilities in the grantee's service area will inhibit the operation of the program.

(4) If applying to construct a facility, that the construction of such facility is more cost-effective than the purchase of available facilities or renovation.

(b) *Proving a lack of suitable facilities.* To satisfy paragraph (a)(3) of this section, the grantee must have a written statement from a licensed independent certified appraiser in the grantee's service area that supports factors the grantee considers and supports how the grantee determines there are no other suitable facilities in the area.

§ 1303.43 Use of grant funds to pay fees.

A grantee may submit a written request to the responsible HHS official for reasonable fees and costs necessary to determine preliminary eligibility under § 1303.42 before it submits an application under § 1303.44. If the responsible HHS official approves the grantee's application, the grantee may use federal funds to pay fees and costs.

§ 1303.44 Applications to purchase, construct, and renovate facilities.

(a) *Application requirements.* If a grantee is preliminarily eligible under § 1303.42 to apply for funds to purchase, construct, or renovate a facility, it must submit to the responsible HHS official:

(1) A statement that explains the anticipated effect the proposed purchase, construction or renovation has had or will have on program enrollment, activities and services, and how it determined what the anticipated effect would be;

(2) A deed or other document showing legal ownership of the real property where facilities activity is proposed, legal description of the facility site, and an explanation why the location is appropriate for the grantee's service area;

(3) Plans and specifications for the facility, including square footage, structure type, the number of rooms the facility will have or has, how the rooms will be used, where the structure will be positioned or located on the building site, and whether there is space available for outdoor play and for parking;

(4) Certification by a licensed engineer or architect that the facility is, or will be upon completion, structurally sound and safe for use as a Head Start facility and that the facility complies, or will comply upon completion, with local building codes, applicable child care licensing requirements, the access requirements of the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, the Flood Disaster Protection Act of 1973, and the National Historic Preservation Act of 1966;

(5) A description of proposed renovations or repairs to make the facility suitable for program activities, and plans and specification that describe the facility after renovation or repair;

(6) A proposed schedule that details when the grantee will acquire, renovate, repair and occupy the facility;

(7) An estimate, from a licensed independent certified appraiser, of the facility's fair market value after proposed purchase, construction, renovation or repair activities;

(8) The cost comparison described in § 1303.45;

(9) A statement that shows what share of the purchase, construction, or major renovation will be paid with grant funds and what the grantee proposes to contribute as a nonfederal match to the purchase, construction or major renovation;

(10) A statement from a lender, if a grantee applies to use Head Start funds to continue purchase on a facility or refinance existing debt on a facility that indicates the lender is willing to comply with § 1303.49;

(11) The terms of any proposed or existing loan(s) related to purchase, construction or major renovation of the facility, including copies of any funding commitment letters, mortgages, promissory notes, potential security agreements to be entered into, information on all other sources of funding, construction or major renovation, and any restrictions or conditions imposed by other funding sources;

(12) A Phase I environmental site assessment that describes the environmental condition of the proposed facility site and any structures on the site; and,

(13) A description of the efforts by the grantee to coordinate or collaborate with other providers in the community to seek assistance, including financial assistance, prior to the use of funds under this section;

(14) Any additional information the responsible HHS official may require.

(b) *Additional requirements for leased properties.* (1) If a grantee applies to renovate leased property, it must submit to the responsible HHS official information described in paragraph (a) of this section, an official a copy of the existing or proposed lease agreement, and the landlord or lessor's consent.

(2) If a grantee applies to purchase a modular unit it intends to site on leased property or on other property the grantee does not own, the grantee must submit to the responsible HHS official information described in paragraph (a) of this section and a copy of the proposed lease or other occupancy agreement which will allow the grantee access to the modular unit for at least 15 years.

(c) *Non-federal match.* Any non-federal match associated with facilities activities becomes part of the federal share of the facility.

§ 1303.45 Cost-comparison to purchase, construct, and renovate facilities.

(a) *Cost comparison.* (1) If a grantee proposes to purchase, construct, or renovate a facility, it must submit a detailed cost estimate of the proposed activity, compare the costs associated with the proposed activity to other available alternatives in the service area, and provide any additional information the responsible HHS official requests. The grantee must demonstrate that the proposed activity will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out program.

(2) In addition to requirements in paragraph (a)(1) of this section, the grantee must:

(i) Identify who owns the property;

(ii) List all costs related to the purchase, construction, or renovation;

(iii) Identify costs over the structure's useful life, which is at least 20 years for a facility that the grantee purchased or constructed and at least 15 years for a modular unit the grantee renovated, and deferred costs, including mortgage balloon payments, as costs with associated due dates; and,

(iv) Demonstrated how the proposed purchase, construction, or major renovation is consistent with program management and fiscal goals, community needs, enrollment and program options and how the proposed facility will support the grantee as it provides quality services to children and families.

(b) *Continue purchase or refinance.* To use funds to continue purchase on a facility or to refinance an existing indebtedness, the grantee must compare the costs of continued purchase against the cost of purchasing a comparable facility in the service area over the remaining years of the facility's useful life. The grantee must demonstrate that the proposed activity will result in savings when compared to the cost that would be incurred to acquire the use of an alternative facility to carry out the program.

(c) *Multi-purpose use.* If the grantee intends to use a facility to operate a Head Start program and for another purpose, it must disclose what percentage of the facility will be used for non-Head Start activities, along with costs associated with those activities, in accordance with applicable cost principles.

§ 1303.46 Recording and posting notices of federal interest.

(a) *Survival of federal interest.* A grantee that receives funds under this subpart must file notices of federal interest as set forth in paragraph (b) of this section. Federal interest cannot be defeated by a grantee's failure to file a notice of federal interest.

(b) *Recording notices of federal interest.* (1) If a grantee uses federal funds to purchase real property or a facility, excluding modular units, appurtenant to real property, it must record a notice of federal interest in the official real property records for the jurisdiction where the facility is or will be located. The grantee must file the notice of federal interest as soon as it uses Head Start funds to either fully or partially purchase a facility or real property where a facility will be constructed or as soon as it receives permission from the responsible HHS official to use Head Start funds to continue purchase on a facility.

(2) If a grantee uses federal funds in whole or in part to construct a facility, it must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to construct the facility.

(3) If a grantee uses federal funds to renovate a facility that it, or a third party owns, the grantee must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to renovate the facility.

(4) If a grantee uses federal funds in whole or in part to purchase a modular unit or to renovate a modular unit, the grantee must post the notice of federal interest, in clearly visible locations, on the exterior of the modular unit and inside the modular unit.

§ 1303.47 Contents of notices of federal interest.

(a) *Facility and real property a grantee owns.* A notice of federal interest for a facility, other than a modular unit, and real property the grantee owns or will own, must include:

(1) The grantee's correct legal name and current mailing address;

(2) A legal description of the real property;

(3) Grant award number, amount and date of initial facilities funding award or initial use of base grant funds for ongoing purchase or mortgage payments;

(4) Acknowledgement that the notice of federal interest includes funds awarded in grant award(s) and any Head Start funds subsequently used to purchase, construct or to make major or minor renovations on the real property;

(5) A statement that the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations;

(6) A statement that the facility and real property will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

(7) A statement that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer of the property to another party or any other action the grantee takes without the responsible HHS official's written permission;

(8) A statement that proves the grantee disclosed to the governing body that it filed a notice of federal interest and that shows the date the governing body approved a copy of the proposed notice of federal interest; however, the governing bodies' failure to approve a copy of the proposed notice of federal does not defeat the federal interest and,

(9) The name, title, and signature of the person who drafted the notice.

(b) *Facility leased by a grantee.* (1) A notice of federal interest for a leased facility, excluding a modular unit, on land the grantee does not own, must be recorded in the official real property records for the jurisdiction where the facility is located and must include:

(i) The grantee's correct legal name and current mailing address;

(ii) A legal description of affected real property;

(iii) The grant award number, amount and date of initial funding award or initial use of base grant funds for major renovation;

(iv) Acknowledgement that the notice of federal interest includes any Head Start funds subsequently used to make major renovations on the affected real property;

(v) A statement the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations; and,

(vi) The lease or occupancy agreement that includes information from paragraphs (a)(1) through (9) of this section may be recorded in the official real property records for the jurisdiction where the facility is located.

(2) If a grantee cannot file the lease or occupancy agreement described in paragraph (b)(1)(vi) of this section in the official real property records for the jurisdiction where the facility is located, it may file an abstract. The abstract must include the names and addresses of parties to the lease or occupancy agreement, terms of the lease or occupancy agreement, and information described in paragraphs (a)(1) through (9) of this section.

(c) *Modular units.* A notice of federal interest on a modular unit the grantee purchased or renovated must be visible and clearly posted on the exterior of the modular and inside the modular and must include:

(1) The grantee's correct legal name and current mailing address;

(2) The grant award number, amount and date of initial funding award or initial use of base grant funds to purchase or renovate;

(3) Proof that the notice of federal interest includes any Head Start funds subsequently used to renovate the modular unit;

(4) A statement that the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations;

(5) A statement that the modular unit will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

(6) A statement that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer to another party, or any other action the grantee takes without the responsible HHS official's written permission;

(7) A statement that the modular unit cannot be moved to another location without the responsible HHS official's written permission;

(8) A statement that confirms the grantee disclosed to the agency's

governing body that it filed a notice of federal interest and the date the governing body approved a copy of the proposed notice of federal interest; however, the governing bodies' failure to approve a copy of the proposed notice of federal does not defeat the federal interest and,

(9) The name, title, and signature of the person who completed the notice for the grantee agency.

§ 1303.48 Grantee limitations on federal interest.

(a) *In general.* A grantee cannot mortgage, use as collateral for a credit line or for other loan obligations, or, sell or transfer to another party, a facility, real property, or a modular unit it has purchased, constructed or renovated with Head Start funds, without the responsible HHS official's written permission.

(b) *Limitations.* A grantee must have the responsible HHS official's written permission before it can use real property, a facility, or a modular unit subject to federal interest for a purpose other than that for which the grantee's application was approved.

§ 1303.49 Protection of federal interest in mortgage agreements.

(a) Any mortgage agreement or other security instrument that is secured by real property or a modular unit constructed or purchased in whole or in part with federal funds or subject to renovation with federal funds must:

(1) Specify that the responsible HHS official can intervene in case the grantee defaults on, terminates or withdraws from the agreement;

(2) Designate the responsible HHS official to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;

(3) Include a clause that requires any action to foreclose the mortgage agreement or security agreement be suspended for 60 days after the responsible HHS official receives the default notice to allow the responsible HHS official reasonable time to respond;

(4) Include a clause that preserves the notice of federal interest and the grantee's obligation for its federal share if the responsible HHS official fails to respond to any notice of default provided under this section;

(5) Include a statement that requires the responsible HHS official to be paid the federal interest before foreclosure proceeds are paid to the lender, unless the official's rights under the notice of federal interest have been subordinated by a written agreement in conformance with § 1303.51;

(6) Include a clause that gives the responsible HHS official the right to cure any default under the agreement within the designated period to cure the default; and,

(7) Include a clause that gives the responsible HHS official the right to assign or transfer the agreement to another interim or permanent grantee.

(b) A grantee must immediately notify the responsible HHS official about any default under a real property or mortgage agreement.

§ 1303.50 Third party leases and occupancy arrangements.

(a) If a grantee receives federal funds to construct or renovate a facility on real property the grantee does not own or to purchase or renovate a modular unit on real property the grantee does not own, the grantee must have a lease or other occupancy agreement of at least 30 years for construction of a facility and at least 15 years for a major renovation or placement of a modular unit.

(b) The lease or occupancy agreement must:

(1) Provide for the grantee's right of continued use and occupancy of the leased or occupied premises during the entire term of the lease;

(2) Designate the regional grants management officer to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;

(3) Specify that the responsible HHS official has the right to cure any default under the lease or occupancy agreement within the designated period to cure default; and,

(4) Specify that the responsible HHS official has the right to transfer the lease to another interim or replacement grantee.

§ 1303.51 Subordination of the federal interest.

Only the responsible HHS official can subordinate federal interest to the rights of a lender or other third party if the official agrees in writing, the mortgage agreement or security agreement for which subordination is requested complies with § 1303.49, and, the amount of federal funds already contributed to the facility does not exceed the amount provided by the lender seeking subordination.

§ 1303.52 Insurance, bonding and maintenance.

(a) *In general.* If a grantee uses federal funds to purchase or continue purchase on a facility, excluding modular units, the grantee must obtain a title insurance policy for the purchase price that names the responsible HHS official as an additional loss payee.

(b) *Insurance coverage.* (1) If a grantee uses federal funds to purchase or continue purchase on a facility or modular unit the grantee must maintain physical damage or destruction insurance at the full replacement value of the facility, for as long as the grantee owns or occupies the facility.

(2) If a facility is located in an area the National Flood Insurance Program defines as high risk, the grantee must maintain flood insurance for as long as the grantee owns or occupies the facility.

(3) A grantee must submit to the responsible HHS official, within 10 days after coverage begins, copies of insurance papers.

(c) *Maintenance.* A grantee must keep all facilities purchased or constructed in whole or in part with Head Start funds in good repair in accordance with all applicable federal state and local laws, rules and regulations, including Head Start requirements, zoning requirements, building codes, health and safety regulations and child care licensing standards.

§ 1303.53 Copies of documents.

A grantee must submit to the responsible HHS official, within 10 days after filing or execution, copies of deeds, leases, loan instruments, mortgage agreements, notices of federal interest, and other legal documents related to the purchase, construction, renovation, or the discharge of any debt secured by the facility.

§ 1303.54 Record retention.

A grantee must retain records pertinent to the lease, purchase, construction or renovation of a facility funded in whole or in part with Head Start funds, for as long as the grantee owns or occupies the facility, plus 3 years.

§ 1303.55 Procurement procedures.

(a) A grantee must comply with all grants management regulations, including specific regulations applicable to transactions in excess of the current simplified acquisition threshold, cost principles, and its own procurement procedures, and must provide, to the maximum extent practical, open and full competition.

(b) A grantee must obtain the responsible HHS official's written approval before it uses Head Start funds, in whole or in part, to contract construction or renovation services. The grantee must ensure these contracts are paid on a lump sum fixed-price basis.

(c) A grantee must obtain prior written approval from the responsible

HHS official for contract modifications that would change the scope or objective of a project or would materially alter the costs, by increasing the amount of grant funds needed to complete the project.

(d) A grantee must ensure all construction and renovation contracts paid, in whole or in part with Head Start funds contain a clause that gives the responsible HHS official or his or her designee access to the facility, at all reasonable times, during construction and inspection.

§ 1303.56 Inspection of work.

The grantee must submit to the responsible HHS official a final facility inspection report by a licensed engineer or architect within 30 calendar days after the project is completed. The inspection report must certify that the facility complies with local building codes, applicable child care licensing requirements, is structurally sound and safe for use as a Head Start facility, complies with the access requirements of the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act of 1973 and the Flood Disaster Protection Act of 1973, and complies with National Historic Preservation Act of 1966.

Subpart F—Transportation

§ 1303.70 In general.

(a) *Applicability.* This subpart applies to all agencies, including those that provide transportation services, with the exceptions and exclusions provided in this section, regardless of whether such transportation is provided directly on agency owned or leased vehicles or through arrangement with a private or public transportation provider.

(b) *Providing transportation services.* (1) If a program does not provide transportation services, either for all or a portion of the children, it must provide reasonable assistance to the families of such children to arrange transportation to and from its activities, and provide information about these transportation options in recruitment announcements.

(2) A program that provides transportation services must make reasonable efforts to coordinate transportation resources with other human services agencies in its community in order to control costs and to improve the quality and the availability of transportation services.

(3) A program that provides transportation services must ensure that all accidents involving vehicles that transport children are reported in accordance with applicable State requirements.

(c) *Waiver.* (1) A program that provides transportation services must comply with all provisions in this subpart. A Head Start program may request to waive a specific requirement in this part, in writing, to the responsible HHS official, as part of an agency's annual application for financial assistance or amendment and must submit any required documentation the responsible HHS official deems necessary to support the waiver. The responsible HHS official is not authorized to waive any requirements with regard to children enrolled in an Early Head Start program. A program may request a waiver when:

(i) Adherence to a requirement in this part would create a safety hazard in the circumstances faced by the agency; and,

(ii) For preschool children, compliance with requirements related to child restraint systems at §§ 1303.71(d) and 1303.72(a)(1) or bus monitors at § 1303.72(a)(4) of this chapter will result in a significant disruption to the program and the agency demonstrates that waiving such requirements is in the best interest of the children involved.

(2) The responsible HHS official is not authorized to waive any requirements of the Federal Motor Vehicle Safety Standards (FMVSS) made applicable to any class of vehicle under 49 CFR part 571.

§ 1303.71 Vehicles.

(a) *Required use of schools buses or allowable alternative vehicles.* A program, with the exception of transportation services to children served under a home-based option, must ensure that all vehicles used or purchased with grant funds to provide transportation services to enrolled children are school buses or allowable alternate vehicles that are equipped for use of height- and weight-appropriate child restraint systems, and that have reverse beepers.

(b) *Emergency equipment.* A program must ensure that each vehicle used in providing such services is equipped with an emergency communication system and appropriate emergency safety equipment, including a seat belt cutter, charged fire extinguisher, and first aid kit.

(c) *Auxiliary seating.* A program must ensure that any auxiliary seating, such as temporary or folding jump seats, used in vehicles of any type providing such services are built into the vehicle by the manufacturer as part of its standard design, are maintained in proper working order, and are inspected as part of the annual inspection required under paragraph (f) of this section.

(d) *Child restraint systems.* A program must ensure that each vehicle used to transport children receiving such services is equipped for use of height- and weight-appropriate child safety restraint systems.

(e) *Vehicle maintenance.* (1) A program must ensure vehicles used to provide such services are in safe operating condition at all times.

(2) The program must:

(i) At a minimum, conduct an annual thorough safety inspection of each vehicle through an inspection program licensed or operated by the state;

(ii) Carry out systematic preventive maintenance on vehicles; and,

(iii) Ensure each driver implements daily pre-trip vehicle inspections.

(f) *New vehicle inspection.* A program must ensure that bid announcements for school buses and allowable alternate vehicles to transport children in its program include correct specifications and a clear statement of the vehicle's intended use. The program must ensure that vehicles are examined at delivery to ensure that they are equipped in accordance with the bid specifications and that the manufacturer's certification of compliance with the applicable FMVSS is included with the vehicle.

§ 1303.72 Vehicle operation.

(a) *Safety.* A program must ensure that:

(1) Vehicles seat each child in a child restraint system appropriate to the child's height and weight;

(2) Baggage and other items transported in the passenger compartment are properly stored and secured, and the aisles remain clear and the doors and emergency exits remain unobstructed at all times;

(3) Up-to-date child rosters and lists of the adults each child is authorized to be released to, including alternates in case of emergency, are maintained and no child is left behind, either at the classroom or on the vehicle at the end of the route; and,

(4) With the exception of transportation services to children served under a home-based option, there is at least one bus monitor on board at all times, with additional bus monitors provided as necessary.

(b) *Driver qualifications.* A program, with the exception of transportation services to children served under a home-based option, must ensure that drivers, at a minimum:

(1) In states where such licenses are granted, have a valid Commercial Driver's License (CDL) for vehicles in the same class as the vehicle the driver will operating; and,

(2) Meet any physical, mental, and other requirements as necessary to perform job-related functions with any necessary reasonable accommodations.

(c) *Driver application review.* In addition to the applicant review process prescribed § 1302.90(b) of this chapter, a program, with the exception of transportation services to children served under a home-based option, must ensure the applicant review process for drivers includes, at minimum:

(1) Disclosure by the applicant of all moving traffic violations, regardless of penalty;

(2) A check of the applicant's driving record through the appropriate state agency, including a check of the applicant's record through the National Driver Register, if available in the state;

(3) A check that drivers qualify under the applicable driver training requirements in the state or tribal jurisdiction; and,

(4) After a conditional employment offer to the applicant and before the applicant begins work as a driver, a medical examination, performed by a licensed doctor of medicine or osteopathy, establishing that the individual possesses the physical ability to perform any job-related functions with any necessary accommodations.

(d) *Driver training.* (1) A program must ensure any person employed as a driver receives training prior to transporting any enrolled child and receives refresher training each year.

(2) Training must include:

(i) Classroom instruction and behind-the-wheel instruction sufficient to enable the driver to operate the vehicle in a safe and efficient manner, to safely run a fixed route, to administer basic first aid in case of injury, and to handle emergency situations, including vehicle evacuation, operate any special equipment, such as wheelchair lifts, assistance devices or special occupant restraints, conduct routine maintenance and safety checks of the vehicle, and maintain accurate records as necessary; and,

(ii) Instruction on the topics listed in § 1303.75 related to transportation services for children with disabilities.

(3) A program must ensure the annual evaluation of each driver of a vehicle used to provide such services includes an on-board observation of road performance.

(e) *Bus monitor training.* A program must train each bus monitor before the monitor begins work, on child boarding and exiting procedures, how to use child restraint systems, completing any required paperwork, how to respond to emergencies and emergency evacuation procedures, how to use special equipment, child pick-up and release procedures, how to conduct and pre- and post-trip vehicle checks. Bus monitors are also subject to staff safety training requirements in § 1303.47(b)(4) including CPR and first aid.

§ 1303.73 Trip routing.

(a) A program must consider safety of the children it transports when it plans fixed routes.

(b) A program must also ensure:

(1) The time a child is in transit to and from the program must not exceed one hour unless there is no shorter route available or any alternative shorter route is either unsafe or impractical;

(2) Vehicles are not loaded beyond maximum passenger capacity at any time;

(3) Drivers do not back up or make ''U'' turns, except when necessary for safety reasons or because of physical barriers;

(4) Stops are located to minimize traffic disruptions and to afford the driver a good field of view in front of and behind the vehicle;

(5) When possible, stops are located to eliminate the need for children to cross the street or highway to board or leave the vehicle;

(6) Either a bus monitor or another adult escorts children across the street to board or leave the vehicle if curbside pick-up or drop off is impossible; and,

(7) Drivers use alternate routes in the case of hazardous conditions that could affect the safety of the children who are being transported, such as ice or water build up, natural gas line breaks, or emergency road closing.

§ 1303.74 Safety procedures.

(a) A program must ensure children who receive transportation services are taught safe riding practices, safety procedures for boarding and leaving the vehicle and for crossing the street to and from the vehicle at stops, recognition of the danger zones around the vehicle, and emergency evacuation procedures, including participating in an emergency evacuation drill conducted on the vehicle the child will be riding.

(b) A program that provides transportation services must ensure that at least two bus evacuation drills are conducted during the program year.

§ 1303.75 Children with disabilities.

(a) A program must ensure that there are school buses or allowable alternate vehicles adapted or designed for transportation of children with disabilities available as necessary to transport such children enrolled in the program. This requirement does not apply to the transportation of children receiving home-based services unless school buses or allowable alternate vehicles are used to transport the other children served under the home-based option by the grantee. Whenever possible, children with disabilities must be transported in the same vehicles used to transport other children enrolled in the Head Start or Early Head Start program.

(b) A program must ensure that special transportation requirements in a child's IEP or IFSP are followed, including special pick-up and drop-off requirements, seating requirements, equipment needs, any assistance that may be required, and any necessary training for bus drivers and monitors.

PART 1304—FEDERAL ADMINISTRATIVE PROCEDURES

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Authority: 42 U.S.C. 9801 *et seq.*

Subpart A—Monitoring, Suspension, Termination or Denial of Refunding, Reduction in Funding, and their Appeals

§ 1304.1 In general.

(a) Section 641A(c) of the Act requires the Secretary to monitor whether a grantee meets program governance, program operations, and financial and administrative standards described in this regulation and to identify areas for improvements and areas of strength as part of the grantee's ongoing self-assessment process. This subpart focuses on the monitoring process. It discusses areas of noncompliance, deficiencies, and corrective action through quality improvement plans.

(b) Section 646(a) of the Act requires the Secretary to prescribe procedures for notice and appeal for certain adverse actions. This subpart establishes rules and procedures to suspend financial assistance to a grantee, deny a grantee's application for refunding, terminate, or reduce a grantee's assistance under the Act when the grantee improperly uses federal funds or fails to comply with applicable laws, regulations, policies, instructions, assurances, terms and conditions or, if the grantee loses its legal status or financial viability. This subpart does not apply to reductions to a grantee's financial assistance based on chronic under-enrollment procedures at section 641A(h) of the Act or to matters described in subpart B. This subpart does not apply to any administrative action based upon any violation, or alleged violation, of title VI of the Civil Rights Act of 1964. Except as otherwise provided for in this subpart, the appeals and processes in this subpart will be governed by the Departmental Appeals Board regulations at 45 CFR part 16.

§ 1304.2 Monitoring.

(a) *Areas of noncompliance.* If a responsible HHS official determines through monitoring, pursuant to section 641(A)(c)(1) and (2) of the Act, that a grantee fails to comply with any of the standards described in parts 1301, 1302, and 1303 under this title, the official will notify the grantee promptly in writing, identify the area of noncompliance, and specify when the grantee must correct the area of noncompliance.

(b) *Deficiencies.* If the Secretary determines that a grantee meets one of the criteria for a deficiency, as defined in section 637(2)(C) of the Act, the Secretary shall inform the grantee of the deficiency. The grantee must correct the deficiency pursuant to section 641A(e)(1)(B) of the Act, as the responsible HHS official determines.

(c) *Quality improvement plans.* If the responsible HHS official does not require the grantee to correct a deficiency immediately as prescribed under section 641A(e)(1)(B)(i) of the Act, the grantee must submit to the official, for approval, a quality improvement plan that adheres to section 641A(e)(2)(A) of the Act.

§ 1304.3 Suspension with notice.

(a) *Grounds to suspend financial assistance with notice.* If a grantee breaches or threatens to breach any requirement stated in § 1304.1, the responsible HHS official may suspend the grantee's financial assistance, in whole or in part, after it has given the grantee notice and an opportunity to show cause why assistance should not be suspended.

(b) *Notice requirements.* (1) The responsible HHS official must notify the grantee in writing that ACF intends to suspend financial assistance, in whole or in part. The notice must:

(i) Specify grounds for the suspension;

(ii) Include the date suspension will become effective;

(iii) Inform the grantee that it has the opportunity to submit to the responsible HHS official, at least 7 days before suspension becomes effective, any written material it would like the official to consider, and to inform the grantee that it may request, in writing, no later than 7 days after the suspension notice was mailed, to have an informal meeting with the responsible HHS official;

(iv) Invite the grantee to voluntarily correct the deficiency; and,

(v) Include a copy of this subpart.

(2) The responsible HHS official must promptly transmit the suspension notice to the grantee. The notice becomes effective when the grantee receives the notice, when the grantee refuses delivery, or when the suspension notice is returned to sender unclaimed.

(3) The responsible HHS official must send a copy of the suspension notice to any delegate agency whose actions or whose failures to act substantially caused or contributed to the proposed suspension. The responsible HHS official will inform the delegate agency that it is entitled to submit written material to oppose the suspension and to participate in the informal meeting, if one is held. In addition, the responsible HHS official may give notice to the grantee's other delegate agencies.

(4) After the grantee receives the suspension notice, it has 3 days to send a copy of the notice to delegate agencies that would be financially affected by a suspension.

(c) *Opportunity to show cause.* The grantee may submit to the responsible HHS official any written material to show why financial assistance should not be suspended. The grantee may also request, in writing, to have an informal meeting with the responsible HHS official. If the grantee requests an informal meeting, the responsible HHS official must schedule the meeting within 7 days after the grantee receives the suspension notice.

(d) *Extensions.* If the responsible HHS official extends the time or the date by which a grantee has to make requests or to submit material, it must notify the grantee in writing.

(e) *Decision.* (1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grantee has adequately corrected what led to suspension, and will render a decision within 5 days after the informal meeting. If no informal meeting is held, the responsible HHS official will render a decision within 5 days after it receives written material from all concerned parties.

(2) If the responsible HHS official finds the grantee failed to show cause why ACF should not suspend financial assistance, the official may suspend financial assistance, in whole or in part, and under terms and conditions as he or she deems appropriate.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B) are applicable or the grantee requests the suspension continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grantee to operate the program until the grantee's suspension is lifted, or as otherwise provided under section 646(a)(5)(B) of the Act.

(f) *Obligations incurred during suspension.* New obligations the grantee incurs while under suspension are not allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from obligations the grantee properly incurred before suspension and not in anticipation of suspension or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to

satisfy cost sharing or matching requirements.

(g) *Modify or rescind suspension.* The responsible HHS official may modify or rescind suspension at any time, if the grantee can satisfactorily show that it has adequately corrected what led to suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for an additional 30 days if the cause of the suspension has not been corrected.

§ 1304.4 Emergency suspension without advance notice.

(a) *Grounds to suspend financial assistance without advance notice.* The responsible HHS official may suspend financial assistance, in whole or in part, without prior notice and an opportunity to show cause if there is an emergency situation, such as a serious risk for substantial injury to property or loss of project funds, a federal, state, or local criminal statute violation, or harm to staff or participants' health and safety.

(b) *Emergency suspension notification requirements.* (1) The emergency suspension notification must:

(i) Specify the grounds for the suspension;

(ii) Include terms and conditions of any full or partial suspension;

(iii) Inform that grantee it cannot make or incur any new expenditures or obligations under suspended portion of the program; and,

(iv) Advise the grantee that it may request, in writing, within 5 days after the date the emergency suspension became effective, an informal meeting with the responsible HHS official, to show why the suspension should be rescinded.

(2) The responsible HHS official must promptly transmit the emergency suspension notification to the grantee by any means showing the date of receipt. The emergency suspension becomes effective upon delivery of the notification or upon the date the grantee refuses delivery, or upon return of the notification unclaimed.

(3) After the grantee receives the emergency suspension notification, it must send a copy to delegate agencies affected by the suspension, within 2 workdays.

(4) The responsible HHS official must inform affected delegate agencies that they have the right to participate in the informal meeting.

(c) *Opportunity to show cause.* If the grantee requests an informal meeting, the responsible HHS official must schedule a meeting within 5 workdays after it receives the grantee's request. The suspension will continue until the grantee has been afforded such opportunity and until the responsible HHS official renders a decision. Notwithstanding provisions in section, the responsible HHS official may proceed to deny refunding or to initiate termination proceedings at any time even though the grantee's financial assistance has been suspended in whole or in part.

(d) *Decision.* (1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grantee has adequately corrected what led to suspension, and render a decision within five work days after the informal meeting.

(2) If the responsible HHS official finds the grantee failed to show cause why suspension should be rescinded, the responsible HHS official may continue the suspension, in whole or in part, and under the terms and conditions specified in the emergency suspension notification.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B) are applicable or the grantee requests the suspension to continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grantee to operate the program until either the grantee's emergency suspension is lifted or a new grantee is selected.

(e) *Obligations incurred during suspension.* Any new obligations the grantee incurs during the suspension period will not be allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if those costs result from obligations properly incurred before suspension and not in anticipation of suspension, denial of refunding or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to satisfy cost sharing or matching requirements.

(f) *Modify or rescind suspension.* The responsible HHS official may modify or rescind suspension at any time, if the grantee can satisfactorily show that is has adequately corrected what led to the suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for an additional 30 days if the cause of the suspension has not been corrected.

§ 1304.5 Termination and denial of refunding.

(a) *Grounds to terminate financial assistance or deny a grantee's application for refunding.* (1) A responsible HHS official may terminate financial assistance in whole or in part to a grantee or deny a grantee's application for refunding.

(2) The responsible HHS official may terminate financial assistance in whole or in part, or deny refunding to a grantee for any one or for all of the following reasons:

(i) The grantee is no longer financially viable;

(ii) The grantee has lost the requisite legal status or permits;

(iii) The grantee has failed to timely correct one or more deficiencies as defined in the Act;

(iv) The grantee has failed to comply with eligibility requirements;

(v) The grantee has failed to comply with the Head Start grants administration or fiscal requirements set forth in 45 CFR part 1303;

(vi) The grantee has failed to comply with requirements in the Act;

(vii) The grantee is debarred from receiving federal grants or contracts; or

(viii) The grantee has failed to abide by any other terms and conditions of its award of financial assistance, or any other applicable laws, regulations, or other applicable federal or state requirements or policies.

(b) *Notice requirements.* (1) The responsible HHS official will notify the grantee and such notice will:

(i) Include the legal basis for termination or adverse action as described at paragraph (a) of this section;

(ii) Include factual findings on which the action is based or reference specific findings in another document that form the basis for termination or denial of refunding;

(iii) Cite to any statutory provisions, regulations, or policy issuances on which ACF is relies for its determination;

(iv) Inform the grantee that it may appeal the denial or termination within 30 days to the Departmental Appeals Board, that the appeal will be governed by 45 CFR part 16, except as otherwise provided in the Head Start appeals regulations, that a copy of the appeal must sent to the responsible HHS official, and that it has the right to request and receive a hearing, as mandated under section 646 of the Act;

(v) Inform the grantee that only its board of directors, or an official acting

on the board's behalf can appeal the decision;

(vi) Name the delegate agency, if the actions of that delegate are the basis, in whole or in part, for the proposed action; and,

(vii) Inform the grantee that the appeal must meet requirements in paragraph (d) of this section; and, that if the responsible HHS official fails to meet requirements in this paragraph, the pending action may be dismissed without prejudice or remanded to reissue it with corrections.

(2) The responsible HHS official must provide the grantee as much advance notice, but no later than 30 days after ACF receives the application, that it has the opportunity for a full and fair hearing on whether refunding should be denied.

(c) *Grantee's appeal.* (1) The grantee must adhere to procedures and requirements for appeals in 45 CFR part 16, file the appeal with the Departmental Appeals Board, and serve a copy of the appeal on the responsible HHS official who issued the termination or denial of refunding notice. The grantees must also serve a copy of its appeal on any affected delegate.

(2) While a grantee appeals a termination decision, funding will continue unless the responsible HHS official renders an adverse decision, or unless the current budget period is expired. If the responsible HHS official has not rendered a decision by the end of the current budget period, the official will award the grantee interim funding until a decision is made.

(d) *Funding during suspension.* If a grantee's funding is suspended, the grantee will not receive funding during the termination proceedings, or at any other time, unless the action is rescinded or the grantee's appeal is successful.

(e) *Interim and replacement grantees.* The responsible HHS official may appoint an interim or replacement grantee as soon as a termination action is affirmed by the Departmental Appeals Board.

(f) *Opportunity to show cause.* (1) If the Departmental Appeals Board sets a hearing for a proposed termination or denial of refunding action, the grantee has 5 workdays to send a copy of the notice it receives from the Departmental Appeals Board, to all delegate agencies that would be financially affected by termination and to each delegate agency identified in the notice.

(2) The grantee must send to the Departmental Appeals Board and to the responsible HHS official a list of the delegate agencies it notified and the dates when it notified them.

(3) If the responsible HHS official initiated proceedings because of a delegate agency's activities, the official must inform the delegate agency that it may participate in the hearing. If the delegate agency chooses to participate in the hearing, it must notify the responsible HHS official in writing within 30 days of the grantee's appeal. If any other delegate agency, person, agency or organization wishes to participate in the hearing, it may request permission to do so from the Departmental Appeals Board.

(4) If the grantee fails to appear at the hearing, without good cause, the grantee will be deemed to have waived its right to a hearing and consented to have the Departmental Appeals Board make a decision based on the parties' written information and argument.

(5) A grantee may waive the hearing and submit written information and argument for the record, within a reasonable period of time to be fixed by the Departmental Appeals Board.

(6) The responsible HHS official may attempt, either personally or through a representative, to resolve the issues in dispute by informal means prior to the hearing.

(g) *Decision.* The Departmental Appeals Board's decision and any measure the responsible HHS official takes after the decision is fully binding upon the grantee and its delegate agencies, whether or not they actually participated in the hearing.

§ 1304.6 Appeal for prospective delegate agencies.

(a) *In general.* If a grantee denies, or fails to act on, a prospective delegate agency's funding application, the prospective delegate may appeal the grantee's decision or inaction.

(b) *Process for prospective delegates.* To appeal, a prospective delegate must:

(1) Submits the appeal, including a copy of the funding application, to the responsible HHS official within 30 days after it receives the grantee's decision; or within 30 days after the grantee has had 120 days to review but has not notified the applicant of a decision; and,

(2) Provide the grantee with a copy of the appeal at the same time the appeal is filed with the responsible HHS official.

(c) *Process for grantees.* When an appeal is filed with the responsible HHS official, the grantee must respond to the appeal and submit a copy of its response to the responsible HHS official and to the prospective delegate agency within 30 work days.

(d) *Decision.* (1) The responsible HHS official will sustain the grantee's decision, if the official determines the grantee did not act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements.

(2) The responsible HHS official will render a written decision to each party within a reasonable timeframe. The official's decision is final and not subject to further appeal.

(3) If the responsible HHS official finds the grantee did act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements, the grantee will be directed to reevaluate their applications.

§ 1304.7 Legal fees.

(a) An agency is not authorized to charge to its grant legal fees or other costs incurred to appeal terminations, reductions of funding, or denials of applications of refunding decisions.

(b) If a program prevails in a termination, reduction, or denial of refunding decision, the responsible HHS official may reimburse the agency for reasonable and customary legal fees, incurred during the appeal, if:

(1) The Departmental Appeals Board overturns the responsible HHS official's decision;

(2) The agency can prove it incurred fees during the appeal; and,

(3) The agency can prove the fees incurred are reasonable and customary.

Subpart B—Designation Renewal

§ 1304.10 Purpose and scope.

The purpose of this subpart is to set forth policies and procedures for the designation renewal of Head Start and Early Head Start programs. It is intended that these programs be administered effectively and responsibly; that applicants to administer programs receive fair and equitable consideration; and that the legal rights of current Head Start and Early Head Start grantees be fully protected. The Designation Renewal System is established in this Part to determine whether Head Start and Early Head Start agencies deliver high quality services to meet the educational, health, nutritional, and social needs of the children and families they serve; meet the program and financial requirements and standards described in section 641A(a)(1) of the Head Start Act; and qualify to be designated for funding for five years without competing for such funding as required under section 641(c) of the Head Start Act with respect to Head Start agencies and pursuant to section 645A(b)(12) and (d) with respect to Early Head Start agencies. A competition to select a new Head Start or Early Head Start agency to replace a

Head Start or Early Head Start agency that has been terminated voluntarily or involuntarily is not part of the Designation Renewal System established in this Part, and is subject instead to the requirements of § 1304.20.

§ 1304.11 Basis for determining whether a Head Start agency will be subject to an open competition.

A Head Start or Early Head Start agency shall be required to compete for its next five years of funding whenever the responsible HHS official determines that one or more of the following seven conditions existed during the relevant time period covered by the responsible HHS official's review under § 1304.15:

(a) An agency has been determined by the responsible HHS official to have one or more deficiencies on a single review conducted under section 641A(c)(1)(A), (C), or (D) of the Act in the relevant time period covered by the responsible HHS official's review under § 1304.15.

(b) An agency has been determined by the responsible HHS official based on a review conducted under section 641A(c)(1)(A), (C), or (D) of the Act during the relevant time period covered by the responsible HHS official's review under § 1304.15 not to have:

(1) After December 9, 2011, established program goals for improving the school readiness of children participating in its program in accordance with the requirements of section 641A(g)(2) of the Act and demonstrated that such goals:

(i) Appropriately reflect the ages of children, birth to five, participating in the program;

(ii) Align with the Birth to Five Head Start Child Outcomes Framework, State early learning guidelines, and the requirements and expectations of the schools, to the extent that they apply to the ages of children, birth to five, participating in the program and at a minimum address the domains of language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development;

(iii) Were established in consultation with the parents of children participating in the program.

(2) After December 9, 2011, taken steps to achieve the school readiness goals described under paragraph (b)(1) of this section demonstrated by:

(i) Aggregating and analyzing aggregate child-level assessment data at least three times per year (except for programs operating less than 90 days, which will be required to do so at least twice within their operating program period) and using that data in combination with other program data to determine grantees' progress toward meeting its goals, to inform parents and the community of results, and to direct continuous improvement related to curriculum, instruction, professional development, program design and other program decisions; and

(ii) Analyzing individual ongoing, child-level assessment data for all children birth to age five participating in the program and using that data in combination with input from parents and families to determine each child's status and progress with regard to, at a minimum, language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development and to individualize the experiences, instructional strategies, and services to best support each child.

(c) An agency has been determined during the relevant time period covered by the responsible HHS official's review under § 1304.15:

(1) After December 9, 2011, to have an average score across all classrooms observed below the following minimum thresholds on any of the three CLASS: Pre-K domains from the most recent CLASS: Pre-K observation:

(i) For the Emotional Support domain the minimum threshold is 4;

(ii) For the Classroom Organization domain, the minimum threshold is 3;

(iii) For the Instructional Support domain, the minimum threshold is 2;

(2) After December 9, 2011, to have an average score across all classrooms observed that is in the lowest 10 percent on any of the three CLASS: Pre-K domains from the most recent CLASS: Pre-K observation among those currently being reviewed unless the average score across all classrooms observed for that CLASS: Pre-K domain is equal to or above the standard of excellence that demonstrates that the classroom interactions are above an exceptional level of quality. For all three domains, the ''standard of excellence'' is a 6.

(d) An agency has had a revocation of its license to operate a Head Start or Early Head Start center or program by a State or local licensing agency during the relevant time period covered by the responsible HHS official's review under § 1304.15 of this chapter, and the revocation has not been overturned or withdrawn before a competition for funding for the next five-year period is announced. A pending challenge to the license revocation or restoration of the license after correction of the violation shall not affect application of this requirement after the competition for funding for the next five-year period has been announced.

(e) An agency has been suspended from the Head Start or Early Head Start program by ACF during the relevant time period covered by the responsible HHS official's review under § 1304.16 and the suspension has not been overturned or withdrawn. If there is a pending appeal and the agency did not have an opportunity to show cause as to why the suspension should not have been imposed or why the suspension should have been lifted if it had already been imposed under this part 1304, the agency will not be required to compete based on this condition. If an agency has received an opportunity to show cause, the condition will be implemented regardless of appeal status.

(f) An agency has been debarred from receiving Federal or State funds from any Federal or State department or agency or has been disqualified from the Child and Adult Care Food Program (CACFP) any time during the relevant time period covered by the responsible HHS official's review under § 1304.15 but has not yet been terminated or denied refunding by ACF. (A debarred agency will only be eligible to compete for Head Start funding if it receives a waiver described in 2 CFR 180.135.)

(g) An agency has been determined within the twelve months preceding the responsible HHS official's review under § 1304.15 to be at risk of failing to continue functioning as a going concern. The final determination is made by the responsible HHS official based on a review of the findings and opinions of an audit conducted in accordance with section 647 of the Act; an audit, review or investigation by a State agency; a review by the National External Audit Review (NEAR) Center; or an audit, investigation or inspection by the Department of Health and Human Services Office of Inspector General.

§ 1304.12 Grantee reporting requirements concerning certain conditions.

(a) Head Start agencies must report in writing to the responsible HHS official within 30 working days of December 9, 2011, if the agency has had a revocation of a license to operate a center by a State of local licensing entity during the period between June 12, 2009, and December 9, 2011.

(b) Head Start agencies must report in writing to the responsible HHS official within 10 working days of occurrence any of the following events following December 9, 2011:

(1) The agency has had a revocation of a license to operate a center by a State or local licensing entity.

(2) The agency has filed for bankruptcy or agreed to a reorganization plan as part of a bankruptcy settlement.

(3) The agency has been debarred from receiving Federal or State funds from any Federal or State department or agency or has been disqualified from the Child and Adult Care Food Program (CACFP).

(4) The agency has received an audit, audit review, investigation or inspection report from the agency's auditor, a State agency, or the cognizant Federal audit agency containing a determination that the agency is at risk for ceasing to be a going concern.

§ 1304.13 Requirements to be considered for designation for a five-year period when the existing grantee in a community is not determined to be delivering a high quality and comprehensive Head Start program and is not automatically renewed.

In order to compete for the opportunity to be awarded a five-year grant, an agency must submit an application to the responsible HHS official that demonstrates that it is the most qualified entity to deliver a high quality and comprehensive Head Start or Early Head Start program. The application must address the criteria for selection listed at section 641(d)(2) of the Act for Head Start. Any agency that has had its Head Start or Early Head Start grant terminated for cause in the preceding five years is excluded from competing in such competition for the next five years. A Head Start or Early Head Start agency that has had a denial of refunding, as defined in 45 CFR part 1305, in the preceding five years is also excluded from competing.

§ 1304.14 Tribal government consultation under the Designation Renewal System for when an Indian Head Start grant is being considered for competition.

(a) In the case of an Indian Head Start or Early Head Start agency determined not to be delivering a high quality and comprehensive Head Start or Early Head Start program, the responsible HHS official will engage in government-to-government consultation with the appropriate Tribal government or governments for the purpose of establishing a plan to improve the quality of the Head Start program or Early Head Start program operated by the Indian Head Start or Indian Early Head Start agency.

(1) The plan will be established and implemented within six months after the responsible HHS official's determination.

(2) Not more than six months after the implementation of that plan, the responsible HHS official will reevaluate the performance of the Indian Head Start or Early Head Start agency.

(3) If the Indian Head Start or Early Head Start agency is still not delivering a high quality and comprehensive Head Start or Early Head Start program, the responsible HHS official will conduct an open competition to select a grantee to provide services for the community currently being served by the Indian Head Start or Early Head Start agency.

(b) A non-Indian Head Start or Early Head Start agency will not be eligible to receive a grant to carry out an Indian Head Start program, unless there is no Indian Head Start or Early Head Start agency available for designation to carry out an Indian Head Start or Indian Early Head Start program.

(c) A non-Indian Head Start or Early Head Start agency may receive a grant to carry out an Indian Head Start program only until such time as an Indian Head Start or Indian Early Head Start agency in such community becomes available and is designated pursuant to this part.

§ 1304.15 Designation request, review and notification process.

(a) Grantees must apply to be considered for Designation Renewal.

(1) For the transition period, each Head Start or Early Head Start agency wishing to be considered to have their designation as a Head Start or Early Head Start agency renewed for a five year period without competition shall request that status from ACF within six months of December 9, 2011.

(2) After the transition period, each Head Start or Early Head Start agency wishing to be considered to have their designation as a Head Start or Early Head Start agency renewed for another five year period without competition shall request that status from ACF at least 12 months before the end of their five year grant period or by such time as required by the Secretary.

(b) ACF will review the relevant data to determine if one or more of the conditions under § 1304.11 were met by the Head Start and Early Head Start agency's program:

(1) During the first year of the transition period, ACF shall review the data on each Head Start and Early Head Start agency to determine if any of the conditions under § 1304.11(a) or (d) through (g) were met by the agency's program since June 12, 2009.

(2) During the remainder of the transition period, ACF shall review the data on each Head Start and Early Head Start agency still under grants with indefinite project periods and for whom ACF has relevant data on all of the conditions in § 1304.11(a) through (g) to determine if any of the conditions under § 1304.11(a) or (d) through (g) were met by the agency's program since June 12, 2009, or if the conditions under § 1304.11 (b) or (c) of this chapter existed in the agency's program since December 9, 2011.

(3) Following the transition period, ACF shall review the data on each Head Start and Early Head Start agency in the fourth year of the grant to determine if any of the conditions under § 1304.11 existed in the agency's program during the period of that grant.

(c) ACF will give notice to grantees on Designation Renewal System status, except as provided in § 1304.14:

(1) During the first year of the transition period, ACF shall give written notice to all grantees meeting any of the conditions under § 1304.11(a) or (d) through (g) of this part since June 12, 2009, by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee, stating that the Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period, identifying the conditions ACF found, and summarizing the basis for the finding. All grantees that do not meet any of the conditions under § 1304.11(a) or (d) through (g) will remain under indefinite project periods until the time period described under § 1304.15(b)(2).

(2) During the remainder of the transition period, ACF shall give written notice to all grantees still under grants with indefinite project periods and on the conditions in § 1304.11(a) through (g) by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee stating either:

(i) The Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under § 1304.11 (a) through (g) has been met during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or

(ii) That such agency has been determined on a preliminary basis to be eligible for renewed funding for five years without competition because ACF finds that none of the conditions under § 1304.11 have been met during the relevant time period described in paragraph (b) of this section. If prior to the award of that grant, ACF determines that the grantee has met one of the conditions under § 1304.11 during the relevant time period described in paragraph (b) of this section, this determination will change and the

grantee will receive notice under paragraph (c)(2)(i) of this section that it will be required to compete for funding for an additional five-year period.

(3) Following the transition period, ACF shall give written notice to all grantees at least 12 months before the expiration date of a Head Start or Early Head Start agency's then current grant by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee, stating:

(i) The Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under § 1304.11 were met by the agency's program during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or,

(ii) That such agency has been determined on a preliminary basis to be eligible for renewed funding for five years without competition because ACF finds that none of the conditions under § 1304.11 have been met during the relevant time period described in paragraph (b) of this section. If prior to the award of that grant, ACF determines that the grantee has met one of the conditions under § 1304.11 during the relevant time period described in paragraph (b) of this section, this determination will change and the grantee will receive notice under paragraph (c)(3)(i) of this section that it will be required to compete for funding for an additional five-year period.

§ 1304.16 Use of CLASS: Pre-K Instrument in the Designation Renewal System.

Except when all children are served in a single classroom, ACF will conduct observations of multiple classes operated by the grantee based on a random sample of all classes and rate the conduct of the classes observed using the CLASS: Pre-K instrument. When the grantee serves children in its program in a single class, that class will be observed and rated using the CLASS: Pre-K instrument. The domain scores for that class will be the domain scores for the grantee for that observation. After the observations are completed, ACF will report to the grantee the scores of the classes observed during the CLASS: Pre-K observations in each of the domains covered by the CLASS: Pre-K instrument. ACF will average CLASS: Pre-K instrument scores in each domain for the classes operated by the agency that ACF observed to determine the agency's score in each domain.

Subpart C—Selection of Grantees through Competition

§ 1304.20 Selection among applicants.

(a) In selecting an agency to be designated to provide Head Start, Early Head Start, Migrant and Seasonal Head Start or tribal Head Start or Early Head Start services, the responsible HHS official will consider the applicable criteria at section 641(d) of the Head Start Act and any other criteria outlined in the Funding Opportunity Announcement.

(b) In competitions to replace or potentially replace a grantee the responsible HHS official will also consider the extent to which the applicant supports continuity for participating children, the community and the continued employment of effective, well qualified personnel.

(c) In competitions to replace or potentially replace a current grantee, the responsible HHS official will give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood education and development services and programs to children and their families.

Subpart D—Replacement of American Indian/Alaska Native Grantees

§ 1304.30 Procedure for identification of alternative agency.

(a) An Indian tribe whose Head Start grant has been terminated, relinquished, designated for competition or which has been denied refunding as a Head Start agency, may identify an alternate agency and request the responsible HHS official to designate such agency as an alternative agency to provide Head Start services to the tribe if:

(1) The tribe was the only agency that was receiving federal financial assistance to provide Head Start services to members of the tribe; and,

(2) The tribe would be otherwise precluded from providing such services to its members because of the termination or denial of refunding.

(b)(1) The responsible HHS official, when notifying a tribal grantee of the intent to terminate financial assistance or deny its application for refunding, or its designation for competition must notify the grantee that it may identify an agency and request that the agency serve as the alternative agency in the event that the grant is terminated or refunding denied, or the grant is not renewed without competition.

(2) The tribe must identify the alternate agency to the responsible HHS official in writing.

(3) The responsible HHS official will notify the tribe, in writing, whether the alternative agency proposed by the tribe is found to be eligible for Head Start funding and capable of operating a Head Start program. If the alternative agency identified by the tribe is not an eligible agency capable of operating a Head Start program, the tribe will have 15 days from the date of the sending of the notification to that effect from the responsible HHS official to identify another agency and request that the agency be designated. The responsible HHS official will notify the tribe in writing whether the second proposed alternate agency is found to be an eligible agency capable of operating the Head Start program.

(4) If the tribe does not identify an eligible, suitable alternative agency, a grantee will be designated under this part.

(c) If the tribe appeals a termination of financial assistance or a denial of refunding, it will, consistent with the terms of part 1303 of this chapter, continue to be funded pending resolution of the appeal. However, the responsible HHS official and the grantee will proceed with the steps outlined in this subpart during the appeal process.

(d) If the tribe does not identify an agency and request that the agency be appointed as the alternative agency, the responsible HHS official will seek a permanent replacement grantee under this subpart.

§ 1304.31 Requirements of alternative agency.

The agency identified by the Indian tribe must establish that it meets all requirements established by the Head Start Act and these requirements for designation as a Head Start grantee and that it is capable of conducting a Head Start program. The responsible HHS official, in deciding whether to designate the proposed agency, will analyze the capacity and experience of the agency according to the criteria found in section 641(d) of the Head Start Act and § 1304.20.

§ 1304.32 Alternative agency—prohibition.

(a) No agency will be designated as the alternative agency pursuant to this subpart if the agency includes an employee who:

(1) Served on the administrative or program staff of the Indian tribal grantee described under 646(e)(1)(A) of the Act, and

(2) Was responsible for a deficiency that:

(i) Relates to the performance standards or financial management standards described in section 641A(a)(1) of the Act; and

(ii) Was the basis for the termination of assistance under 646(e)(1)(A) of the

Act or denial of refunding described in § 1304.4.

(b) The responsible HHS official shall determine whether an employee was responsible for a deficiency within the meaning and context of this section.

Subpart E—Head Start Fellows Program

§ 1304.40 In general.

As provided in section 648A(d) of the Act, the Head Start Fellows Program is designed to enhance the ability of Head Start Fellows to make significant contributions to Head Start and to other child development and family services programs.

§ 1304.41 Fellows Program.

(a) *Selection.* An applicant must be working on the date of application in a local Head Start program or otherwise working in the field of child development and family services. The qualifications of the applicants for Head Start Fellowship positions will be competitively reviewed.

(b) *Placement.* Head Start Fellows may be placed in the Head Start national and regional offices; local Head Start agencies and programs; institutions of higher education; public or private entities and organizations concerned with services to children and families; and other appropriate settings.

(c) *Restrictions.* A Head Start Fellow who is not an employee of a local Head Start agency or program may only be placed in the national or regional offices within the Department of Health and Human Services that administer Head Start or local Head Start agencies. Head Start Fellows shall not be placed in any agency whose primary purpose, or one of whose major purposes is to influence Federal, State or local legislation.

(d) *Duration.* Head Start Fellowships will be for terms of one year, and may be renewed for a term of one additional year.

(e) *Status.* For the purposes of compensation for injuries under chapter 81 of title 5, United States Code, Head Start Fellows shall be considered to be employees, or otherwise in the service or employment, of the Federal Government. Head Start Fellows assigned to the national or regional offices within the Department of Health and Human Services shall be considered employees in the Executive Branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for the purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

PART 1305—DEFINITIONS

Sec.
1305.1 Cross references to definitions.
1305.2 Definitions.

Authority: 42 U.S.C. 9801 *et seq.*

1305.1 Cross references to definitions.

For the purposes of this subchapter, the following definitions apply:

(a) The following terms are defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801: *child with a disability, deficiency, delegate agency, Indian tribe,* and *state.*

(b) The following terms are defined in the same manner as presented in the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*) *Individualized Education Program,* and *Individualized Family Service Plan.*

1305.2 Definitions.

For the purposes of this subchapter, the following definitions apply:

Accepted means a child or pregnant woman has met the eligibility criteria and has completed the enrollment process.

ACF means the Administration for Children and Families in the Department of Health and Human Services.

Act means the Head Start Act, 42 U.S.C. 9831, *et seq.*

Agency means the body that receives the Head Start grant.

Aggregate child-level assessment data means the data collected by an agency on the status and progress of the children it serves that have been combined to provide summary information about groups of children enrolled in specific classrooms, centers, home-based or other options, groups or settings, or other groups of children such as dual language learners, or to provide summary information by specific domains of development.

Allowable alternate vehicle means a vehicle designed for carrying eleven or more people, including the driver, that meets all the Federal Motor Vehicle Safety Standards applicable to school buses, except 49 CFR 571.108 and 571.131.

Budget period means the interval of time, into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes.

Child-level assessment data means the data collected by an agency on an individual child from one or more valid and reliable assessments of a child's status and progress, including but not limited to direct assessment, structured observations, checklists, staff or parent report measures, and portfolio records or work samples.

Child records means records that are:

(1) Directly related to the child;

(2) Maintained by the program, or by a party acting for the program; and

(3) Includes information recorded in any way, including, but not limited to, print (including handwriting) or electronic or digital means, including computer media, video or audio tape, film, microfilm, and microfiche.

Child restraint system means any device designed to restrain, seat, or position children that meets the current requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213, for children in the weight category established under the regulation, or any device designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213.

Commercial Driver's License (CDL) means a license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicles.

Construction means new buildings, and excludes renovations, alterations, additions, or work of any kind to existing buildings.

Continuity of care means Head Start or Early Head Start services provided to children in a manner that promotes primary caregiving and minimizes the number of transitions in teachers and teacher assistants that children experience over the course of the day, week, program year, and to the extent possible, during the course of their participation from birth to age three in Early Head Start and in Head Start.

Days of operation means the planned days during which children will be receiving early learning and development and comprehensive services with Head Start or Early Head Start teachers, assistant teachers, or staff.

Development and administrative costs mean costs incurred in accordance with an approved Head Start budget which do not directly relate to the provision of program component services, including services to children with disabilities, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in child records by any means, including oral, written, or electronic means, to any party except the party identified as the

party that provided or created the record.

Dual benefit costs mean costs incurred in accordance with an approved Head Start budget which directly relate to both development and administrative functions and to the program component services, including services to children with disabilities, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

Early Head Start agency means a public or private non-profit or for-profit entity designated by ACF to operate an Early Head Start program to serve pregnant women and children from birth to age three, pursuant to section 645A(e) of the Head Start Act.

Enrolled means a child has been accepted and attended at least one class, has received at least one home visit, or has received at least one direct service while pending completion of necessary documentation for attendance in a center, based on state and local licensing requirements.

Enrollment year means the period of time, not to exceed twelve months, during which a Head Start program provides center or home-based services to a group of children and their families.

Facility means a structure, such as a building or modular unit, appropriate for use in carrying out a Head Start program and used primarily to provide Head Start services, including services to children and their families, or for administrative purposes or other activities necessary to carry out a Head Start program.

Family means all persons living in the same household who are supported by the child's parent(s)' or guardian(s)' income; and are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption; or are the child's authorized caregiver or legally responsible party.

Federalinterest is a property right which secures the right of the federal awarding agency to recover the current fair market value of its percentage of participation in the cost of the facility in the event the facility is no longer used for Head Start purposes by the grantee or upon the disposition of the property. When a grantee uses Head Start funds to purchase, construct or renovate a facility, or make mortgage payments, it creates a federal interest. The federal interest includes any portion of the cost of purchase, construction, or renovation contributed by or for the entity, or a related donor organization, to satisfy a matching requirement.

Federal Motor Vehicle Safety Standards (FMVSS) means the National Highway and Traffic Safety Administration's standards for motor vehicles and motor vehicle equipment (49 CFR part 571) established under section 30111 of Title 49, United States Code.

Financial viability means that an organization is able to meet its financial obligations, balance funding and expenses and maintain sufficient funding to achieve organizational goals and objectives.

Fixed route means the established routes to be traveled on a regular basis by vehicles that transport children to and from Head Start or Early Head Start program activities, and which include specifically designated stops where children board or exit the vehicle.

Foster care means 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child-care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.

Full-day means six or more hours of Head Start or Early Head Start services per day.

Full-working-day means not less than 10 hours of Head Start or Early Head Start services per day.

Funded enrollment means the number of participants which the Head Start grantee is to serve, as indicated on the grant award.

Going concern means an organization that operates *without* the threat of liquidation for the foreseeable future, a period of at least 12 months.

Grantee means the local public or private non-profit agency or for-profit agency which has been designated as a Head Start agency under 42 U.S.C. 9836 and which has been granted financial assistance by the responsible HHS official to operate a Head Start program.

Head Start agency means a local public or private non-profit or for-profit entity designated by ACF to operate a Head Start program to serve children age three to compulsory school age, pursuant to section 641(b) and (d) of the Head Start Act.

Homeless children means the same as *homeless children and youths* in section 725(2) of the McKinney-Vento Homeless Assistance Act at 42 U.S.C. 11434a(2).

Home visitor means the staff member in the home-based program option assigned to work with parents to provide comprehensive services to children and their families through home visits and group socialization activities.

Hours of operation mean the planned hours per day during which children and families will be receiving Head Start or Early Head Start services in a classroom, on a field trip, while receiving medical or dental services, or during a home visit or group socialization activity. Hours of operation do not include travel time to and from the center at the beginning and end of a session.

Income means gross cash income and includes earned income, military income (including pay and allowances), veteran's benefits, Social Security benefits, unemployment compensation, and public assistance benefits. Additional examples of gross cash income are listed in the definition of ''income'' which appears in U.S. Bureau of the Census, Current Population Reports, Series P–60–185.

Indian Head Start agency means a program operated by an Indian tribe (as defined by the Act) or designated by an Indian tribe to operate on its behalf.

Legal status means the existence of an applicant or grantee as a public agency or organization under the law of the State in which it is located, or existence as a private nonprofit or for-profit agency or organization as a legal entity recognized under the law of the State in which it is located. Existence as a private non-profit agency or organization may be established under applicable State or Federal law.

Local agency responsible for implementing IDEA or local IDEA agency means the early intervention service provider under Part C of IDEA and the local educational agency under Part B of IDEA.

Major renovation means any individual or collection renovation that has a cost equal to or exceeding $250,000. It excludes minor renovations and repairs except when they are included in a purchase application.

Migrant family means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who changed their residence by moving from one geographic location to another, either intrastate or interstate, within the preceding two years for the purpose of engaging in agricultural work that involves the production and harvesting of tree and field crops and whose family

income comes primarily from this activity.

Migrant or Seasonal Head Start Program means:

(1) With respect to services for migrant farm workers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from one geographic location to another in the preceding 2-year period; and

(B) With respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period.

Minor renovation means improvements to facilities, which do not meet the definition of major renovation.

Modular unit means a portable prefabricated structure made at another location and moved to a site for use by a Head Start grantee to carry out a Head Start program, regardless of the manner or extent to which the modular unit is attached to underlying real property.

National Driver Register means the National Highway Traffic Safety Administration's automated system for assisting State driver license officials in obtaining information regarding the driving records of individuals who have been denied licenses for cause; had their licenses denied for cause, had their licenses canceled, revoked, or suspended for cause, or have been convicted of certain serious driving offenses.

Parent means a Head Start child's mother or father, other family member who is a primary caregiver, foster parent or authorized caregiver, guardian or the person with whom the child has been placed for purposes of adoption pending a final adoption decree.

Participant means a pregnant woman or child who is enrolled in and receives services from a Head Start, an Early Head Start, a Migrant or Seasonal Head Start, or an American Indian Alaska Native Head Start program.

Personally identifiable information means personally identifiable information as defined in 34 CFR 99.3, as amended, except that the term ''student'' in the definition of personally identifiable information in 34 CFR 99.3 means ''child'' as used in this part and any reference to ''school'' or ''educational agency'' or ''educational institution'' means ''program'' or ''Early Head Start program'' or ''Head Start program'' as used in this part.

Policy group means the policy council, and as appropriate the policy committee at the delegate level.

Program means a Head Start, Early Head Start, Migrant, Seasonal, or Tribal program, funded under the Act and carried out by an agency, or delegate agency, to provide ongoing comprehensive child development services.

Program costs mean costs incurred in accordance with an approved Head Start budget which directly relate to the provision of program component services, including services to children with disabilities, as set forth and described in the Head Start Program Performance Standards (45 CFR part 1304).

Purchase means to buy an existing facility, including outright purchase, down payment or through payments made in satisfaction of a mortgage or other loan agreement, whether principal, interest or an allocated portion principal and/or interest. The use of grant funds to make a payment under a capital lease agreement, as defined in the cost principles, is a purchase subject to these provisions. Purchase also refers to an approved use of Head Start funds to continue paying the cost of purchasing facilities or refinance an existing loan or mortgage beginning in 1987.

Real property means land, including land improvements, buildings, structures and all appurtenances thereto, excluding movable machinery and equipment.

Recruitment area means that geographic locality within which a Head Start program seeks to enroll Head Start children and families. The recruitment area can be the same as the service area or it can be a smaller area or areas within the service area.

Relevant time period means:

(1) The 12 months preceding the month in which the application is submitted; or

(2) During the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.

Repair means maintenance that is necessary to keep a Head Start facility in working condition. Repairs do not add significant value to the property or extend its useful life.

Responsible HHS official means the official of the Department of Health and Human Services who has authority to make grants under the Act.

School bus means a motor vehicle designed for carrying 11 or more persons (including the driver) and which complies with the Federal Motor Vehicle Safety Standards applicable to school buses.

School readiness goals mean the expectations of children's status and progress across domains of language and literacy development, cognition and general knowledge, approaches to learning, physical well-being and motor development, and social and emotional development that will improve their readiness for kindergarten.

Service area means the geographic area identified in an approved grant application within which a grantee may provide Head Start services.

Staff means paid adults who have responsibilities related to children and their families who are enrolled in programs.

Termination of a grant or delegate agency agreement means permanent withdrawal of the grantee's or delegate agency's authority to obligate previously awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or delegate agency. Termination does not include:

(1) Withdrawal of funds awarded on the basis of the grantee's or delegate agency's underestimate of the unobligated balance in a prior period;

(2) Refusal by the funding agency to extend a grant or award additional funds (such as refusal to make a competing or noncompeting continuation renewal, extension or supplemental award);

(3) Withdrawal of the unobligated balance as of the expiration of a grant;

(4) Annulment, *i.e.,* voiding of a grant upon determination that the award was obtained fraudulently or was otherwise illegal or invalid from its inception.

Total approved costs mean the sum of all costs of the Head Start program approved for a given budget period by the Administration for Children and Families, as indicated on the Financial Assistance Award. Total approved costs consist of the federal share plus any approved non-federal share, including non-federal share above the statutory minimum.

Transition period means the three-year time period after December 9, 2011, on the Designation Renewal System during which ACF will convert all of the current continuous Head Start and Early Head Start grants into five-year grants after reviewing each grantee to determine if it meets any of the conditions under § 1304.12 that require recompetition or if the grantee will receive its first five-year grant non-competitively.

Transportation services means the planned transporting of children to and from sites where an agency provides services funded under the Head Start Act. Transportation services can involve the pick-up and discharge of children at regularly scheduled times and pre-arranged sites, including trips between children's homes and program settings. The term includes services provided directly by the Head Start and Early Head Start grantee or delegate agency and services which such agencies arrange to be provided by another organization or an individual. Incidental trips, such as transporting a sick child home before the end of the day, or such as might be required to transport small groups of children to and from necessary services, are not included under the term.

Verify or any variance of the word means to check or determine the correctness or truth by investigation or by reference.

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