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Monday
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NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[NRC–2008–0019]

Notice of Public Webinar To Discuss the Applicability of 10 CFR 73.55 Requirements to Part 50 Licensees With Facilities in Decommissioning or Decommissioned Status

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public Webinar.

SUMMARY: The NRC will hold a public Webinar with 16 Part 50 licensees in decommissioning or decommissioned status affected by the current requirements in Title 10 of the Code of the Federal Regulations (10 CFR) 73.55 (March 27, 2009; 74 FR 13925) and the other stakeholders. The purpose of this Webinar is to discuss the applicability of those security requirements to licensees with facilities in decommissioning or decommissioned status.

DATES: The public Webinar will be held on Tuesday July 20, 2010, from 1 p.m. to 3 p.m. (eastern daylight time).

ADDRESSES: You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Federal Rulemaking Web site: Supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2008–0019.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The power point presentation developed for the Webinar is under ADAMS Accession No. ML101410686.

FOR FURTHER INFORMATION CONTACT: Mike D'Ettore, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; e-mail: *Michael.Dettore@nrc.gov;* or (301) 415–0422.

SUPPLEMENTARY INFORMATION:

Background

The current 10 CFR 73.55 became effective on May 26, 2009, with compliance required by March 31, 2010. The NRC believes that Part 50 licensees with facilities in decommissioning or decommissioned status (*e.g.,* a Part 50 licensee with a decommissioned facility or a Part 50 licensee that has only a general licensed Independent Spent Fuel Storage Installation (ISFSI) under 10 CFR 72.210 with no plant or a plant in decommissioning status) may not have recognized the applicability of this regulation to their facility. The purpose of this Webinar, therefore, is to clarify the applicability of the current 10 CFR 73.55 to all Part 50 licensees including those with facilities in decommissioning or decommissioned status.

Specifically, the NRC seeks to provide clarity that 10 CFR 73.55 does in fact apply to Part 50 licensees with decommissioned facilities or facilities in a decommissioning status. These licensees include those Part 50 licensees with a facility in decommissioning status and a Part 50 licensee with a general license ISFSI under 10 CFR 72.212 with no plant or a plant in decommissioned status. The desired outcome of this Webinar is a mutual understanding of the applicability of the Part 10 CFR 73.55 Regulations, as well as a path forward to ensure compliance by the affected licensee.

The NRC believes that there are currently no security or health and safety gaps at these facilities even as they may not be in compliance with the current 10 CFR 73.55 because the licensees' security programs meet the baseline requirements of the previous version of 10 CFR 73.55 and meet the requirements in subsequent security orders. In fact, the statement of considerations for this regulation notes (March 27, 2009; 74 FR 13925) that, with the exception of cyber security, the majority of security plan changes are likely minimal and are not likely to decrease the effectiveness of licensee's current plan; and some changes could require a license amendment or an exemption.

The NRC has not identified any specific questions for public and stakeholder input.

Availability of Documents

The following table indicates the related documents that are available to the public and how they may be obtained. *See* the **ADDRESSES** section of this document for information on the physical locations and Web sites to access these documents.

Document	PDR	Web	Electronic reading room (ADAMS)
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Dated at Rockville, Maryland, this 18th day of June 2010.

For the Nuclear Regulatory Commission.

Michael C. Layton,

Deputy Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

[FR Doc. 2010–15627 Filed 6–25–10; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 370

RIN 3064–AD37

Final Rule Regarding Amendment of the Temporary Liquidity Guarantee Program To Extend the Transaction Account Guarantee Program

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is issuing a Final Rule extending the Transaction Account Guarantee (TAG) component of the Temporary Liquidity Guarantee Program (TLGP) through December 31, 2010, for insured depository institutions (IDIs) currently participating in the TAG program, with the possibility of an additional extension of up to 12 months without additional rulemaking, upon a determination by the FDIC's Board of Directors (Board) that continuing economic difficulties warrant further extension.

The Final Rule differs only slightly from the interim rule that preceded it. The interim rule provided for the possibility of a further extension of the TAG program until December 31, 2011, without additional rulemaking, should the FDIC's Board determine that economic conditions warrant a further extension of the program. The Final Rule provides that, under appropriate economic conditions, the Board may further extend the TAG program for a period of time not to exceed December 31, 2011. Like the interim rule, the Final Rule modifies the assessment basis for calculating the assessment rate for an IDI's continued participation in the TAG to the average daily balances in the TAG-related accounts, but makes no changes to the assessment rate itself. Further, as in the interim rule the Final Rule requires IDIs that are participating in the TAG program and that offer NOW accounts covered by the program to reduce the interest rate on such accounts to a rate no higher than 0.25 percent and to commit to maintain that rate for the duration of the TAG extension in order for those NOW accounts to remain eligible for the FDIC's continued guarantee.

DATES: Effective June 28, 2010.

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SUPPLEMENTARY INFORMATION:

I. Background

In October 2008, the FDIC adopted the TLGP following a determination of systemic risk by the Secretary of the Treasury (after consultation with the President) that was supported by recommendations from the FDIC and the Board of Governors of the Federal Reserve System (Federal Reserve).[1] The TLGP is part of an ongoing and coordinated effort by the FDIC, the U.S. Department of the Treasury, and the Federal Reserve to address unprecedented disruptions in the financial markets and preserve confidence in the American economy.

The FDIC's October 2008 interim rule provided the blueprint for the TLGP.[2] The TLGP comprises two distinct components: The Debt Guarantee Program, pursuant to which the FDIC guarantees certain senior unsecured debt issued by entities participating in the TLGP; and the TAG program, pursuant to which the FDIC guarantees all funds held at participating IDIs (beyond the standard maximum deposit insurance limit) in qualifying noninterest-bearing transaction accounts.

The TAG component of the TLGP was developed, in part, to address concerns that a large number of account holders might withdraw their uninsured account balances from IDIs due to then-prevailing economic uncertainties. Such withdrawals could have further destabilized financial markets and impaired the funding structure of smaller banks that rely on deposits as a primary source of funding while also negatively affecting other institutions that had relationships with these banks.[3] In designing the TAG program, the FDIC sought to improve public confidence and to encourage depositors to maintain their transaction account balances at IDIs participating in the TAG program.

As part of its rulemaking process, the FDIC in November 2008 expanded the TAG program to cover, among other accounts, "negotiable order of withdrawal," or NOW accounts, with interest rates no higher than 0.50 percent if the IDI offering the account committed to maintain the interest rate at a level no higher than 0.50 percent through December 31, 2009.[4]

The TAG program was originally set to expire on December 31, 2009.[5] The FDIC recognized that the TAG program was contributing significantly to improvements in the financial sector, but also noted that many parts of the country were still suffering from the effects of economic turmoil. As a result, on August 26, 2009, following a public notice and comment period,[6] the FDIC issued a final rule that extended the TAG program through June 30, 2010.[7]

The initial TAG extension included an increased assessment rate designed to offset the potential losses associated with the FDIC's guarantee. Beginning on January 1, 2010, the fee for continued participation in the TAG was raised and the basis changed to reflect an IDI's risk profile, ranging from 15 basis points to up to 25 basis points. The rule provided participating IDIs with a second opportunity to opt out of the TAG program.[8] The initial TAG extension also required participating IDIs to extend their commitment to maintain interest rates on NOW account at no higher than 0.50 percent during the extended TAG program.[9]

Since its inception, the TAG program has been an important source of stability for many banks with large transaction account balances. Currently, over 6,300 insured depository institutions, representing approximately 80 percent of all IDIs, continue to participate in the

[1] See Section 13(c)(4)(G) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1823(c)(4)(G). The determination of systemic risk authorized the FDIC to take actions to avoid or mitigate serious adverse effects on economic conditions or financial stability, and the FDIC implemented the TLGP in response.

[2] 73 FR 64179 (Oct. 29, 2008). This Interim Rule was followed by a Final Rule, published in the **Federal Register** on November 26, 2008. 73 FR 72244 (Nov. 26, 2008).

[3] 73 FR 64182–64183.

[4] 73 FR 72244, 72262 (Nov. 26, 2008).

[5] 73 FR 64179, 64182 (Oct. 29, 2008).

[6] 74 FR 31217 (June 30, 2009).

[7] 74 FR 45093 (Sept. 1, 2009).

[8] *Id.*

[9] 74 FR 45098.

TAG program and to benefit from the guarantee provided by the FDIC. These institutions held an estimated $356 billion of deposits in accounts currently subject to the FDIC's guarantee as of March 31, 2010. Of these, $280 billion represented amounts above the insured deposit limit and guaranteed by the FDIC through its TAG program. Among the current participants in the program, the average TAG account size was about $1.04 million. About 509 institutions rely on TAG accounts to fund 10 percent or more of their assets.

II. Interim Rule

While the immediate financial crisis that led to the creation of the TLGP in October 2008 has abated, several economic factors led the FDIC's Board to authorize publication in the **Federal Register** of an interim rule to amend the TLGP to provide for a six month extension, until December 31, 2010, of the TAG Program, with the possibility of an additional 12-month extension without further rulemaking.[10] Namely, the recession that began in late 2007 continues to pressure local communities across the country. The financial distress has spread from large, systemically important banks to banks of all sizes, particularly in regions suffering from ongoing economic turmoil.[11] Weaknesses facing community banks have intensified as the lingering consequences of the 2008 financial crisis and the resulting recession place continued pressure on earnings and asset quality. The effects of the financial crisis and recession are expected to persist for some time, especially as the magnitude of economic distress facing local markets places continued pressure on asset quality and earnings, with the potential for undermining the stability of the banking organizations that serve these markets.[12]

With these factors in mind, as well as the FDIC's general concern that allowing the TAG program to expire in the current environment could cause a number of community banks to experience deposit withdrawals from their large transaction accounts and risk needless liquidity failures or negatively affect IDI's deposit franchise values, the interim rule reflected several features designed to continue to promote confidence and stability in the banking system and to monitor and minimize risk of loss.[13]

In order to allow the majority of participating IDIs to remain in the program, the FDIC's interim rule did not increase fees for continued participation in the extended TAG program.[14] Rather, the tiered-pricing assessment structure, ranging from 15 to 25 basis points based on an IDI's deposit insurance assessment risk category remains in effect. However, the interim rule did modify the basis for calculating the risk-based assessments from end-of-calendar-quarter to average-daily-account-balance reporting.[15]

With respect to the treatment of NOW accounts, the interim rule reduced the permissible interest rate, from no higher than 0.50 percent to no higher than 0.25 percent, for the NOW accounts covered by the FDIC's TAG guarantee in order to better align the program with prevailing market rates. It also required participating IDIs to commit to maintain the interest rate at or below 0.25 percent after June 30, 2010, and through December 31, 2010, or the duration of the program, if the Board further extends the TAG program.[16]

In light of the regulatory modifications to the existing TAG program and in recognition that some IDIs wished to discontinue participation in the program, the interim rule provided IDIs currently participating in the TAG program with a one-time, irrevocable opportunity to opt out of this TAG extension by April 30, 2010.[17] An additional 441 institutions took advantage of this opt-out opportunity and indicated their intent to exit the program as of July 1, 2010. Under the interim rule, a participating IDI's decision to remain in the extended TAG program obligates it to remain in the program through December 31, 2010, or for the duration of the program, if the Board further extends the TAG program.

As to the disclosures required regarding the extended TAG program, the interim rule required IDIs that did not opt out of the extension to update their disclosures on or before May 20, 2010, to reflect the new termination date for the extension.[18] Under the interim rule, those IDIs that chose to opt out of the program similarly had to update disclosures to reflect that they would no longer be participating in the TAG program and that deposits in noninterest-bearing transaction accounts would no longer be guaranteed in full by the FDIC.[19]

The FDIC requested comment on the interim rule, and the comment period ended on May 19, 2010. A total of 10 comments were submitted by bankers, trade groups, and Members of the U.S. House of Representatives. The comments are summarized below and may be viewed in their entirety on the FDIC's Web site at *http://www.fdic.gov/regulations/laws/federal/*.

IV. Comment Summary and Discussion

With one exception, commenters generally supported the FDIC's interim rule extending the TAG program. They cited the continued confidence and stability that the TAG program instills in customers as well as the ability for banks to use the deposit base provided by the TAG program to lend and promote growth in their communities.

One commenter opposed to the interim rule suggests, without providing any supporting data, that, because evidence shows the economy is recovering, a further extension of the TAG program is unwarranted and would further cause participating IDIs to postpone addressing their liquidity positions. Although the FDIC agrees there are many signs that the economy is recovering, the recovery remains fragile and is still threatened by weak labor markets, household and business uncertainty, and tight credit conditions. The Final Rule extends the TAG program in order to reduce the risk of needless liquidity failures and increased costs that might result if the TAG program were not extended during this still fragile economic period. In addition, the Final Rule would maintain an important source of liquidity for participating IDIs to fund small business lending, which will further contribute to economic recovery. An orderly phase-out of the TAG program will be appropriate once evidence points to a more solid and sustained economic recovery.

Further comments are detailed below by subject.

Clarification of Possible Additional Extension Period

As an initial matter, the FDIC notes that some commenters viewed the interim rule's possible additional extension beyond December 31, 2010, as a term of "up to 12 months." To provide maximum flexibility in the event of a more rapid resurgence of positive economic conditions, the Final Rule defines the "TAG expiration date" to mean December 31, 2010, unless the Board, for good cause, extends the program for an additional period of time not to exceed one year, in which case the term "TAG expiration date" means the last day of such additional period of time. As with the interim rule, the Final

[10] 75 FR 20257, 20260–261 (April 19, 2010).
[11] *Id.* at 20258.
[12] *Id.* at 20259.
[13] *Id.* at 20260–261.
[14] 75 FR 20257, 20260 (April 19, 2010).
[15] *Id.*
[16] *Id.* at 20261.
[17] *Id.*
[18] *Id.*
[19] *Id.*

Rule provides that the FDIC's Board will announce its decision regarding any additional extension of the TAG program no later than October 29, 2010. At that time, if such a further extension beyond December 31, 2010, is warranted, the Board will announce the TAG expiration date that will conclude the TAG program.

Requests To Opt Into TAG Program/ Future Opt Out Provision

Three commenters requested that the FDIC offer the opportunity to opt into the TAG program to IDIs that had previously opted out of the program. Some commenters note that they had opted out of the TAG program under the premise that the program was temporary in nature and that the increased assessment basis would not justify the cost of remaining in the program. All of these commenters now cite the potential for a competitive imbalance if similarly situated IDIs are not permitted to opt into the program. One commenter suggests that IDIs that were healthy at the time that they made their opt-out decision be permitted to opt in to the program.

After carefully considering these comments, the FDIC has not provided for opt-in opportunities in the Final Rule. Primarily, as noted in the interim rule, the extension of the TAG program represents a continuation of the FDIC's action under the October 2008 systemic risk determination to mitigate the continuing adverse effects of the financial crisis and recession. Permitting non-participating IDIs to opt back into the program would be inconsistent with the FDIC's previously-announced intent to conclude the program. Further, the TAG extension may terminate as soon as December 31, 2010, and only two institutions and one trade group have indicated a desire to opt in. At this stage of the TAG program, the costs of establishing and implementing systems to reinstate the program for a few IDIs and the potential for depositor confusion outweigh arguments to the contrary.

In addition, if the Board decides that an extension is warranted after December 10, 2010, one commenter believes that the FDIC should offer another opportunity to opt out of the TAG program. The commenter reasons that a secondary extension would cause IDIs to incur additional assessments. However, the interim rule notified IDIs that they would be obligated to remain in the program (and pay any required assessment) through December 31, 2010, or for the duration of the program, if the Board further extended the TAG program. In making the decision to remain in the extended TAG program, IDIs should have factored in the expense of participating in the program for the duration of the program. Moreover, the interim rule provided for a secondary extension of one year beyond December 31, 2010, until December 31, 2011. The Final Rule provides for the possibility that the program may be extended for a period of less than one year beyond December 31, 2010. If the Board determines to extend the program for less than one year beyond December 31, 2010, the costs of the extension provided for in the Final Rule would be less than those provided for in the interim rule. Accordingly, the Final Rule does not provide an additional opt out opportunity.

Reduction of Interest Rate for TAG-qualifying NOW Accounts

Some commenters expressed concern regarding the reduction, from 0.50 percent to 0.25 percent, of the maximum interest permissible for TAG-qualifying NOW accounts provided for in the interim rule. These commenters noted that the interest rate reduction could lead to decreased earnings on such TAG-qualifying NOW accounts, and may cause banks to divert funds to pledge as collateral that might otherwise be used to support lending. Further, a commenter expressed concern that if the TAG program is extended beyond December 31, 2010, the 0.25 percent maximum permissible interest rate for TAG-qualifying accounts may not align with future prevailing market rates. Other commenters felt that the reduced interest rate represented current market rates in their regions, and did not believe that such a reduction would affect their earnings.

IDIs throughout the country participate in the TAG program. In the interim rule, the FDIC explained its rationale for reducing the maximum interest rate for TAG-qualifying NOW accounts.[20] Based on data provided by RateWatch, the FDIC noted that the nationwide average rates for regular interest-bearing checking accounts ranged from 0.12 percent to 0.15 percent for most accounts, and from 0.26 percent to 0.29 percent for premium accounts held by municipalities, school districts, and other typical large transaction account holders. In providing for the interest rate reduction on TAG-qualifying NOW accounts in the interim rule, the FDIC sought to align the interest rate with current market rates and to ensure the program is not used inappropriately by IDIs to attract interest-sensitive deposits to fund high-risk activities.

The FDIC has considered the commenters' concerns that the reduced interest rate may not align with prevailing rates by region or with future interest rates, but has determined to retain the 0.25 percent limit for qualifying NOW accounts as representative of the prevailing nationwide interest rates for such accounts at this time and for the relatively short duration of the TAG extension. The FDIC will continue to monitor interest rates for TAG-qualifying NOW accounts.

Modification of the Reporting Basis for the TAG Program

In order to monitor and assess fees based on the ongoing risk exposure, the interim rule modified the basis for calculating risk-based assessments from end-of-calendar-quarter to average-daily-account-balance reporting. One commenter suggested that the modification is only appropriate for IDIs that currently report their FDIC deposit insurance assessments as the quarterly average of daily closing balances because of the significant cost associated with altering general ledger systems to meet this requirement for potentially only two calendar quarters. However, another commenter representing community banks expressly noted that even though this change may create additional administrative burdens on smaller IDIs, the change "would more accurately reflect the TAG amounts of these fluctuating and volatile accounts."[21]

In the interim rule, the FDIC noted that, of the institutions that use quarter-end reporting for their deposit insurance assessment base, fewer than 1,000 institutions report more than 25 TAG-qualifying accounts. After carefully considering this comment, the FDIC continues to believe that the modification in the assessment base for such a limited universe of IDIs would not create a significant burden that would outweigh its responsibility to accurately monitor the TAG program and the associated risk of loss.

Increasing TAG Assessment Rate and Assessing Non-Participating IDIs

One commenter suggested increasing the tiered-pricing assessment for participating IDIs in order to decrease their reliance on the TAG Program. However, the interim rule specifically did not impose an increased TAG assessment rate in order to keep the

[20] 75 FR 20261.

[21] Independent Community Banks of America, May 19, 2010, Letter.

program accessible to all participating IDIs and to avoid further pressure on the liquidity posture of those that participate in the TAG program. The FDIC remains committed to these goals; consequently, as with the interim rule, the Final Rule does not increase fees for participation in the TAG program.

V. The Final Rule

For the reasons set forth in the preceding section, the FDIC has issued the Final Rule, with only one modification. The change concerns the length of any possible secondary extension of the TAG program, should the FDIC's Board deem further extensions necessary beyond December 31, 2010. The features of the Final Rule are discussed below.

A. Extension of the TAG Program for Participating IDIs

The Final Rule extends the TAG program through December 31, 2010, with the possibility of an additional extension not to exceed December 31, 2011, without further rulemaking, at the discretion of the Board upon a finding of continued need for the TAG program. If the Board determines that an additional extension is warranted beyond December 31, 2010, an announcement to that effect will be made by the FDIC no later than October 29, 2010.

B. No Increased Fee for Continued Participation in the Extended TAG Program

As with the interim rule, the Final Rule does not make any changes to the existing tiered-pricing assessment, ranging from 15 to 25 basis points based on an institution's deposit insurance risk profile. As noted in the interim rule, in order to prevent unanticipated risk of loss, the FDIC reminds participating IDIs to exercise prudent marketing of TAG accounts that qualify for the FDIC's guarantee and to continue to exercise risk-management principles applicable to an IDI's existing business plan. Participating IDIs should not use the extension period to aggressively market or grow their TAG-related accounts.

C. Change in Basis for Reporting Assessment Purposes

The Final Rule provides that IDIs that did not opt out of the TAG program will be required to report their TAG amounts as average daily balances in order to enable the FDIC to monitor and assess fees based upon the ongoing risk exposure. Under the Final Rule, beginning with the September 30, 2010, report date for the Report of Condition or Thrift Financial Report, the total dollar amount of TAG-qualifying accounts and the total number of accounts must be reported as an average balance. The amounts to be reported as daily averages are the total dollar amounts of the noninterest-bearing transaction accounts, as defined in 12 C.F.R. 370.2(h), of more than $250,000 for each calendar day during the quarter divided by the number of calendar days in the quarter. For days that an office of the reporting IDI is closed (*e.g.,* Saturdays, Sundays, or holidays), the amounts outstanding from the previous business day would be used. The total number of accounts to be reported should be calculated on the same basis. Documentation supporting the amounts used in the calculation of the average daily balance amounts must be retained and be readily available upon request by the FDIC or the IDI's primary Federal regulator.

D. Treatment of NOW Accounts

Consistent with the interim rule, the Final Rule provides that the interest rate on NOW accounts that are eligible for the FDIC's guarantee may not exceed 0.25 percent. The Rule also requires participating IDIs to commit to maintain the interest rate at or below 0.25 percent after June 30, 2010, and through December 31, 2010, or for the duration of the program should the Board extend it.

E. Opportunity to Opt Out

The interim rule provided IDIs currently participating in the TAG program with an opportunity to opt out of this TAG extension by April 30, 2010, and detailed the mechanism by which an IDI was to provide the FDIC with notice of its intent to opt out. The Final Rule does not change this feature. Accordingly, a participating IDI's decision to remain in the extended TAG program obligates it to remain in the program through December 31, 2010, or for the duration of a possible additional extension if the Board determines such extension is warranted.

V. Regulatory Analysis and Procedure

A. Administrative Procedure Act

The process of amending Part 370 by means of this Final Rule is governed by the Administrative Procedure Act (APA). Pursuant to section 553(b)(B) of the APA, general notice and opportunity for public comment are not required with respect to a rule making when an agency for good cause finds that "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Similarly, section 553(d)(3) of the APA provides that the publication of a rule shall be made not less than 30 days before its effective date, except "* * * (3) as otherwise provided by the agency for good cause found and published with the rule."

Consistent with section 553(b)(B) of the APA, in publishing the interim rule, the FDIC invoked the good cause exception based on the furtherance of the public interest by extending the time period of the TAG program to promote continued stability in the banking system through guaranteeing large uninsured transaction account balances in order to provide participating IDIs with continued sources of funding to meet their liquidity needs. (Nonetheless, the FDIC solicited comments on the interim rule, and has fully considered the comments that were submitted.) For similar reasons, the FDIC confirms that the good cause exception, provided for in section 553(b)(B) of the APA, applies to the Final Rule.

Section 553(d)(3) of the APA provides that the publication of a rule shall be made not less than 30 days before its effective date, except "as otherwise provided by the agency for good cause found and published with the rule." For reasons that supported its invocation of the good cause exception to section 553(b)(B) of the APA, the FDIC relied upon the good cause exception to section 553(d)(3) and published the interim rule with an immediate effective date. For similar reasons, the FDIC invokes the good cause exception provided for in section 553(d)(3) of the APA and provides for an immediate effective date for this Final Rule.

B. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act provides that any new regulations or amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless the agency determines, for good cause published with the rule, that the rule should become effective before such time.[22] For the same reasons discussed above, the FDIC finds that good cause exists for an immediate effective date for the Final Rule.

[22] 12 U.S.C. 4802.

C. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget (OMB) has determined that the Final Rule is not a "major rule" within the meaning of the relevant sections of the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 801 *et seq.*

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) (RFA) applies only to rules for which an agency publishes a general notice of proposed rule making pursuant to 5 U.S.C. 553(b). As discussed above, consistent with section 553(b)(B) of the APA, the FDIC has determined for good cause that general notice and opportunity for public comment would be impracticable and contrary to the public interest. Therefore, the RFA, pursuant to 5 U.S.C. 601(2), does not apply.

E. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The Interim Rule, by extending the termination date for the TAG Program, changed the estimated number of respondents for the reporting and recordkeeping requirements in an existing OMB-approved information collection, entitled the "Transaction Account Guarantee Program Extension," (OMB No. 3064–0170). Those burden adjustments were submitted to OMB as a request for a nonmaterial/nonsubstantive change. This Final Rule imposes no additional paperwork burden; therefore, the previously submitted burden estimates for the Transaction Account Guarantee Program Extension information collection require no further adjustment.

Section 370.6(c)(5) of both the Interim Rule and the Final Rule requires that a new data element on average daily balances in noninterest-bearing transaction accounts be incorporated into the Consolidated Report of Income and Condition (CALL Report) filed by program extension participants. The reporting requirement will not be implemented until the quarterly report filed for the period July 1, 2010, to September 30, 2010. This change to the CALL Report was the subject of a **Federal Register** notice published on May 21, 2010 (75 FR 28612) by the FDIC and the other bank regulatory agencies as required by the Paperwork Reduction Act.

F. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. No commenters suggested that the interim rule was materially unclear, and the FDIC believes that the Final Rule is substantively similar to the interim rule.

G. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the Final Rule will not affect family well-being within the measure of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 370

Banks, Banking, Bank deposit insurance, Holding companies, National banks, Reporting and recordkeeping requirements, Savings associations.

■ For the reasons discussed in the preamble, the Federal Deposit Insurance Corporation amends part 370 of chapter III of Title 12 of the Code of Federal Regulations as follows:

PART 370—TEMPORARY LIQUIDITY GUARANTEE PROGRAM

■ 1. The authority citation for part 370 continues to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818, 1819(a)(Tenth), 1820(f), 1821(a), 1821(c), 1821(d), 1823(c)(4).

■ 2. Amend section 370.2 by revising paragraph (o) to read as follows:

§ 370.2 Definitions.

* * * * *

(o) *TAG expiration date.* The term "TAG expiration date" means December 31, 2010 unless the Board of Directors of the FDIC (the "Board"), for good cause, extends the transaction account guarantee program beyond December 31, 2010 for an additional period of time not to exceed one year, in which case the term "TAG expiration date" means the last day of such additional period of time. Good cause exists if the Board finds that the economic conditions and circumstances that led to the establishment of the transaction account guarantee program are likely to continue beyond December 31, 2010 and that extending the transaction account guarantee program for an additional period of time will help mitigate or resolve those conditions and circumstances. If the Board decides to extend the transaction account guarantee program beyond December 31, 2010 for an additional period of time, it will do so without further rulemaking; however, the FDIC will publish notice of any extension no later than October 29, 2010. Participating entities must update the disclosures required by § 370.5(h)(5), as necessary, to reflect the current TAG expiration date, including any extension of such date.

■ 3. Amend § 370.5 by revising paragraph (h)(5) to read as follows:

§ 370.5 Participation.

* * * * *

(h) * * *

(5) Each insured depository institution that offers noninterest-bearing transaction accounts must post a prominent notice in the lobby of its main office, each domestic branch and, if it offers Internet deposit services, on its Web site clearly indicating whether the institution is participating in the transaction account guarantee program. If the institution is participating in the transaction account guarantee program, the notice must state that funds held in noninterest-bearing transactions accounts at the entity are guaranteed in full by the FDIC. Participating entities must update their disclosures to reflect the current TAG expiration date, including any extension pursuant to § 370.2(o) or, if applicable, any decision to opt-out.

(i) These disclosures must be provided in simple, readily understandable text. Sample disclosures are as follows:

For Participating Institutions

[Institution Name] is participating in the FDIC's Transaction Account Guarantee Program. Under that program, through [June 30, 2010, December 31, 2010, or such other date established by the Board as the TAG expiration date pursuant to § 370.2(o), whichever is applicable], all noninterest-bearing transaction accounts are fully guaranteed by the FDIC for the entire amount in the account. Coverage under the Transaction Account Guarantee Program is in addition to and separate from the coverage available under the FDIC's general deposit insurance rules.

For Participating Institutions That Elect To Opt-Out of the Extended Transaction Account Guaranty Program Effective on July 1, 2010

Beginning July 1, 2010 [Institution Name] will no longer participate in the FDIC's Transaction Account Guarantee Program. Thus, after June 30, 2010, funds held in noninterest-bearing transaction accounts will

no longer be guaranteed in full under the Transaction Account Guarantee Program, but will be insured up to $250,000 under the FDIC's general deposit insurance rules.

For Non-Participating Institutions

[Institution Name] has chosen not to participate in the FDIC's Transaction Account Guarantee Program. Customers of [Institution Name] with noninterest-bearing transaction accounts will continue to be insured for up to $250,000 under the FDIC's general deposit insurance rules.

(ii) If the institution uses sweep arrangements or takes other actions that result in funds being transferred or reclassified to an account that is not guaranteed under the transaction account guarantee program, for example, an interest-bearing account, the institution must disclose those actions to the affected customers and clearly advise them, in writing, that such actions will void the FDIC's guarantee with respect to the swept, transferred, or reclassified funds.

* * * * *

Dated at Washington, DC, this 22nd day of June, 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2010–15497 Filed 6–25–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 738, 740, 742, 772, and 774

[Docket No. 090126064–0122–01]

RIN 0694–AE56

Revisions to the Export Administration Regulations Based Upon a Systematic Review of the Commerce Control List: Additional Changes

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to make revisions to the EAR as a result of a systematic review of the Commerce Control List (CCL) that was conducted by the Bureau of Industry and Security (BIS). This rule is the third phase of the regulatory implementation of the results of a review of the CCL that was conducted by BIS starting in 2007. The BIS CCL review benefited from input received from BIS's Technical Advisory Committees (TACs) and comments that were received from the interested public in response to the publication of a BIS notice of inquiry on July 17, 2007.

The revisions in this rule include clarifications to existing controls; eliminating redundant or outdated controls; and establishing more focused and rationalized controls. This rule also makes CCL related changes to other parts of the EAR, including CCL related definitions and license exceptions.

DATES: This rule is effective: June 28, 2010. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AE56, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include "RIN 0694–AE56" in the subject line of the message.

Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AE56.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (*i.e.,* RIN 0694–AE56)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce; by telephone: (202) 482–2440; or by fax: (202) 482–3355.

SUPPLEMENTARY INFORMATION:

Background

This rule amends the EAR to make various revisions as a result of a systematic review of the Commerce Control List (CCL) that was conducted by BIS. This rule is the third phase of the regulatory implementation of the results of that systematic review of the CCL that was conducted by BIS beginning in 2007. The CCL review benefited from input received from BIS's Technical Advisory Committees (TACs) and public comments received in response to a notice of inquiry (July 17, 2007, 72 FR 39052).

On April 18, 2008, BIS published the first phase of the regulatory implementation of the CCL review in a rule titled, "Technical Corrections to the Export Administration Regulations based upon a Systematic Review of the CCL" (73 FR 21035). The first CCL review rule made needed technical corrections and clarifications to the CCL. The second CCL review rule made substantive revisions to the EAR, including the CCL (October 6, 2008, 73 FR 58033).

The revisions to the CCL in this third CCL review rule are divided into three types of revisions: *(I) Clarifications to Existing Controls; (II) Eliminating Redundant or Outdated Controls;* and *(III) Establishing More Focused and Rationalized Controls.* The changes in this third CCL review rule are typically additional changes from the 2007 review that required further U.S. Government review and/or interagency discussions before they could be implemented. This rule also makes certain revisions to other parts of the EAR related to the CCL that were recommended during the 2007 CCL review.

As a part of the implementation phase of the CCL review, BIS has also taken other non-regulatory actions to improve the public's understanding of the CCL. These actions have involved publishing certain advisory opinions and creating new web guidance to provide greater clarity to exporters and reexporters regarding existing provisions of the CCL. BIS has also created a new process whereby it has stated its intention to conduct similar types of systematic reviews of the CCL in the future in order to continuously improve the CCL.

This rule makes the following revisions to the Export Administration Regulations (EAR):

In § 734.4(b)(1), this rule adds paragraph (a)(9) of ECCN 5A002 to the list of 5A002 classified commodities that are subject to the special *de minimis* requirements for certain encryption items. ECCN 5A002.a.9 is controlled for Encryption Items (EI) reasons, so it should be included in paragraph (b)(1) because that paragraph is intended to include all of the "items" paragraphs of 5A002 that are controlled for EI reasons.

In § 734.4 (*De minimis* U.S. content) paragraph (a)(4) and § 742.14 (Significant items: hot section technology for the development,

production or overhaul of commercial aircraft engines, components and systems) paragraph (a), this rule updates the provisions in these two sections that apply to "items" controlled for Significant Items (SI) reasons in ECCN 9E003 to conform these two sections to the intended paragraphs of ECCN 9E003 (*i.e.,* 9E003.a.1 through a.10 and h). These changes are needed because when 9E003 was revised the related provisions in §§ 734.4(a)(4) and 742.14(a) were not updated (July 12, 2000, 65 FR 43130). This rule updates those provisions to conform to the updates made to the items controlled under 9E003. This rule also makes changes to the SI reason for control under 9E003 to conform that reason for control to the SI items controlled under that ECCN entry, as described below.

In § 740.7 (Computers (APP)) under paragraph (b)(2)(i)(Computers and software), this rule removes and reserves this paragraph because the restrictions refer to a supplement of the EAR that is currently reserved. Supplement No. 3 to part 742 was removed and reserved in the EAR on April 24, 2006 (71 FR 20876). Paragraph (b)(2)(i) is also reserved because restricting physical access to areas housing the computer is no longer necessary in protecting U.S. export control interests in a distributed computing environment.

Also in § 740.7, this rule revises the Weighted TeraFLOPS (WT) level in paragraphs (c)(3)(ii) from 0.1 WT to 0.5 WT. This change is being made to address advances in technology levels that justify an adjustment for what level of "development" and "production" technology and source code should be authorized under these provisions of License Exception APP.

In § 772.1 (Definitions of terms as used in the Export Administration Regulations (EAR)), this rule revises the definition of "reasons for control" to conform that definition to the reasons for control listed in § 738.2(d)(2)(i)(A) of the EAR. Specifically, this rule removes the control "High Performance Computers (XP)" because that control is no longer in the EAR, and adds five reasons for control that were in the EAR but were not included in the "reasons for control" definition prior to this rule being published. Specifically, this rule adds "Chemical Weapons Convention (CW)", "Encryption Items (EI)", "Firearms Convention (FC)", "Significant Items (SI)", and "Surreptitious Listening (SL)" to the "reasons for control" definition.

This rule makes various substantive revisions to the CCL, divided below into three types of revisions: *(I) Clarifications to Existing Controls; (II) Eliminating Redundant or Outdated Controls;* and *(III) Establishing More Focused and Rationalized Controls.*

I. Clarifications to Existing Controls

1. *Revisions to the "headings" of existing CCL entries.*

This rule makes revisions to the headings of three (3) CCL entries: 0E018, 4E992 and 4E993 to clarify the items controlled under those CCL entries.

ECCN 0E018 is amended by removing the phrase "0A018.a through 0A018.c" and replacing that with "0A018" for consistency with the International Munitions List (IML) 22.

ECCNs 4E992 and 4E993 are amended by revising the headings to conform to the removal of ECCNs 4B994 and 4C994 from the CCL. The changes in the headings of ECCNs 4E992 and 4E993 remove references to "technology" applicable to the ECCNs 4B994 and 4C994 that are removed from the CCL with this rule, as described in the next two paragraphs. The removal of ECCNs 4B994 and 4C994 are described below under the discussion on "Eliminating Redundant or Outdated Controls."

ECCN 4E992 is amended by revising the heading to remove the reference to 4B994 and materials controlled by 4C994. The heading will be revised to specify the technology controlled under this ECCN entry is "technology" other than that controlled in 4E001 for the "development," "production," or "use" of equipment controlled by 4A994, or "software" controlled by 4D993 or 4D994.

ECCN 4E993 is amended by revising the heading to remove the reference to technology required for the development or production of graphic accelerators and magnetic disk drives. The heading is being revised to specify the technology controlled under this ECCN entry is "technology" for the "development" or "production" of equipment for "multi-data stream processing." As described below, this rule also revises the "items" paragraph in the List of Items of controlled to conform to this change to the heading.

2. *Revisions to "Items" paragraphs in CCL entries.* This rule makes revisions to the "Items" paragraphs under two (2) CCL entries, 4E993 and 9A991, to provide greater clarity regarding the items controlled under those CCL entries. Specifically, these revisions include the following:

ECCN 4E993 is amended by removing the "items" paragraph (a), (b) and (c) and replacing it with a sentence stating, "The list of items controlled is contained in the ECCN heading." As described above, the technology described in paragraphs (a) and (c) is being removed from this entry, and the only items that this entry will now control are listed in the entry's heading.

ECCN 9A991 is amended by making two clarifications. First, this rule revises "items" paragraph (b) to remove the word "and" because this word is not needed. Second, this rule amends the Note to paragraph (c) of the "items" paragraph, to specify that for aero gas turbine engines that are destined for use in civil "aircraft" and have been in use in bona fide civil "aircraft" for more than eight years, such engines are controlled under 9A991.d. This is not a change in the control parameter, but rather a clarification regarding the original intent of that Note to paragraph (c).

3. *Clarifications to "Items" paragraphs to conform to multilateral regimes.* This action revises the "items" paragraphs in two (2) CCL entries, 8A018 and 9A018, to clarify what items are controlled under those entries and to better conform those entries to the language used in multilateral control lists, such as the IML.

ECCN 8A018 is amended by revising paragraphs (b)(1), (b)(2), (b)(3), (b)(4) and (b)(5) of the "Items" paragraph, to conform to IML 9.b.3, 9.d and b.1–4, respectively. Specifically, under paragraph (b)(1), this rule adds the phrase "and specially designed components therefor" to conform to IML 9.b.1. Under paragraph (b)(2), this rule adds the phrase "and specially designed components therefor" to conform to IML 9.b.2. Under paragraph (b)(3), this rule revises the "items" paragraph to specify that the commodities controlled under this paragraph are "nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes with nonmagnetic content in excess of 75 percent of total mass and specially designed components therefor." This change is being made to conform to IML 9.b.2. Paragraph (b)(5) is removed from the CCL entry because the components, parts, accessories, and attachments for the above are now controlled under paragraphs (b)(1)–(b)(4) with the publication of this rule. This change is being made to conform to the IML 9 portion that was moved to (b)(1)–(b)(4) of the "items" paragraph of this CCL entry.

ECCN 9A018 is amended by revising paragraphs (c) and (d) of the "items" paragraphs to clarify the items controlled under this CCL entry. Specifically, under paragraph (c) this rule adds quotes around the term "aircraft" and removes the phrase "and helicopters," to conform to IML 10.f. Under paragraph (d), this rule adds quotes around the term "aircraft" and

removes the term "helicopter" to conform to IML 10.f. This rule also removes the reference to helicopters under paragraphs (c) and (d) because the definition of "aircraft" includes helicopters, so helicopters do not need to be specifically identified in the control parameter. This rule also removes "parts, attachments" under paragraph (f) to conform to IML 14.

4. *Other assorted clarifications to existing controls.*

ECCN 4A003 is amended by making a correction in the Anti-Terrorism (AT) control in the License Requirements section of this ECCN. This correction is made to conform to a change made on October 6, 2008 (73 FR 58040) in the Adjusted Peak Performance (APP) level in ECCN 4A994. To conform to the October 2008 change, this rule updates the AT control cross reference in the License Requirements section of ECCN 4A003 that refers to the "Adjusted Peak Performance" level in 4A994. Specifically, this rule corrects the AT control cross reference to inform the public to "refer to 4A994 for controls on 'digital computer' with an APP > 0.0128 but ≤ to 0.75 WT)."

This rule amends ECCN 4A994 by revising the Related Definitions paragraph of the List of Items Controlled to read "N/A" because the definition for "two dimensional vector rate" applied to items controlled by ECCN 4A994.g, which was removed and reserved on October 6, 2008 (73 FR 58040).

ECCN 5A001 is amended to revise the Technical Note (2) to 5A001.b.6 to remove the redundant phrase, "samples of human voice and then convert these." This same phrase only needs to be stated once in this technical note, so this rule is removing the redundant phrasing.

ECCN 7A008 is amended by revising the License Exceptions section by removing "TSR: N/A" because this ECCN is not a technology or software entry and adding License Exceptions "GBS: N/A" and "LVS: N/A" to indicate these license exceptions are not eligible for this entry.

ECCN 9E003 is amended by revising the SI control under the "License Requirements" section to conform the SI reason for control to the hot section technology for the development, production or overhaul of commercial aircraft engines, components and systems that are currently controlled in the "items" paragraphs of ECCN 9E003 (*i.e.,* 9E003.a.1 through a.10 and h). These changes are needed because when the "items" paragraph of ECCN 9E003 was amended on July 12, 2000 (65 FR 43130), the conforming change to the SI reason for control in that same ECCN entry was not updated. This rule updates this ECCN's SI license requirement to conform to the previous updates made to ECCN 9E003. This rule also makes conforming changes to §§ 734.4(a)(4) and 742.14(a) to conform to these same changes in 9E003, as described above.

II. Eliminating Redundant or Outdated Controls

ECCN 3A992 is amended by removing License Exception LVS eligibility for Syria. Syria is *not* eligible to receive commodities authorized by License Exception LVS under the EAR. This rule clarifies Syria's ineligibility by revising the LVS paragraph in the License Exceptions section of this ECCN to make it N/A.

ECCNs 4B994 and 4C994 are removed from the CCL because storage equipment previously controlled under ECCN 4A994 was removed from control on October 8, 2008 (73 FR 58033). Because the storage equipment is no longer controlled under 4A994, equipment for the "development" and "production" of magnetic and optical storage equipment no longer needs to be controlled under ECCN 4B994. In addition, for the same reason, materials specially formulated and required for the fabrication of head/disk assemblies for controlled magnetic and magneto-optical hard disk drives no longer needs to be controlled under ECCN 4C994. To conform to the removal of ECCNs 4B994 and 4C994, this rule also makes revisions to ECCNs 4E992 and 4E993 to remove references to "technology" applicable to these ECCNs 4B994 and 4C994 that are removed from the CCL with this rule. The changes to ECCNs 4E992 and 4E993 are described above under the discussion on "Revisions to the 'headings' of existing CCL entries."

ECCN 8A018 is amended by removing "items" paragraph (b)(5) to conform to a change to the IML. The IML 9 control that was under 8A018.b.5, prior to the publication of this rule, has been moved to paragraphs 8A018.b.1 through 8A018.b.4.

III. Establishing More Focused and Rationalized Controls

Changes for Greater Consistency in National Security, Regional Stability and Encryption Licensing

In Supplement No. 1 to part 738 (Commerce Country Chart), this rule removes the license requirement for Regional Stability (RS 2) from Austria, Finland, Ireland, Sweden and Switzerland (*i.e.,* this rule removes the "X" in the box in the RS 2 column for these five destinations). This change is made to create more consistency in what destinations require a license for RS column 2, NS column 2, and countries listed in Supplement No. 3 to part 740 (License Exception ENC Favorable Treatment Countries). Thirty-seven countries are in one of these three groupings. Twenty-four of the thirty-seven are in all three groupings (*i.e.,* these destinations do not require a license for RS column 2, NS column 2 and are listed in Supplement No. 3 to part 740). Nine of these thirty-seven countries require a license for RS column 2. Austria, Finland, Ireland, Sweden, and Switzerland all require a license for RS column 2 even though these countries are in Supplement No. 3 to Part 740 and do not require a license for NS column 2 reasons. Because these five countries are the only five countries that are listed in Supplement No. 3 to Part 740 and also do not require a license for NS column 2 reasons, these countries were the most appropriate destinations to remove the RS 2 license requirement from in order to create greater uniformity in these license requirements. This change is also made because Austria, Finland, Ireland, Sweden and Switzerland are not countries that contribute to regional instability that would be contrary to the foreign policy interests of the United States.

Removing the RS column 2 license requirement that applied to these countries is consistent with the stated purpose of regional stability controls in § 742.6(b), which is to prevent "export[s] or reexport[s] that could contribute directly or indirectly to any country's military capability in a manner that would alter or destabilize a region's military balance contrary to the foreign policy interests of the United States." This removal raises the number of countries that are in all three groups from 24 to 29 and creates more consistency in these EAR license requirements.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on June 28, 2010, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport NLR so long as they are exported or reexported July 28, 2010. Any such items not actually

exported or reexported before midnight, on July 28, 2010, require a license in accordance with this rule.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 13, 2009, 74 FR 41325 (August 14, 2009), has continued the EAR in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule contains a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes for a manual or electronic submission.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form.

5. The other changes made under this rule are nonsubstantive changes that would not meet the criteria noted in the preceding paragraph. For these nonsubstantive changes described in this paragraph, the Department of Commerce finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary and contrary to the public interest. The changes made by this rule described under this paragraph are not substantive changes, but rather are clarifications to existing controls. These nonsubstantive changes are described under Part I: *Clarifications to Existing Controls* in the Background section of this rule. These nonsubstantive changes include: revisions to the headings of existing CCL entries; and removal of an outdated "Related Controls" reference in one CCL entry. This rule does not alter any right, obligation or prohibition that applies to any person under the Export Administration Regulations (EAR). Additionally, if the previous rules were left in place, public confusion may result because the rules would refer to outdated references and headings. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research Science and technology.

15 CFR Part 738 and 772

Exports.

15 CFR Part 740

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

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, parts 734, 738, 740, 742, 772 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 734—[AMENDED]

■ 1. The authority citation for 15 CFR part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 2. Section 734.4 is amended by revising paragraphs (a)(4) and the introductory text of paragraph (b)(1), to read as follows:

§ 734.4 De minimis U.S. content.

(a) * * *

(4) There is no *de minimis* level for U.S.-origin technology controlled by ECCN 9E003a.1 through a.10, and .h, when redrawn, used, consulted, or otherwise commingled abroad.

* * * * *

(b) * * *

(1) The U.S. origin commodities or software, if controlled under ECCNs 5A002.a.1, .a.2, .a.5, or .a.6, .a.9, or 5D002, must have been:

* * * * *

PART 738—[AMENDED]

■ 3. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 4. Supplement No. 1 to part 738 (Commerce Country Chart), is amended by removing the "X" in the RS 2 column under the Regional Stability column for the countries of "Austria", "Finland", "Ireland", "Sweden", and "Switzerland".

PART 740—[AMENDED]

■ 5. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 6. Section 740.7 is amended:

■ a. By removing and reserving paragraph (b)(2)(i); and

■ b. By revising paragraphs (c)(3)(ii) and (c)(3)(iii), to read as follows:

§ 740.7 Computers (APP).

* * * * *

(b) * * *

(2) * * *

(i) [RESERVED]

* * * * *

(c) * * *

(3) * * *

(ii) "Development" and "production" technology and source code described in paragraph (a)(2) of this section for computers with an APP less than or equal to 0.5 Weighted TeraFLOPS (WT) are eligible for deemed exports under License Exception APP to foreign nationals of Tier 1 destinations, other than the destinations that are listed in paragraph (c)(3)(i) of this section, subject to the restrictions in paragraph (b) of this section.

(iii) "Use" technology and source code described in paragraph (a)(2) of this section for computers with an APP less than or equal to 3 WT are eligible for deemed exports under License Exception APP to foreign nationals of Tier 1 destinations, other than the destinations that are listed in paragraph (c)(3)(i) of this section, subject to the restrictions in paragraph (b) of this section.

* * * * *

PART 742—[AMENDED]

■ 7. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 8. Section 742.14 is amended by revising the last sentence of paragraph (a), to read as follows:

§ 742.14 Significant Items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

(a) * * * These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.10, and .h, and related controls.

* * * * *

PART 772—[AMENDED]

■ 9. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 10. Section 772.1 is amended by revising the definition of "reasons for control", as set forth below:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

Reasons for Control. Reasons for Control are: Anti-Terrorism (AT), Chemical & Biological Weapons (CB), Chemical Weapons Convention (CW), Crime Control (CC), Encryption Items (EI), Firearms Convention (FC), Missile Technology (MT), National Security (NS), Nuclear Nonproliferation (NP), Regional Stability (RS), Short Supply (SS), Significant Items (SI), Surreptitious Listening (SL) and United Nations sanctions (UN). Items controlled within a particular ECCN may be controlled for more than one reason.

* * * * *

PART 774—[AMENDED]

■ 11. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment (and Miscellaneous Items), Export Control Classification Number (ECCN) 0E018 is amended by revising the heading, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0E018 "Technology" for the "development", "production", or "use" of items controlled by 0A018:

* * * * *

■ 13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A992 is amended by revising the LVS paragraph in the License Exceptions section, to read as follows:

3A992 General purpose electronic equipment not controlled by 3A002.

* * * * *

License Exceptions

LVS: N/A
GBS: * * *
CIV: * * *

* * * * *

■ 14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A003 is amended by revising the AT control(s) paragraph in the License Requirements section, to read as follows:

4A003 "Digital computers," "electronic assemblies," and related equipment therefor, as follows, and specially designed components therefor.

License Requirements

Reason for Control: * * *

Control(s)	*Country chart*
* * * * *	
AT applies to entire entry (refer to 4A994 for controls on "digital computers" with a APP >0.0128 but ≤ to 0.75 WT).	AT Column 1

* * * * *

■ 15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A994 is amended by removing the definition in the Related Definitions paragraph in the List of Items Controlled section and adding "N/A" in its place.

■ 16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, is amended by removing Export Control Classification Numbers (ECCN) 4B994 and 4C994 and reserving "B. Test Inspection and Production Equipment" and "C. Materials".

■ 17. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4E992 is amended by revising the heading to read as follows:

4E992 "Technology" other than that controlled in 4E001 for the "development," "production," or "use" of equipment controlled by 4A994, or "software" controlled by 4D993 or 4D994.

* * * * *

■ 18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4E993 is amended:

■ a. By revising the heading; and

■ b. By revising the "items" paragraph in the List of Items Controlled section, to read as follows:

4E993 "Technology" for the "development" or "production" of equipment designed for "multi-data-stream processing."

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

The list of items controlled is contained in the ECCN heading.

■ 19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5—Telecommunications and "Information Security," Part 1 Telecommunications, Export Control Classification Number (ECCN) 5A001 is amended by revising the Technical Notes (2) to paragraph (b)(6) of the "items" paragraph in List of Items Controlled section, to read as follows:

5A001 Telecommunications systems, equipment, components and accessories, as follows (*see* List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

* * * * *

b.6. * * *

Technical Notes:

1. * * *

2. For the purpose of 5A001.b.6, 'voice coding' is defined as the technique to take samples of human voice and then convert these samples of human voice into a digital signal taking into account specific characteristics of human speech.

* * * * *

■ 20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7A008 is amended by revising the License Exceptions section, to read as follows:

7A008 Underwater sonar navigation systems, using Doppler velocity or correlation velocity logs integrated with a heading source and having a positioning accuracy of equal to or less (better) than 3% of distance traveled "Circular Error Probable" ("CEP"), and specially designed components therefor.

* * * * *

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

* * * * *

■ 21. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8—Marine, Export Control Classification Number (ECCN) 8A018 is amended by revising paragraph (b) of the "items" paragraph in the List of Items Controlled section, to read as follows:

8A018 Items on the Wassenaar Arrangement Munitions List.

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

a. * * *

b. Naval equipment, as follows:

b.1. Diesel engines of 1,500 hp and over with rotary speed of 700 rpm or over specially designed for submarines, and specially designed components therefor;

b.2. Electric motors specially designed for submarines, i.e., over 1,000 hp, quick reversing type, liquid cooled, and totally enclosed, and specially designed components therefor;

b.3. Nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes with nonmagnetic content in excess of 75 percent of total mass and specially designed components therefor;

b.4. Submarine and torpedo nets and specially designed components therefor.

■ 22. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9A018 is amended by revising paragraphs (c),(d) and (f) of the "items" paragraph in the List of Items Controlled section, to read as follows:

9A018 Equipment on the Wassenaar Arrangement Munitions List.

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definition: * * *
Items:

* * * * *

c. Pressure refuelers, pressure refueling equipment, equipment specially designed to facilitate operations in confined areas; and ground equipment, developed specially for military "aircraft", and specially designed parts and accessories, n.e.s.;

d. Pressurized breathing equipment specially designed for use in military "aircraft";

e. * * *

f. Military instrument flight trainers, except for combat simulation; and components and accessories specially designed for such equipment.

■ 23. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, Export Control Classification Number (ECCN) 9A991 is amended:

■ a. By revising "items" paragraph (b) in the List of Items Controlled section; and

■ b. By revising "items" paragraph (c) in the List of Items Controlled section and the note to paragraph (c), to read as follows:

9A991 "Aircraft", n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

* * * * *

b. Civil aircraft;

Note: * * *

c. Aero gas turbine engines, and specially designed parts therefor.

Note: 9A991.c does not control aero gas turbine engines that are destined for use in civil "aircraft" and that have been in use in bona fide civil "aircraft" for more than eight years. If they have been in use in bona fide civil "aircraft" for more than eight years, such engines are controlled under 9A991.d.

* * * * *

■ 24. In Supplement No. 1 to part 774 (The Commerce Control List), Category 9—Aerospace and Propulsion, Export Control Classification Number (ECCN) 9E003 is amended by revising the "Control(s)" paragraph in the License Requirements section, to read as follows:

9E003 Other "technology" as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, SI, AT

Control(s)	*Country Chart*
NS applies to entire entry.	NS Column 1
SI applies to 9E003.a.1 through a.10, and h. *See* § 742.14 of the EAR for additional information.	
AT applies to entire entry.	AT Column 1

* * * * *

Dated: June 21, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–15444 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 100429205–0248–01]

RIN 0694–AE92

Addition and Removal of Certain Persons on the Entity List: Addition of Persons Acting Contrary to the National Security or Foreign Policy Interests of the United States; Removal of Person Based on Removal Request

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding twenty-four persons to the Entity List (Supplement No. 4 to Part 744) on the basis of Section 744.11 of the EAR. The persons who are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These persons will be listed under the following nine destinations on the Entity List: Belarus, China, Hong Kong, Iran, Malaysia, New Zealand, Norway, South Africa and United Kingdom.

This rule also removes one person located in Hong Kong from the Entity List. This person is being removed from the Entity List as a result of a request for removal submitted by that person, a review of information provided in the removal request in accordance with Section 744.16 (Procedure for requesting removal or modification of an Entity List entity), and further review conducted by the End-User Review Committee's (ERC) member agencies.

The Entity List provides notice to the public that certain exports, reexports, and transfers (in-country) to parties identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that availability of license exceptions in such transactions is limited.

DATES: *Effective Date:* This rule is effective June 28, 2010. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AE92, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include "RIN 0694–AE92" in the subject line of the message.

Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AE92.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (*i.e.* RIN 0694–AE92)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chairman, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–3811, Fax: (202) 482–3911, E-mail: *kniesv@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List provides notice to the public that certain exports, reexports, and transfers (in-country) to parties identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that availability of license exceptions in such transactions is limited. Persons are placed on the Entity List on the basis of criteria set forth in certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from or changes to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Additions to the Entity List

The ERC made a determination to add twenty-four persons under twenty-five entries to the Entity List on the basis of Section 744.11 (License Requirements that Apply to Entities Acting Contrary to the National Security or Foreign Policy Interests of the United States) of the EAR. The twenty-five entries added to the Entity List consist of three persons in Belarus, three persons in China, two persons in Hong Kong, three persons in Iran, four persons in Malaysia, two persons in New Zealand, two persons in Norway, five persons in South Africa, and one person in the United Kingdom. The twenty-fifth entry is to account for one person who has addresses in both Norway and South Africa.

The ERC reviewed Section 744.11(b) (Criteria for revising the Entity List) in making the determination to add these persons to the Entity List. Under that paragraph, entities for which there is reasonable cause to believe, based on specific and articulable facts, that have been involved, are involved, or pose a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such entities may be added to the Entity List pursuant to Section 744.11. Paragraphs (b)(1)–(b)(5) include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States. The persons being added to the Entity List under this rule have been determined by the ERC to be involved in activities that could be contrary to the national security or foreign policy interests of the United States. Examples of the specific activities these persons were involved with that are contrary to the national security or foreign policy interests of the United States pursuant to Section 744.11 are, as follows:

Belmicrosystems Research and Design Center, SOE Semiconductor Devices Factory, Vasili Kuntsevich and Hamid Reza Simchi are being added based on evidence that they reexported U.S.-origin read-out integrated circuit (ROIC) wafers to Electronic Components Industries (ECI) of Iran.

Fang Yu and Xi'an Xiangyu Aviation Technology Group are being added due to their role in the illegal export to China of Unmanned Aerial Vehicle (UAV) autopilots controlled for national security reasons.

OnTime Electronics Technology Company and Tam Wai Tak, a.k.a., Thomsom Tam, are being added due to their involvement in the diversion of controlled U.S.-origin items through Hong Kong to China. On June 5, 2008, OnTime Electronics Technology Company and Tam Wai Tak were indicted in the Southern District of Florida for conspiracy and violations of the Arms Export Control Act and the International Emergency Economic Powers Act.

Fadjr Marine Industries, a.k.a., SADAF; Tadbir Sanaat Sharif Technology Development Center (TSS); Austral Aero-Marine Corp. Sdn Bhd; Austral Aviation Corp.; Jimmy Tok; Mok Chin Fan, a.k.a., Chong Chen Fah; Leigh Michau; Q–SPD (Q–Marine International Ltd.); Gunther Migeotte; Icarus Design AS; Icarus Marine (Pty) Ltd.; Ralph Brucher; Scavenger Manufacturing (Pty) Ltd.; Shawn Hugo De Villiers; and Ad Hoc Marine Designs Ltd., are being added for illegally reexporting the Bradstone Challenger, a vessel that was subject to the EAR, to Iran for intended use by the Iranian

Revolutionary Guard Corps (IRGC) Navy and for providing technical assistance on Iranian naval projects.

In addition, the Department of Commerce has reason to believe that Chinese electro-optics procurement firm Toptics, Inc. has procured U.S. origin uncooled thermal imaging cameras and may have reexported these items to Iran.

This rule implements the decision of the ERC to add twenty-four persons under twenty-five entries to the Entity List on the basis of Section 744.11 of the EAR. For all of the twenty-four persons under twenty-five entries added to the Entity List, the ERC specifies a license requirement for all items subject to the EAR and establishes a license application review policy of a presumption of denial. A BIS license is required for the export, reexport or transfer (in-country) of any item subject to the EAR to any of the persons listed above and described below in further detail, including any transaction in which any of the listed persons will act as purchaser, intermediate consignee, ultimate consignee, or end-user of the items. This listing of these persons also prohibits the use of license exceptions (*see* part 740 of the EAR) for exports, reexports and transfers (in-country) of items subject to the EAR involving such persons.

Specifically, this rule adds the following twenty-four persons under twenty-five entries to the Entity List:

BELARUS

(1) *Belmicrosystems Research and Design Center,* Office 313, 12 Korzhenevsky Street, 20108 Minsk, Republic of Belarus;
(2) *SOE Semiconductor Devices Factory,* Office 313, 12 Korzhenevsky Street, 20108 Minsk, Republic of Belarus; and
(3) *Vasili Kuntsevich,* Office 313, 12 Korzhenevsky Street, 20108 Minsk, Republic of Belarus.

CHINA

(1) *Fang Yu,* 16 Gaoxin 4th Road, Xian High Tech Industrial Development Zone, Xian, China;
(2) *Toptics, Inc.,* Chuangye Building 7/1F, 1197 Bin'An Road, Binjiang, Hangzhou, Zhejiang 310052, China; and
(3) *Xi'an Xiangyu Aviation Technology Group, a.k.a., Xi'an Xiangyu Aviation Technology Company,* 16 Gaoxin 4th Road, Xian High Tech Industrial Development Zone, Xian, China.

HONG KONG

(1) *OnTime Electronics Technology Company,* Room 609–610 6/F Boss Commercial Center, 28 Ferry Street, Jordon, Kowloon, Hong Kong; and
(2) *Tam Wai Tak, a.k.a., Thomsom Tam,* Room 609–610 6/F, Boss Commercial Center, 28 Ferry Street, Jordon, Kowloon, Hong Kong.

IRAN

(1) *Fadjr Marine Industries, a.k.a., SADAF,* 169 Malekloo Ave, Farjam Ave, Tehran Pars, Tehran, Iran;
(2) *Hamid Reza Simchi,* P.O. Box 19575–354, Tehran, Iran; and
(3) *Tadbir Sanaat Sharif Technology Development Center (TSS),* First Floor, No. 25 Shahid Siadat Boulevard, North Zanjan Street,Yadegar Emam Highway, Tehran, Iran.

MALAYSIA

(1) *Austral Aero-Marine Corp. Sdn Bhd,* 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia;
(2) *Austral Aviation Corp.,* 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia;
(3) *Jimmy Tok,* 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia; and
(4) *Mok Chin Fan, a.k.a., Chong Chen Fah,* 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia.

NEW ZEALAND

(1) *Leigh Michau,* P.O. Box 34–881, Birkenhead, Auckland, New Zealand; and
(2) *Q–SPD (Q–Marine International Ltd.),* P.O. Box 34–881, Birkenhead, Auckland, New Zealand.

NORWAY

(1) *Gunther Migeotte,* Titangata 1, N–1630 Gamle, Fredrikstad, Norway; and H. Evjes vei 8A, Gressvik, Norway; and Holsneset 19, 6030 Langevag, Norway; and Titangata 1, 1630 Fredrikstad, Norway (See alternate address under South Africa); and
(2) *Icarus Design AS,* Titangata 1 N–1630 Gamle, Fredrikstad, Norway.

SOUTH AFRICA

(1) *Gunther Migeotte,* 1 River Street, Rosebank, Cape Town, 7700, South Africa; and P.O. Box 36623, Menlo Park, 0102, South Africa; and 16 Manu Rua, 262 Sprite Avenue, Faerie Glen, 0081, South Africa (See alternate address under Norway);
(2) *Icarus Marine (Pty) Ltd.,* 1 River Street, Rosebank, Cape Town, South Africa;
(3) *Ralph Brucher,* P.O. Box 9523, Centurion 0046, South Africa;
(4) *Scavenger Manufacturing (Pty) Ltd.,* P.O. Box 288, Silverton, Pretoria 0127, South Africa; and
(5) *Shawn Hugo De Villiers,* 1 River Street, Rosebank, Cape Town 7700, South Africa; and 39 Myburgii Street, Somerset West, Cape Town, South Africa.

UNITED KINGDOM

(1) *Ad Hoc Marine Designs Ltd.,* 38 Buckland Gardens, Ryde Isle of Wight PO 33 3AG United Kingdom.

Removal From the Entity List

The ERC also made a determination to remove one person, Asia Link, located in Hong Kong, as a result of Asia Link's request for removal from the Entity List. Based upon the review of the information provided in the removal request in accordance with Section 744.16 (Procedure for requesting removal or modification of an Entity List entity), and further review that was conducted by the ERC's member agencies, the ERC determined that Asia Link should be removed from the Entity List.

The ERC decision to remove Asia Link took into account Asia Link's cooperation with the U.S. Government, as well as Asia Link's assurances of future compliance with the EAR. In accordance with Section 744.16(c), the Deputy Assistant Secretary for Export Administration has sent written notification to Asia Link informing this entity of the ERC's decision to remove it from the Entity List. This final rule implements the decision to remove this one Hong Kong person from the Entity List.

Specifically, this rule removes the following person from the Entity List:

HONG KONG

(1) *Asia Link,* Flat 1022, 10/F, No. 1 Hung To Rd., Kwun Tong, Kowloon, Hong Kong.

The removal of Asia Link from the Entity List (from Hong Kong, as described above) eliminates the existing license requirement in Supplement No. 4 to part 744 for exports, reexports and transfers (in-country) to this person. However, the removal of Asia Link from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of a person from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations

under General Prohibition 5 in Section 736.2(b)(5) of the EAR, which provides that, "you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR." Nor do such removals relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, "BIS's 'Know Your Customer' Guidance and Red Flags," when persons are involved in transactions that are subject to the EAR.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on June 28, 2010, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before July 13, 2010. Any such items not actually exported or reexported before midnight, on July 13, 2010, require a license in accordance with this rule.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 13, 2009, 74 FR 41325 (August 14, 2009), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694–0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Total burden hours associated with the Paperwork Reduction Act and Office and Management and Budget control number 0694–0088 are expected to increase slightly as a result of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to prevent items from being exported, reexported or transferred (in country) to the persons being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, then entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

■ Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 2. Supplement No. 4 to part 744 is amended:

■ (a) By adding, in alphabetical order, the destination of Belarus under the Country column and three Belarusian entities;

■ (b) By adding under China, People's Republic of, in alphabetical order, three Chinese entities;

■ (c) By removing under Hong Kong, this one Hong Kong entity "Asia Link, Flat 1022, 10/F, No. 1 Hung To Rd., Kwun Tong, Kowloon, Hong Kong";

■ (d) By adding under Hong Kong, in alphabetical order, two Hong Kong entities;

■ (e) By adding under Iran, in alphabetical order, three Iranian entities;

■ (f) By adding under Malaysia, in alphabetical order, four Malaysian entities;

■ (g) By adding, in alphabetical order, the destination of New Zealand under the Country column and two New Zealanders entities;

■ (h) By adding, in alphabetical order, the destination of Norway under the Country column and two Norwegian entities;

■ (i) By adding, in alphabetical order, the destination of South Africa under the Country column and five South African entities; and

■ (j) By adding under United Kingdom, in alphabetical order, one British entity.

The additions read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	**Federal Register** citation

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
* *	* *	*	*	*
BELARUS	Belmicrosystems Research and Design Center, Office 313, 12 Korzhenevsky Street, 20108 Minsk, Republic of Belarus.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	SOE Semiconductor Devices Factory, Office 313, 12 Korzhenevsky Street, 20108 Minsk, Republic of Belarus.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Vasili Kuntsevich, Office 313, 12 Korzhenevsky Street, 20108 Minsk, Republic of Belarus.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
CHINA, PEOPLE'S REPUBLIC OF				
* *	* *	*	*	*
	Fang Yu, 16 Gaoxin 4th Road, Xian High Tech Industrial Development Zone, Xian, China.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER]. 6/28/10.
* *	* *	*	*	*
	Toptics, Inc., Chuangye Building 7/1F, 1197 Bin'An Road, Binjiang, Hangzhou, Zhejiang 310052, China.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
	Xi'an Xiangyu Aviation Technology Group, a.k.a., Xi'an Xiangyu Aviation Technology Company, 16 Gaoxin 4th Road, Xian High Tech Industrial Development Zone, Xian, China.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
HONG KONG				
* *	* *	*	*	*
	OnTime Electronics Technology Company, Room 609–610 6/F Boss Commercial Center, 28 Ferry Street, Jordon, Kowloon, Hong Kong.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
	Tam Wai Tak, a.k.a., Thomsom Tam, Room 609–610 6/F, Boss Commercial Center, 28 Ferry Street, Jordon, Kowloon, Hong Kong.	For all items subject to the EAR. (See 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
IRAN				
* *	* *	*	*	*
	Fadjr Marine Industries, a.k.a., SADAF, 169 Malekloo Ave., Farjam Ave., Tehran Pars, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
* *	* *	*	*	*
	Hamid Reza Simchi, P.O. Box 19575–354, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
	Tadbir Sanaat Sharif Technology Development Center (TSS), First Floor, No. 25 Shahid Siadat Boulevard, North Zanjan Street, Yadegar Emam Highway, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
MALAYSIA				
* *	* *	*	*	*
	Austral Aero-Marine Corp. Sdn Bhd, 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Austral Aviation Corp., 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
	Jimmy Tok, 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
	Mok Chin Fan, a.k.a., Chong Chen Fah, 10A Jalan 2/137B, Resource Industrial Centre Off Jalan Kelang Lama 58000, Kuala Lumpur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
NEW ZEALAND	Leigh Michau, P.O. Box 34–881, Birkenhead, Auckland, New Zealand.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Q–SPD (Q-Marine International Ltd.), P.O. Box 34–881, Birkenhead, Auckland, New Zealand.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
NORWAY	Gunther Migeotte, Titangata 1, N–1630 Gamle, Fredrikstad, Norway; and H. Evjes vei 8A, Gressvik, Norway; and Holsneset 19, 6030 Langevag, Norway; and Titangata 1, 1630 Fredrikstad, Norway. (See alternate address under South Africa).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Icarus Design AS, Titangata 1 N–1630 Gamle, Fredrikstad, Norway.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
* *	* *	*	*	*
SOUTH AFRICA	Gunther Migeotte, 1 River Street, Rosebank, Cape Town, 7700, South Africa; and P.O. Box 36623, Menlo Park, 0102, South Africa; and 16 Manu Rua, 262 Sprite Avenue, Faerie Glen, 0081, South Africa (See alternate address under Norway).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Icarus Marine (Pty) Ltd., 1 River Street, Rosebank, Cape Town, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Ralph Brucher, P.O. Box 9523, Centurion 0046, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Scavenger Manufacturing (Pty) Ltd., P.O. Box 288, Silverton, Pretoria 0127, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Shawn Hugo De Villiers, 1 River Street, Rosebank, Cape Town 7700, South Africa; and 39 Myburgii Street, Somerset West, Cape Town, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
* *	* *	*	*	*
UNITED KINGDOM	Ad Hoc Marine Designs Ltd., 38 Buckland Gardens, Ryde, Isle of Wight PO 33 3AG, United Kingdom.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
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Dated: June 21, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–15447 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF STATE

22 CFR Parts 22 and 51

[Public Notice: 7068]

RIN 1400–AC58

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

AGENCY: Bureau of Consular Affairs, State.

ACTION: Interim final rule.

SUMMARY: Further to the Department's proposed rule to amend the Schedule of Fees for Consular Services (Schedule of Fees), the Department of State is adjusting a number of fees in light of an independent cost of service study's findings that the U.S. Government is not fully covering its costs for providing these services under the current fee structure. The primary objective of the adjustments to the Schedule of Fees is to ensure that fees for consular services reflect costs to the United States of providing the services to the extent possible. Seventeen hundred and ninety-seven comments were received during the period for public comment. This rule addresses comments received thus far, and reopens the comment period on these fees for an additional 60 days.

DATES: *Effective date:* This interim final rule becomes effective July 13, 2010. *Comment date:* Written comments must be received on or before August 27, 2010.

ADDRESSES: Submit comments to Office of the Executive Director, Bureau of Consular Affairs, Department of State, Suite H1004, 2401 E Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Adriel Bush, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202–663–2596, telefax: 202–663–2499; e-mail: *fees@state.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Department published a proposed rule in the **Federal Register**, 75 FR 6321, on February 9, 2010 (Public Notice 6887), proposing to amend sections of 22 CFR 22. Specifically, the rule proposed changes to the Schedule of Fees for Consular Services and provided 30 days for comments from the public. In response to requests by the public for more information and a further opportunity to submit comments, the Department subsequently published a supplementary notice in the **Federal Register,** 75 FR 14111, on March 24, 2010 (Public Notice 6928). The supplementary notice provided a more detailed explanation of the Cost of Service Study (CoSS), the activity-based costing model that the Department used to determine the proposed fees for consular services, and reopened the comment period for an additional 15 days. During this and the previous 30-day comment period, 1,797 comments were received, either by email or through the submission process at *http://www.regulations.gov*. The current notice reflects responses by the

Department to the comments received in the 45 days during which the comment period for this proposed rule was open.

Nonimmigrant visa fees, including fees for Machine-Readable Visas (MRVs) and Border Crossing Cards (BCCs), have been modified pursuant to a separate rule published May 20, 2010 at 75 FR 28188. These modified fees are reflected in Item 21 of the Schedule of Fees below alongside the modified fees addressed in the present notice.

What Is the authority for this action?

As explained when the revised Schedule of Fees was published as a proposed rule, the Department of State derives the statutory authority to set the amount of fees for the consular services it provides, and to charge those fees, from the general user charges statute, 31 U.S.C. 9701. *See, e.g.,* 31 U.S.C. 9701(b)(2)(A) ("The head of each agency * * * may prescribe regulations establishing the charge for a service or thing of value provided by the agency * * * based on * * * the costs to the Government; * * * the value of the service or thing to the recipient; * * * public policy or interest served; and * * * other relevant facts."). As implemented through Executive Order 10718 of June 27, 1957 (22 FR 4632), 22 U.S.C. 4219 further authorizes the Department to establish fees to be charged for official services provided by U.S. embassies and consulates. When a service provided by the Department "provides special benefits to an identifiable recipient beyond those that accrue to the general public," guidance issued by the Office of Management and Budget (OMB) requires as follows: "user charges will be sufficient to recover the full cost to the Federal Government * * * of providing the service * * * or good * * * ." OMB Circular A–25, ¶ 6(a)(1), (a)(2)(a).

Other authorities allow or require the Department to charge fees for consular services, but do not determine the amount of such fees, as the amount is statutorily determined, such as the $13 fee, discussed below, for machine-readable Border Crossing Cards (BCCs) for certain Mexican citizen minors. Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277, 112 Stat. 2681–50, Div. A, Title IV, § 410(a) (reproduced at 8 U.S.C. 1351 note).

A number of other statutes address specific fees relating to passport processing, immigrant and nonimmigrant visa processing, and overseas citizens services. For example, 22 U.S.C. 214 requires the Department to charge passport application and execution fees. Another law authorizes the Department to establish a fee for the processing of applications for "diversity visas," to recover the costs of the "visa lottery" program conducted under Immigration and Nationality Act (INA) sections 203 and 222, 8 U.S.C. 1153, 1201. *See* Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208, 110 Stat. 3009, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note). Only those applicants who register in the lottery and are selected may apply for a visa, and those who choose to apply must pay the fee; the fee incorporates the costs to the Department of administering the lottery program. *Id.* Another statute authorizes the Department to collect and retain surcharges on passports and immigrant visas to help pay for efforts to enhance border security. *See* 8 U.S.C. 1714. While these fees were originally frozen statutorily at $12 and $45 respectively, subsequent legislation authorized the Department to amend these amounts administratively, provided the resulting surcharge is "reasonably related to the costs of providing services in connection with the activity or item for which the surcharges are charged." Department of State Authorities Act of 2006, Public Law 109–472, 120 Stat. 3554, § 6(b)(1) (reproduced at 8 U.S.C. 1714 note). Furthermore, several statutes deal with fees for nonimmigrant visas, including the issuance fee statute, 8 U.S.C. 1351 (establishing reciprocity as the basis for the nonimmigrant visa issuance fee), and the MRV and BCC fees modified in the rule published at 75 FR 28188 on May 20, 2010.

Certain persons are exempted by law or regulation from paying specific fees or are expressly made subject to a special fee regime by law. These are noted in the Schedule of Fees below. They include, for instance, several exemptions from the nonimmigrant visa application fee for certain individuals who engage in charitable activities or who qualify for diplomatic visas. *See* 8 U.S.C. 1351; 22 CFR 41.107(c). Certain Iraqi and Afghan nationals are similarly exempt from paying an immigrant visa application fee. *See* National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, 122 Stat. 3, Div. A, Title XII, § 1244(d) (reproduced at 11 U.S.C. 1157 note); Omnibus Appropriations Act, 2009, Pub. L. 111–8, 123 Stat. 524, Div. F, Title VI, § 602(b)(4) (reproduced at 8 U.S.C. 1101 note). As another example, qualifying Mexican citizen minors pay a special BCC fee well below what it costs the Department to process such cards. Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277, Div. A, Title IV, § 410(a), *reproduced at* 8 U.S.C. 1351 note.

While for most consular services, the funds collected from fees must be deposited into the Treasury, various statutes permit the Department to retain the fees it collects for certain services. *See, e.g.,* 31 U.S.C. 3302(b); 2 GAO Principles of Appropriations Law, 6–199 (3d ed.) ("fees * * * paid * * * to the government * * * must be deposited in the Treasury as miscellaneous receipts, absent statutory authority to the contrary"). Among these statutes are the following: (1) The MRV and BCC fees, Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 103–236, Title I, § 140(a)(2), 112 Stat. 2681–50 (reproduced at 8 U.S.C. 1351 note); (2) the passport expedite fee, Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995, Pub. L. 103–317, 108 Stat. 1724, Title V (reproduced at 22 U.S.C. 214 note); (3) the passport and immigrant visa security surcharges, 8 U.S.C. 1714; (4) the Western Hemisphere Travel Initiative (WHTI) surcharge, which is embedded in the passport book and passport card application fees, 22 U.S.C. 214(b)(1), 22 CFR 51.51(d) (WHTI surcharge "will be recovered * * * from within the passport fee reflected in the Schedule of Fees for Consular Services"); (5) the diversity visa lottery fee, Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note); (6) the fee for an affidavit of support, Consolidated Appropriations Act, 2000, Public Law 106–113, 113 Stat. 1501, Div. A, Title II, § 232(a) (reproduced at 8 U.S.C. 1183a note); and (7) the fee to process requests from participants in the Department's Exchange Visitor Program for a waiver of the two-year home-residence requirement, 22 U.S.C. 1475e. The Department also has available to it a portion of certain fraud prevention and detection fees charged to petitioners of H- and L-category visas. 8 U.S.C. 1184(c)(12)(A), (13)(A), 1356(v)(2)(A).

Why is the department adjusting fees at this time?

With certain exceptions—such as the reciprocal nonimmigrant visa issuance fee and the reduced Mexican citizen minor BCC fee described above, as well as a congressionally mandated $1 surcharge on all nonimmigrant visas, *see* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110–457, 122 Stat. 5044, Title II, § 239 (reproduced at 8 U.S.C.

1351 note)—the Department of State generally sets consular fees at an amount calculated to achieve recovery of the costs to the U.S. Government of providing the consular service, in a manner consistent with general user charges principles, regardless of the specific statutory authority under which the fees are authorized. *See* 31 U.S.C. 9701(b)(2)(A). As set forth in OMB Circular A–25, "[w]hen a service * * * provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed * * * to recover the full cost to the Federal Government for providing the special benefit * * * ." *See* OMB Circular No. A–25, ¶ 6(a)(2)(a). The OMB guidance covers all Federal Executive Branch activities that convey special benefits to recipients beyond those that accrue to the general public. *See id.,* §§ 4(a), 6(a)(1).

While fees are thus set in accordance with full cost recovery, there are limited circumstances, such as the passport book and card application fees for minors, in which costs are allocated to related fees or the Department charges a fee that is lower than the cost of providing the service. This may be done in order to account for statutory requirements or the potential impact on the public of setting those fees at a higher level. *See* 31 U.S.C. 9701(b)(2) (user charges based on costs to the Government, the value of the service to the recipient, the public policy or interest served, and other relevant facts).

The Department reviews consular fees periodically to determine each fee's appropriateness in light of OMB guidance. The Department has made the changes set forth in this proposed Schedule of Fees accordingly. In line with this guidance, the Department contracted for an independent CoSS, which conducted its work from August 2007 through June 2009. The CoSS used an activity-based costing model to determine the current direct and indirect costs to the U.S. Government associated with each consular good and service the Department provides. The contractor, QED Group, LLC, its subcontractor Booz Allen Hamilton, Inc., and Department staff surveyed and visited domestic and overseas consular sites handling a representative sample of all consular services worldwide. The study identified the cost of the various discrete consular goods and services, both direct and indirect, and the study's results formed the basis of the changes herein proposed to the Schedule of Fees. Activity-based costing in general and the methodology employed by the CoSS to arrive at the various costs of the consular services provided by the Department are discussed in detail in the supplementary notice of proposed rulemaking, at 75 FR 14111.

In situations where services are provided with enough frequency to develop a reliable estimate of the average time involved, the Schedule of Fees generally sets a flat service fee. In situations that require services to be performed away from the office or during after-duty hours, the Department calculates the fee based on a consular "hourly rate"; this rate, which appears at Item 75 on the Schedule of Fees below, represents the cost per hour or part thereof per consular employee. Whether by flat fee or fee determined by hourly rate, the fees the Department charges are designed to recover—at most—the full costs the Department expects the U.S. Government to incur over the period the Schedule of Fees will be in effect. The Department based all fees in the Schedule of Fees on projected Fiscal Year 2010 workloads.

As a result of the CoSS's findings and the Department's analysis of these findings, the Department hereby implements, in the form of an interim final rule allowing 60 additional days for public comment, adjustments to the Schedule of Fees with respect to a number of consular services, as discussed below. The fees for other consular services remain unchanged. As noted above, adjustments to nonimmigrant visa fees, including those for BCCs, have been promulgated under a separate rule published May 20, 2010, *see* 75 FR 28188, and these adjustments are reflected in the revised Schedule of Fees below.

The last broad set of amendments to the Schedule of Fees occurred in 2005, though the Department has made piecemeal amendments to it since that time. Some fees, including Items 31(a) and (b) and 35(d), are set by the Department of Homeland Security (DHS). These DHS fees were most recently updated by that agency on July 30, 2007, and are potentially subject to change in the near future. *See* 75 FR 33447 (June 11, 2010) (proposed rule on DHS fees). The Department of State lists these DHS fees in the Department of State Schedule of Fees for cashiering purposes only; a complete list of fees collected from applicants by Department of State cashiers are posted in every embassy and consulate so that when customers pay fees to these cashiers they can compare the amount requested to the posted schedule. The Department of State has no authority to set DHS fees, and any time DHS changes its fees, the Department of State updates those items. DHS lists these fees at 22 CFR 103.7(b)(1). As of June 18, 2010, these fees and their amounts were as follows:

- Filing immigrant visa petition: Petition to classify status of alien relative for issuance of immigrant visa (Item 31(a) on the Department of State Schedule of Fees; DHS Form I–130): $355.
- Filing immigrant visa petition: Petition to classify orphan as an immediate relative (Item 31(b) on the Department of State Schedule of Fees; DHS Form I–600): $670.
- Special visa services: Waiver of immigrant visa ineligibility (Item 35(d) on the Department of State Schedule of Fees; DHS Form I–601): $545.

All CoSS estimates discussed below are based on projected workload for Fiscal Year 2010, and fees have been rounded to make them easier to collect, especially when converting from foreign currencies, which are most often used when paying for fees at posts abroad. This proposed rule also makes a conforming amendment to 22 CFR 51.51(d), which establishes the surcharge on the filing of each passport application in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat. 3638 (reproduced at 8 U.S.C. 1185 note).

Passport Book Application Services

The Department is increasing the application fee for a passport book for an adult (age 16 and older) from $55 to $70. The application fee for a passport book for a minor (under age 16) will remain at $40. The CoSS calculated the cost of processing first-time passport applications for both adults and minors as $105.80, based on a projected FY 2010 workload of 11.9 million. This cost includes border security costs covered by the passport book security surcharge, discussed immediately below. Because a minor passport book has a validity of just five years, in contrast with the ten-year validity period of an adult passport book, the Department has decided to leave the minor passport book application fee at $40, and to allocate the remainder of the cost of processing minor passport book applications to the adult passport application fee.

As described in 22 CFR 51.51(d), this fee incorporates the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458 (reproduced at 8 U.S.C. 1185 note). This portion of the application fee, which is embedded

within the fee and not charged separately or separately itemized in the Schedule of Fees, *see* 22 CFR 51.51(d) (noting absence of separate itemization), has increased from $20 to $22 per application based on increased costs related to new passport agencies serving border communities.

Passport Book Security Surcharge

The Department is increasing the passport book security surcharge from $20 to $40 in order to cover the costs of increased border security which includes, but is not limited to, enhanced biometric features in the document itself. The passport book security surcharge is the same for adult passport books and for minor passport books.

Additional Passport Visa Pages

In the past, the Department provided extra pages in a customer's passport, to which foreign countries' visas may then be affixed, at no charge. The CoSS found that the cost of the pages themselves, of having the pages placed in the book in a secure manner by trained personnel, and of completing the required security checks results in a cost to the U.S. Government of $82.48, based on a projected FY 2010 workload of 218,000 applicants. Therefore, the Department will charge $82 for this service. The costs associated with adding additional visa pages to a passport book are described in greater detail in the supplementary notice, 75 FR 14111, 14113 (Mar. 24, 2010). Another alternative to additional visa pages is to request, at the time of applying for a passport, the larger 52-page passport book offered by the Department for travelers who anticipate that they will need more than 28 visa pages. Any passport applicant may request a larger book at the time of application for no additional fee. The Department will make information about this option more widely available to customers both domestically and overseas, to ensure that applicants are able to take advantage of it.

Passport Card Application Services

The CoSS calculated that the cost of processing first-time applications for adult and minor passport cards is $77.59, based on an FY 2010 workload projection of 1.56 million cards, and that adjudication costs associated with a passport card are the same as those associated with a passport book. Nevertheless, the card is intended to be a substantially less expensive document than the passport book, for the convenience of citizens who live close to land borders and cross back and forth frequently. Therefore, the Department has decided only to raise the adult passport card application fee from $20 to $30, and the minor passport card application fee from $10 to $15. *See* 31 U.S.C. § 9701(b)(2) (user charge based on cost, value to the recipient, public policy or interest served, and other relevant facts).

As described in 22 CFR 51.51(d), this application fee incorporates the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458 (reproduced at 8 U.S.C. 1185 note). This portion of the fee, which is embedded within the fee and not charged separately or separately itemized in the Schedule of Fees, *see* 22 CFR 51.51(d) (noting absence of separate itemization), has increased from $20 to $22 for the adult passport card and from $10 to $15 for the minor passport card, and is based on increased costs related to new passport agencies serving border communities.

File Search and Verification of U.S. Citizenship

When an applicant for a passport book or passport card does not present evidence of citizenship, the Department must verify his or her U.S. citizenship. The Department is raising the fee for this service from $60 to $150 based on the cost of providing the service, and notes that applicants can avoid paying this fee by providing adequate citizenship documentation when applying for a passport rather than to request costly, time-intensive research.

Application for Consular Report of Birth Abroad of a Citizen of the United States

The CoSS found that the cost of accepting and processing an application for a Consular Report of Birth Abroad of a Citizen of the United States is $197.28 based on an FY 2010 workload projection of 80,000 applications. Based on that analysis, the Department is raising the fee from $65 to $100, still significantly less than cost, based on its view that too high a fee might deter U.S. citizen parents from properly documenting the citizenship of their children at birth, a development the Department feels would be detrimental to national interests. *See* 31 U.S.C. 9701(b)(2).

Documentation for Renunciation of Citizenship

The CoSS demonstrated that documenting a U.S. citizen's renunciation of citizenship is extremely costly, requiring American consular officers overseas to spend substantial amounts of time to accept, process, and adjudicate cases. A new fee of $450 will be established to help defray a portion of the total cost to the U.S. Government of documenting the renunciation of citizenship. While the Department decided to set the fee at $450, this fee represents less than 25 percent of the cost to the U.S. Government. The Department has determined that it must recoup at least a portion of its costs of providing this very costly service but set the fee lower than the cost of service in order to lessen the impact on those who need this service and not discourage the utilization of the service, a development the Department feels would be detrimental to national interests. *See* 31 U.S.C. 9701(b)(2).

Death and Estate Services

The CoSS found that the average cost of assisting U.S. citizens in making arrangements for a deceased non-U.S. citizen family member abroad is $388.19 per case based on an FY 2010 workload projection of 50,000 cases. The Department had previously charged a fee of $265 per hour, the then-applicable fee for consular time (discussed below), plus expenses. The Department has decided to set the new fee for death and estate services at significantly lower than costs—$200 plus expenses, per case—in order to assist bereaved families.

Immigrant Visa Application Processing Fee

In the past, the Department has charged a single application processing fee for processing an immigrant visa, regardless of category: $355. The Department has concluded, however, that it will be more equitable to set the fee for each immigrant visa category at a level commensurate with the average cost of producing that particular product. The CoSS found, however, that applications for certain immigrant visa categories cost more to process than others. Accordingly, the Department has created in the current Schedule of Fees a four-tiered immigrant visa application processing fee structure based on CoSS estimates for each discrete category of immigrant visa. The application fee for a family-based (immediate relative and preference) visa (processed on the basis of an I–130, I–600 or I–800 petition) will be $330. The application fee for an employment-based visa (processed on the basis of an I–140 petition) will be $720. Other immigrant visa applications (including for diversity visa applicants, I–360 self-petitioners, special immigrant visa applicants, and all others) will have a fee of $305. As noted above, certain qualifying Iraqi and Afghan special

immigrant visa applicants are statutorily exempt from paying a processing fee. National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, Div. A, Title XII, § 1244(d) (reproduced at 11 U.S.C. 1157 note); Omnibus Appropriations Act, 2009, Public Law 111–8, Div. F, Title VI, § 602(b)(4) (reproduced at 8 U.S.C. 1101 note).

Immigrant Visa Security Surcharge

The Department is increasing the immigrant visa security surcharge, which all applicants except those statutorily exempted must pay, from $45 to $74 to cover increased security costs as determined by the CoSS, including the costs of the enhanced security screening requirements associated with fingerprint collection which had previously been included in the immigrant visa application processing fee.

Diversity Visa Lottery Fee for Immigrant Visa Application

The Department is raising the fee paid by winners of the Diversity Visa lottery who apply for immigrant visas from $375 to $440 based on CoSS estimates for an FY 2010 workload projection of 81,000 applications. The Department has authority to collect the surcharge only from persons who are selected through the lottery process and therefore qualify to apply for a Diversity Visa, and to set it at a level sufficient to cover the entire cost of running the lottery. Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note).

Affidavit of Support Review

The Department charges the affidavit of support review fee for all affidavits of support reviewed at the National Visa Center in connection with an application for an immigrant visa. The purpose of the review is to ensure that each affidavit is properly completed before the National Visa Center forwards it to a consular post for adjudication. The Department is increasing the fee from $70 to $88 to reflect the increase in the cost of providing this service to immigrant visa applicants, as determined by the CoSS.

Determining Returning Resident Status

The CoSS found that determining the status of persons who claim to be lawful permanent residents of the United States, but do not have documentation to prove this fact, has become less costly than before due to advances in automation making it easier to verify U.S. immigration status. As such, the Department will lower the fee from $400 to $380.

Providing Documentary Services

The CoSS found the cost to the U.S. Government of providing documentary services overseas is $76.36 per service based on a projected FY 2010 workload of 380,000 services. These are primarily notarial services, certification of true copies, provision of documents, and authentications. However, the Department is raising these fees only from $30 to $50, lower than cost, in order to minimize the impact on the public. *See* 31 U.S.C. 9701(b)(2).

Processing Letters Rogatory and Foreign Sovereign Immunities Act Judicial Assistance Cases

The CoSS found that the cost to the U.S. Government of processing letters rogatory and Foreign Sovereign Immunities Act judicial assistance cases is $2,274.59 based on a projected FY 2010 workload of 1,400 services. The Department will accordingly raise the fee for these services to $2,275. The costs associated with processing letters rogatory and Foreign Sovereign Immunities Act judicial assistance cases are described in greater detail in the supplementary notice, 75 FR 14111, 14113 (Mar. 24, 2010).

Taking Depositions or Executing Commissions To Take Testimony

Several services fall under this heading, and fees for three of the services will be raised as a result of the CoSS's conclusions on the costs to the U.S. Government. The new fees appear in the Schedule of Fees below.

Consular Time Charges

The Department previously charged a consular time fee of $265 per hour, per employee. The CoSS estimated that consular time charges for services performed away from the office or outside business hours now only costs $231 per hour, per employee. Therefore, the Department will lower this fee to $231 per hour.

Analysis of Comments

As noted, the proposed rule was published for comment on February 9, 2010. During the comment period, which initially closed March 11, 2010, and was subsequently extended for an additional 15-day period ending April 8, 2010, the Department received 1,797 comments.

The majority of the comments received (1,271) expressed concern about the increase in the passport book fees. Two hundred and twenty-eight commenters cited the current economic climate as a reason to not increase fees or requested that the Department wait until the economy improves. The American Automobile Association (AAA) commented regarding the possibility of citizens being deterred from purchasing a passport or processing a renewal and how this would affect the travel business. AAA recognized the need of the Department to cover its costs, but suggested the changes be delayed until the nation shows further signs of economic recovery. The American Association of Travel Agents (AATA) described the increase in fees as being at "cross-purposes" with efforts to stimulate business and adding costs to AATA's business. Furthering its point, AATA argued that contrary to popular belief, international travel generates revenue for American businesses. Rather than arguing for no fee increases whatsoever, AATA requests that the increases not be as great as proposed, in order to encourage travel during an economic recession. Finally, United Air Lines, Inc., and the U.S. Travel Association submitted a joint comment underscoring that the change to the passport fee may deter international travel by U.S. citizens and will represent as a substantial increase in costs to their businesses as United Air Lines pays for the U.S. passports of its crew members.

While the Department of State is aware of the financial impact this fee increase may have on individuals and businesses, its passport processing operations must be self-sustaining to the extent possible, and it has accordingly set these fees at a level that will allow cost recovery—and not more. The Department also maintains that the increase in passport fees is not significant in comparison with the overall costs of international travel.

One comment, submitted jointly by the Identity Project, the Consumer Travel Alliance, the Center for Financial Privacy and Human Rights, and John Gilmore (collectively, "Identity Project"), suggested that the Department "should stop including RFID chips in passports and passport cards, instead of increasing the fees to cover the costs of RFID chips." Identity Project suggested that it would be "more secure for passport holders" and called the chips "a surveillance and control feature, not a security feature." While such comments are not directly relevant to the fees proposed in this rule, the Department would offer that the purpose of such chips is to provide instant confirmation of, or a link to, electronic records that confirm the document has not been altered and is in fact a genuine U.S. passport document;

their purpose is not to permit the "surveillance" of passport holders. The comment also insisted that passport requirements, such as the Western Hemisphere Travel Initiative—particularly the requirement of a passport book or card to enter and leave the United States—violate the First Amendment rights of U.S. citizens, including the right to assemble and the right to petition for redress of grievances. The comment suggests that the Department should consider "rescinding or amending the WHTI regulations." Yet the change in passport fees covered by this rule does not have an impact in this arena. The Identity Project fails to recognize that WHTI was mandated by Congress, and its requirements—including the requirement of a passport book or card to enter or leave the United States—cannot be undone by the Department. The Identity Project concluded that "the Department should eliminate RFID chips from passport books and cards, and eliminate the requirement for U.S. citizens to have or display a passport or other government-issued credential as a prerequisite to the exercise of their Constitutional and international treaty rights to depart from, and return to, U.S. territory, by any means and to or from any other country or territory, or to or from international waters or airspace." Those aims are quite clearly outside the scope of this rule, which merely modifies the fees charged to applicants for passport books and cards.

Two commenters, including the Identity Project, questioned how the Department decided to deviate from CoSS findings to keep the passport card fee artificially low, below cost.

One of those comments urged the Department to identify and apply a consistent standard to govern deviations from full-cost principles. The Department does apply such a standard. Where the Department believes that the provision of a given overseas citizens service is important, yet setting the fee above a certain amount will deter U.S. citizens overseas from taking advantage of it, the Department may make a policy decision to offer the service at a reduced fee or at no fee. The Department bases its estimate of the level at which U.S. citizens will be deterred from taking advantage of the service by undertaking extensive consultations with experienced consular officers and senior Department managers. Included among these services are the Consular Report of Birth Abroad (as explained elsewhere in this rule), documenting renunciation of citizenship, and death and estate services. Also included are several no-fee emergency services provided to U.S. citizens in peril abroad or otherwise in an emergency situation. The Department may also make a decision to set a given fee below cost where the cost to the Department of providing the service is considerably higher than comparable services in the United States, because the overhead and support costs of operating overseas are much greater than if the services were performed in the United States, such as notarial services. *See* 31 U.S.C. 9701(b)(2) (user charge based on cost, value to the recipient, public policy or interest served, and other relevant facts).

Those commenters who argued that the Department sets the passport card fee at an arbitrarily low level have, in the Department's view, misconceived the purpose of the passport card, as articulated by Congress. Members of Congress have indicated that the price of a passport card should remain low compared to that of a passport book, in order not to discourage American citizens who live near the nation's land borders from crossing on a regular basis for a number of reasons, including commerce, tourism and visiting family. In accordance with this preference, the Department has determined that the cost of a passport card should remain at the level established in this interim final rule, even though the adjudication and production process for passport cards is roughly the same as for passport books, and thus the U.S. Government's costs are roughly the same. Another reason the price of a passport card is lower than that of a passport book is that the card omits the costs of no-fee overseas citizens services, since travelers using the card are likely to be on relatively brief cross-border trips such that most emergencies would be handled by travelers relying on family members and services in the United States; such costs are, however, included in the fee for the passport book. Twelve comments addressed the increased cost of the passport cards directly, but without articulating a specific concern other than the price increase.

One hundred sixteen comments addressed the fact that individuals could be deterred from purchasing a passport book with the intention of using it to cross the Canadian or Mexican borders for travel and/or business, due to the higher price of the book compared to the card. In separate letters to Secretary of State Hilary Rodham Clinton, Congressman Brian Higgins and Congressman Christopher Lee of New York expressed concern that the increase in the price of passport books would make them less affordable for the average American citizen, and would discourage citizens from conducting cross-border commerce. As noted above, the Department does not believe that individuals will be deterred by the increased price of a passport from engaging in cross-border travel. Moreover, for those who desire a less expensive product, the passport card is available for cross-border land travel. As explained, the Department has made the price of a passport card lower than the cost associated with producing and adjudicating such cards largely to ameliorate the impact of the Western Hemisphere Travel Initiative's passport requirement on those living near our borders with Canada and Mexico who cross frequently for a number of reasons including commerce and visiting family. By keeping the card fee low, cross-border business and travel is still a possibility without the need to purchase the passport book at a higher price.

A handful of authors suggested means for encouraging the purchase of passports by introducing certain programs such as non-profit business discounts, family discounts for multiple purchasing, and special senior citizen or student rates. As noted at several points above, the Department sets its consular fees with the objective of full cost recovery, though in some circumstances—such as with some overseas citizen services whose costs are allocated to fees for passport books—the Department has made a decision to set the fees lower than the full cost of providing that particular service. In future fee-setting exercises, the Department will consider this proposal for additional services for which the fee for a particular service is below the cost of providing that service. A comment from the National Association of Passport and Visa Services (NAPV) requested that the Department allow issuance of two passport books to a single individual for frequent travelers: a regular ten-year-validity book, and another book with a two-year period of validity. The second passport would allow individuals to continue to travel internationally on one passport while allowing them to submit the second passport to foreign governments for visas for future travel, thereby accommodating the requirement of many governments that passports be physically relinquished to their embassies in order for the latter to process and affix the visa. NAPV suggested a lower price point for the second passport book, but according to the CoSS, the cost of printing and adjudication of such a passport would be the same regardless of the length of time the second book would be valid. NAPV suggests a limited cost recovery

solution to a problem, which it admits applies to only "a select group of frequent business travelers and airline pilots." The Department does not believe that given the limited number of beneficiaries, the proposal justifies charging below the full cost for these two-year passport books and assigning the difference to the price of 10-year passport books.

Twenty-two of the comments expressed support for the proposed fee changes in order to provide added security to American citizens, travel documents, and increase the level of service provided by the Department.

Two hundred and thirty-seven comments were received regarding the fee for additional passport visa pages. Most writers expressed concern that a once-free service will now cost $82. The majority of those who commented said they were business professionals who are required to travel frequently for their jobs, and questioned how inserting pages into a passport book could cost so much. Yet as explained in the supplementary notice, 75 FR 14111, 14113, the cost of that service includes not only the pages themselves, the employee time spent affixing the pages into a passport, endorsing the passport, and performing a quality-control check on the expanded passport; but also the costs of trained labor, supervisors, and overhead; of performing a name check of the applicant prior to providing the service, and a share of the overall costs of no-fee emergency services provided to Americans overseas—costs incorporated into and assigned across all passport book services. The Department does offer a larger passport for travelers who anticipate that they will need more visa pages. Any passport applicant may request a larger book (52 pages, instead of the standard 28) at the time of application for no additional fee. The Department will make information about this option more widely available to customers both domestically and overseas, to ensure that applicants are able to take advantage of it.

Over one hundred comments requested that the Department raise the execution fee for passports (Item 1 on the Schedule of Fees). Those who commented are predominantly county clerks from border states whose offices serve as passport acceptance agencies along with the U.S. Postal Service (USPS). In total, the Department partners with approximately 9,400 acceptance agencies, the majority of which are U.S. Post Offices. The execution fee was lowered in 2008 from $30 to $25, and remains at $25 in the current Schedule of Fees. Most of these comments stated that the current $25 does not cover the facilities' existing costs, citing in particular the increased costs associated with the institution of a requirement in 2009 that traceable mail be used to forward all applications to the Department for processing. The Department arrived at the current fee of $25 based on a unit cost agreed upon by USPS and the Department's Consular Affairs Passport Services Office in 2008. The Department is willing to review and, if necessary, set a new amount for the execution fee, but will do so based on actual cost data. The Department will engage with USPS and its other acceptance agency partners in the coming year to update existing cost estimates for performing this service, and will analyze whether a fee increase is warranted.

Twenty comments addressed the fee for documentary services, generally expressing the concern that the fees the Department charges for notarial services overseas are far greater than the fees banks and other offices charge for such services domestically. The costs of performing such services overseas—by expatriate staff, in secure buildings—is in fact higher than it might be at a U.S. bank. Despite the increase, the cost to the Department of providing these services is still greater than is being charged to the public, as explained in the section entitled "Providing Documentary Services" in the supplementary information above.

One comment questioned whether the increase of the fee for processing letters rogatory was reasonable. This individual agreed with the increase in passport book fees and described them—incorrectly—as a routine increase fostered by the recent backlog and demand for the document. With regard to the fee for processing letters rogatory, however, the commenter was concerned whether the fee would be too financially burdensome on those who need such services and must pay for them. Yet letter rogatory services are complex and time-consuming, generally stretching over months and requiring a considerable amount of consular time and resources. Some of the activities involved in performing letter rogatory services are described in the supplementary notice, 75 FR 14111, 14113. These services are relatively infrequent—there were only 449 performed in FY 2008, the last base year used in the CoSS—and the requests are varied, covering both criminal and civil matters ranging from family law to business litigation. The fee for this service is also generally minor compared to the overall expenses related to litigation. Moreover, the Department provides information to the public on alternative methods of seeking judicial assistance and actively recommends international conventions on judicial assistance, such as the Hague Service and Evidence Conventions, for the consideration of countries that are not yet parties to these agreements. The United States has treaty relationships concerning judicial assistance with over 70 countries, and the number of countries that do not have alternative procedures to the letters rogatory procedure is small. The impact of the price increase for these services will therefore be limited in scope.

Several authors claimed that the increase in the cost of the application for a Consular Report of Birth Abroad (CRBA) of a citizen of the United States will deter American citizens from declaring the birth of children born abroad. The fee is substantially less than the cost, $100 compared to a cost of $197.28. The Department decided to charge less than cost precisely to prevent American citizens from being deterred from declaring the birth of a child while overseas which would be detrimental to national interests. Two commenters in a joint submission complained that the Department has failed to provide data to support its concern that too high a CRBA fee might deter U.S. citizen parents from properly documenting their child's birth. As discussed above, the Department based this determination on its extensive experience in the area. Moreover, a situation of undocumented birth often creates serious problems for the child in the future when he or she attempts to prove his or her citizenship for purposes of acquiring a U.S. passport or obtaining another benefit of U.S. citizenship. For these reasons, the Department has made a policy decision to keep the CRBA fee as affordable as possible, even though the cost to the U.S. Government of processing a CRBA is higher than $100. *See* 31 U.S.C. 9701(b)(2). Other CRBA-related comments cited challenges regarding the exchange rate affecting the cost of this service and the lack of need should the child qualify for citizenship of the nation of residence. With respect to the latter submission, while the Department encourages parents to document the birth of a U.S. citizen—including one who holds another country's citizenship as well—whether parents choose to do so is at their discretion.

Some commenters argued that the fee for documentation for renunciation of citizenship—$450—is too costly, especially since that service has heretofore been provided at no charge. The Department has determined that it must recoup at least a portion of its

costs of providing this very costly service. In order to lessen the impact on those who need this service and not discourage the utilization of the service, the Department decided to set the fee at $450, less than 25 percent of the cost to the U.S. Government. *See* 31 U.S.C. 9701(b)(2).

Seven comments, including the previously referenced joint comment from United Air Lines and the U.S. Travel Association, requested more information on the Cost of Service Study itself. In response, the Department published the supplementary notice of March 24, 2010, *see* 75 FR 14111, and allowed an additional 15 days for public comment. The Department received one further comment from United Airlines and the U.S. Travel Association, on April 8, 2010, within the 15-day period. That comment made an additional request for actual cost and related data and specifically requested: Specific inputs used to determine cost for the U.S. passport book and passport card; that the Department confirm how the CoSS ensured that administrative support costs were correctly attributed to individual consular services and that these costs for positions not dedicated to fee-based consular activities were excluded from the CoSS; and that the Department confirm whether the CoSS accounted for the transition to the DS–160 electronic nonimmigrant visa application. United Air Lines and the U.S. Travel Association also requested that the Department suspend final publication of the rules, release additional data supporting its proposed fee increases, and hold a public meeting to address questions from the public.

Concerning the request for specific inputs used to determine the cost for the U.S. passport book and card, such data sets are being published in the **Federal Register** together with this rule. With regard to the question of administrative support costs and the DS–160, the Department has addressed those concerns of United and the U.S. Travel Association in the interim final rule concerning MRV and BCC fees, at 75 FR 28188 (May 20, 2010), and directs the reader to the discussion there.

Based on a review of all the comments, the Department has determined that it is unnecessary to suspend publication of this interim final rule pending release of additional data or a public meeting, though it will provide an additional post-promulgation comment period of 60 days, and will consider any comments received prior to publishing the rule in final form. As explained above, the Department has provided information regarding the basis for the fee changes in the notice of proposed rulemaking on February 9, 2010, provided significant additional information in response to the requests of United Air Lines, the U.S. Travel Association, and others in a supplemental notice dated March 24, 2010. The Department has provided the public a total of 45 days in which to make comments concerning the proposed fee changes. The Department determined that a supplemental written notice would provide more useful information and reach a broader public audience than a public meeting.

Regulatory Findings

Administrative Procedure Act

The Department is issuing this interim final rule with an effective date 15 days from the date of publication. The Administrative Procedure Act permits a final rule to become effective fewer than 30 days after the publication if the issuing agency finds good cause. 5 U.S.C. 553(d)(3). The Department finds that good cause exists for an early effective date in this instance for the following reasons.

As stated in the supplementary information above, the Department's mandate is to align as closely as possible its user fees for consular services with the actual, measured costs of those services. This enables better cost recovery and ensures that U.S. taxpayers do not subsidize consular services. 31 U.S.C. 9701; OMB Circular A–25. See also GAO–08–386SP, *Federal User Fees: A Design Guide.* The CoSS, which supports the fees set by this rule, used data from past years, as well as predictive data for Fiscal Years 2010 and 2011, to determine the amount of the fees set by this rule. The fees currently charged by the Department cover less than 73 percent of the underlying services' true cost. On a monthly basis, taxpayers are paying $23.9 million in unmet costs for consular services that should be borne by those who actually benefit from those services. In the current economic climate, this shortfall is unusually grave, exacerbating budgetary pressures and threatening other critical Department priorities. It is thus in the public's interest to make the appropriated funds currently used to fill this gap available as soon as possible.

For these reasons, and because the public's level of preparation for this fee increase is unlikely to be meaningfully improved by 15 additional days of advance warning, the Department finds that good cause exists for making this rule effective after 15 days of its publication as an interim final rule.

Regulatory Flexibility Act

The Department, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6). This rule raises the application and processing fee for passports, immigrant visas, and American citizen services. The Department of State estimates that the agency will process 16,000 total employment-based immigrant visa applications, all of which fall into the E–1, E–2, E–3, E–4, and E–5 categories. (Note: The Department of Homeland Security processes domestic adjustment of status for approximately 90 percent of all employment-based immigrants; cases processed domestically do not pay Department of State fees.) The issuance of some "E" category employment-based immigrant visas may be contingent upon approval by DHS of a petition filed by a United States company, and these companies pay a fee to DHS to cover the processing of the petition. The amount of the petition fees that are paid by small entities to DHS is not controlled by the amount of the visa fees paid by individuals to the Department of State. The visa itself is sought and the application processing fees are paid for by an individual foreign national overseas who seeks to immigrate to the United States. The Department of State does not track applications for employment-based visas by the size and nature of the petitioning businesses, and therefore cannot identify the share of this impact on the small businesses versus large businesses. While some employers may choose to reimburse application costs, small businesses are not required by law to reimburse the individuals, and therefore no small businesses will be impacted. Additionally, while small entities sometimes pay judicial service fees if required for legal matters with foreign companies, they do so in very limited circumstances and in small numbers. For instance, worldwide in FY 2009, embassies and consulates arranged only 123 depositions and processed only 156 letters rogatory.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the

Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501–1504.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

Small Business Regulatory Enforcement Fairness Act of 1996/Congressional Review Act

As required by 5 U.S.C. 801, the Department will submit to Congress a report regarding the issuance of this interim final rule. The report will state that it has been determined that the interim final rule is a "major rule" as defined by 5 U.S.C. 804(2). As noted in the discussion regarding the Administrative Procedure Act, and for the same reasons, the Department finds good cause that the effective date of this major rule be fifteen days after its publication as an interim final rule, since an additional 60-day delay in the effective date is impracticable and contrary to the public interest. 5 U.S.C. 808(2).

Executive Order 12866

OMB considers this rule to be an economically significant regulatory action under Executive Order 12866, section 3(f)(1), Regulatory Planning and Review, Sept. 30, 1993, because it is likely to have an annual effect on the economy of $100 million or more. 58 Fed. Reg. 51735. This rule is necessary in light of the Department of State's CoSS finding that the cost of processing passports and immigrant visas and of providing other consular services has generally increased since the fees were last set. The Department is setting the fees in accordance with 31 U.S.C. 9701 and other applicable authority, as described in more detail above. *See, e.g.,* 31 U.S.C. 9701(b)(2)(A) ("The head of each agency * * * may prescribe regulations establishing the charge for a service or thing of value provided by the agency * * * based on * * * the costs to the Government."); OMB Circular A–25, ¶ 6(a)(2)(a). This regulation sets the fees for passports, immigrant visas, and other consular services at the amount required to recover the costs associated with providing the service in question, as explained in the preamble.

Accordingly, this rule has been submitted to OMB for review.

Item	Proposed fee	Current fee	Change in fee	Percentage increase	Number of fees collected in FY09	Consequent total increase in fees assuming FY09 workloads
2(a). Passport Book Application Services for Applicants age 16 or over (including renewals).	$70	$55	$15	27%	9,207,088	$138,106,320
2(c). Additional passport visa pages.	82	0	82	undefined	207,810	17,040,420
2(g). Passport Book Security Surcharge.	40	20	20	100	11,935,556	238,711,120
6. File search and verification of U.S. citizenship.	150	60	90	150	11,192	1,007,280
7. Application for Consular Report of Birth Abroad of a Citizen of the United States.	100	65	35	54	58,198	2,036,930
8. Documentation of formal renunciation of U.S. citizenship.	450	0	450	undefined	1,188	534,600
9(a). Passport Card Application Services for Applicants age 16 or over (including renewals).	30	20	10	50	1,196,078	11,960,780
9(b). Passport Card Application Services for Applicants under age 16.	15	10	5	50	354,451	1,772,255
14(b). Making arrangements for a deceased non-U.S. citizen family member.	200 plus expenses.	Consular time (Item 75) plus expenses.	−65 per hour	−25 per hour	426	−27,690
32(a). Immigrant visa application processing for immediate relative and family preference applications.	330	355	−25	−7	500,732	−12,518,300
32(b). Immigrant visa application processing for employment-based applications.	720	355	365	103	16,691	6,092,215
32(c). Immigrant visa application processing for other visa classes.	305	355	−50	−14	58,131	−2,906,550
33. Diversity Visa Lottery fee	440	375	65	17	53,490	3,476,850
34. Affidavit of Support Review	88	70	18	26	311,038	5,598,684
35(a). Determining Returning Resident Status.	380	400	−20	−5	1,611	−32,220
36. Immigrant visa security surcharge.	74	45	29	64	575,554	16,691,066
41(a). Providing notarial service: First service.	50	30	20	67	128,818	2,576,360
41(b). Providing notarial service: Each additional seal.	50	20	30	150	60,782	1,823,460

Item	Proposed fee	Current fee	Change in fee	Percentage increase	Number of fees collected in FY09	Consequent total increase in fees assuming FY09 workloads
42(a). Certification of a true copy or that no record of an official file can be located: First copy.	50	30	20	67	15,611	312,220
42(b). Certification of a true copy or that no record of an official file can be located: Each additional copy.	50	20	30	150	3,099	92,970
43(a–f). Provision of documents, certified copies of documents, and other certifications by the Department of State (domestic).	50	30	20	67	29,425	588,500
44. Authentications (44a–d)	50	30	20	67	18,863	377,260
51. Processing letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases.	2,275	735	1,540	210	156	240,240
52(a). Scheduling/arranging appointments for depositions.	1,283	475	808	170	123	99,384
52(b). Attending or taking depositions, or executing commissions to take testimony.	309 per hour plus expenses.	265 per hour plus expenses.	44 per hour	17	38	1,672
52(e). Providing seal and certification of depositions.	415	70	345	493	16	5,520
75. Consular time charges	231	265	−34	−13	70	−2,380

Details of the proposed fee changes are as follows:

The Department of State does not anticipate that demand for passport, immigrant visa, and other services affected by this rule will change significantly due to these fee changes.

With regard to immigrant visas, many categories are numerically capped; these caps artificially limit workload and keep current demand fairly stable. In FY 2009, the Department issued all available immigrant visas in employment-based categories (capped at 140,000 including adjustments of status processed domestically by the Department of Homeland Security). In FY 2009, the Department issued 96 percent of the immigrant visas available under the Diversity Visa program (capped at 50,000 including adjustments of status processed domestically by the Department of Homeland Security). Also in FY 2009, the Department issued 96 percent of the immigrant visas available for family-preference categories (capped at 226,000 including adjustments of status processed domestically by the Department of Homeland Security). When fewer visas were issued than were available under the numerical cap, it was generally due to administrative processing issues rather than lack of demand. There are nearly 3.5 million applicants currently awaiting numerically controlled visas, sufficient to fill more than eight years' workload at the current annual caps. It is reasonable to expect that the immigrant visa workload for FY 2010 and FY 2011 will remain about the same as FY 2009. These estimates do not take into account variables that the Department cannot predict at this time, such as legislative changes.

With regard to passports, the Department does not believe that passport application fees are a significant determining factor when Americans decide to travel internationally. The price of a passport book or card remains minimal in comparison with other costs associated with foreign travel. For example, taxes and surcharges alone on an international airfare can easily surpass $100, and many airlines charge substantial fees for checking bags. As a result, the Department does not believe passport demand will be significantly affected by increases of the size proposed. In addition, the Western Hemisphere Travel Initiative has now been fully implemented, and there is no new regulatory impetus for passport demand on the horizon; passport demand is expected to remain relatively stable in the near term.

Executive Orders 12372 and 13132

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Paperwork Reduction Act

This rule does not impose or alter any reporting or recordkeeping requirements.

List of Subjects in 22 CFR Parts 22 and 51

Consular services, Fees, Passports and visas.

■ Accordingly, for the reasons stated in the preamble, 22 CFR part 22 and part 51 are amended as follows:

PART 22—[AMENDED]

■ 1. The authority citation for part 22 is revised to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1183a note, 1351, 1351 note, 1714, 1714 note; 10 U.S.C. 2602(c); 11 U.S.C. 1157 note; 22 U.S.C. 214, 214 note, 1475e, 2504(a), 4201, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; Exec.

Order 10718, 22 FR 4632; Exec. Order 11295, 31 FR 10603.

■ 2. Revise § 22.1 to read as follows:

§ 22.1 Schedule of fees.

The following table sets forth the U.S. Department of State's Schedule of Fees for Consular Services:

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
Passport and Citizenship Services	
1. Passport Book or Card Execution: Required for first-time applicants and others who must apply in person (Applicants applying for both the book and card simultaneously on the same application pay only one execution fee.).	$25.
2. Passport Book Application Services for:	
(a) Applicants age 16 or over (including renewals)	$70.
(b) Applicants under age 16	$40.
(c) Additional passport visa pages	82.
(d) Passport book replacement for name change if submitted within one year of passport issuance	NO FEE.
(e) Passport book replacement for passport book limited in validity if submitted within one year of passport issuance. (Passport books limited in validity because of multiple losses, thefts, damage, or mutilations cannot be replaced).	NO FEE.
(f) Passport book replacement for data correction (name, date of birth, place of birth, sex printed erroneously) if submitted within one year of passport issuance.	NO FEE.
(g) Passport Book Security Surcharge (Enhanced Border Security Fee)	$40.
3. Expedited service: Passport processing within the expedited processing period published on the Department's website (see 22 CFR 51.56(b)) and/or in-person service at a U.S. Passport Agency (not applicable abroad).	$60.
4. Exemptions: The following applicants are exempted from all passport fees listed in Item 2 above:	
(a) Officers or employees of the United States and their immediate family members (22 U.S.C. 214) and Peace Corps Volunteers and Leaders (22 U.S.C. 2504(h)) proceeding abroad or returning to the United States in the discharge of their official duties.	NO FEE.
(b) U.S. citizen seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214(a)).	NO FEE.
(c) Widows, children, parents, or siblings of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214(a)).	NO FEE.
(d) Employees of the American National Red Cross proceeding abroad as members of the Armed Forces of the United States (10 U.S.C. 2602(c)).	NO FEE.
5. Travel Letter: Provided in rare, life-or-death situations as an emergency accommodation to a U.S. citizen returning to the United States when the consular officer is unable to issue a passport book.	NO FEE unless consular time charges (Item 75) apply.
6. File search and verification of U.S. citizenship: When applicant has not presented evidence of citizenship and previous records must be searched (except for an applicant abroad whose passport was stolen or lost abroad or when one of the exemptions is applicable).	$150.
7. Application for Consular Report of Birth Abroad of a Citizen of the United States	$100.
8. Documentation of formal renunciation of U.S. citizenship	$450.
9. Passport Card Application Services for:	
(a) Applicants age 16 or over (including renewals) [Adult Passport Card]	$30.
(b) Applicants under age 16 [Minor Passport Card]	$15.
(c) Passport card replacement for name change if submitted within one year of passport issuance	NO FEE.
(d) Passport card replacement for data correction (name, date of birth, place of birth, sex printed erroneously) if submitted within one year of passport issuance.	NO FEE.
(Item 10 vacant.)	
Overseas Citizens Services Arrests, Welfare and Whereabouts and Related Services	
11. Arrest and prison visits	NO FEE.
12. Assistance regarding the welfare and whereabouts of a U.S. Citizen, including child custody inquiries and processing of repatriation and emergency dietary assistance loans.	NO FEE.
(Item 13 vacant.)	
Death and Estate Services	
14. Assistance to next-of-kin:	
(a) After the death of a U.S. citizen abroad (providing assistance in disposition of remains, making arrangements for shipping remains, issuing Consular Mortuary Certificate, and providing up to 20 original Consular Reports of Death).	NO FEE.
(b) Making arrangements for a deceased non-U.S. citizen family member (providing assistance in shipping or other disposition of remains of a non-U.S. Citizen).	$200 plus expenses.
15. Issuance of Consular Mortuary Certificate on behalf of a non-U.S. Citizen	$60.
16. Acting as a provisional conservator of estates of U.S. Citizens:	
(a) Taking possession of personal effects; making an inventory under an official seal (unless significant time and/or expenses incurred).	NO FEE.
(b) Overseeing the appraisal, sale, and final disposition of the estate, including disbursing funds, forwarding securities, etc. (unless significant time and/or expenses incurred).	NO FEE.

SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
(c) For services listed in Item 16(a) or (b) when significant time and/or expenses are incurred	Consular time (Item 75) plus expenses.
(Items 17 through 20 vacant.)	
Nonimmigrant Visa Services	
21. Nonimmigrant visa application and border crossing card processing fees (per person):	
(a) Non-petition-based nonimmigrant visa (except E category)	$140.
(b) H, L, O, P, Q and R category nonimmigrant visa	$150.
(c) E category nonimmigrant visa	$390.
(d) K category nonimmigrant visa	$350.
(e) Border crossing card—age 15 and over (valid 10 years)	$140.
(f) Border crossing card—under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years or until the applicant reaches age 15, whichever is sooner).	$14.
22. EXEMPTIONS from nonimmigrant visa application processing fee:	
(a) Applicants for A, G, C–3, NATO and diplomatic visas as defined in 22 CFR 41.26	NO FEE.
(b) Applicants for J visas participating in official U.S. Government-sponsored educational and cultural exchanges.	NO FEE.
(c) Replacement Machine-Readable Visa when the original visa was not properly affixed or needs to be reissued through no fault of the applicant.	NO FEE.
(d) Applicants exempted by international agreement as determined by the Department, including members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly, and their immediate families.	NO FEE.
(e) Applicants traveling to provide charitable services as determined by the Department	NO FEE.
(f) U.S. Government employees traveling on official business	NO FEE.
(g) A parent, sibling, spouse, or child of a U.S. Government employee killed in the line of duty who is traveling to attend the employee's funeral and/or burial; or a parent, sibling, spouse, son, or daughter of a U.S. Government employee critically injured in the line of duty for visitation during emergency treatment and convalescence.	NO FEE.
23. Nonimmigrant visa issuance fee, including border-crossing cards (Reciprocity Fee)	RECIPROCAL.
24. EXEMPTIONS from nonimmigrant visa issuance fee:	
(a) An official representative of a foreign government or an international or regional organization of which the U.S. is a member; members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly; and applicants for diplomatic visas as defined under Item 22(a); and their immediate families.	NO FEE.
(b) An applicant transiting to and from the United Nations Headquarters	NO FEE.
(c) An applicant participating in a U.S. Government-sponsored program	NO FEE.
(d) An applicant traveling to provide charitable services as determined by the Department	NO FEE.
25. Fraud prevention and detection fee for visa applicant included in L blanket petition (principal applicant only)	$500.
(Items 26 through 30 vacant.)	
Immigrant and Speical Visa Services	
31. Filing immigrant visa petition (collected for USCIS and subject to change)	
(a) Petition to classify status of alien relative for issuance of immigrant visa	For fee amount, see 8 CFR 103.7(b)(1).
(b) Petition to classify orphan as an immediate relative	For fee amount, see 8 CFR 103.7(b)(1).
32. Immigrant visa application processing fee (per person)	
(a) Immediate relative and family preference applications	$330.
(b) Employment-based applications	$720.
(c) Other immigrant visa applications (including Diversity Visa applicants, I–360 self-petitioners, special immigrant visa applicants).	$305.
(d) Certain Iraqi and Afghan special immigrant visa applications (per 8 U.S.C. 1101 note; 11 U.S.C. 1157 note).	NO FEE.
33. Diversity Visa Lottery fee (per person applying as a result of the lottery program)	$440.
34. Affidavit of Support Review (only when reviewed domestically)	$88.
35. Special visa services:	
(a) Determining Returning Resident Status	$380.
(b) Transportation letter for Legal Permanent Residents of the United States	$165.
(c) Waiver of two-year residency requirement	$215.
(d) Waiver of immigrant visa ineligibility (collected for USCIS and subject to change)	For fee amount, see 8 CFR 103.7(b)(1).
(e) Refugee or significant public benefit parole case processing	NO FEE.
36. Immigrant visa security surcharge	$74.
(Items 37 through 40 vacant.)	
Documentary Services	
41. Providing notarial service:	
(a) First service (seal)	$50.
(b) Each additional seal provided at the same time in connection with the same transaction	$50.

SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
42. Certification of a true copy or that no record of an official file can be located (by a post abroad):	
(a) First Copy	$50.
(b) Each additional copy provided at the same time	$50.
43. Provision of documents, certified copies of documents, and other certifications by the Department of State (domestic):	
(a) Documents relating to births, marriages, and deaths of U.S. citizens abroad originally issued by a U.S. embassy or consulate.	$50.
(b) Issuance of Replacement Report of Birth Abroad	$50.
(c) Certified copies of documents relating to births and deaths within the former Canal Zone of Panama from records maintained by the Canal Zone Government from 1904 to September 30, 1979.	$50.
(d) Certifying a copy of a document or extract from an official passport record	$50.
(e) Certifying that no record of an official file can be located	$50.
(f) Each additional copy provided at same time	$50.
44. Authentications (by posts abroad):	
(a) Authenticating a foreign notary or other foreign official seal or signature	$50.
(b) Authenticating a U.S. Federal, State, or territorial seal	$50.
(c) Certifying to the official status of an officer of the U.S. Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the U.S. Government.	$50.
(d) Each authentication	$50.
45. Exemptions: Notarial, certification, and authentication fees (Items 41–44) or passport file search fees (Item 6) will not be charged when the service is performed:	
(a) At the direct request of any Federal Government agency, any state or local government, the District of Columbia, or any of the territories or possessions of the United States (unless significant costs would be incurred).	NO FEE.
(b) With respect to documents to be presented by claimants, beneficiaries, or their witnesses in connection with obtaining Federal, state, or municipal benefits.	NO FEE.
(c) For U.S. citizens outside the United States preparing ballots for any public election in the United States or any of its territories.	NO FEE.
(d) At the direct request of a foreign government or an international agency of which the United States is a member if the documents are for official noncommercial use.	NO FEE.
(e) At the direct request of a foreign government official when appropriate or as a reciprocal courtesy	NO FEE.
(f) At the request of direct-hire U.S. Government personnel, Peace Corps volunteers, or their dependents stationed or traveling officially in a foreign country.	NO FEE.
(g) With respect to documents whose production is ordered by a court of competent jurisdiction	NO FEE.
(h) With respect to affidavits of support for immigrant visa applications	NO FEE.
(i) With respect to endorsing U.S. Savings Bonds Certificates	NO FEE.
(Items 46 through 50 vacant.)	
Judicial Assistance Services	
51. Processing letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases, including providing seal and certificate for return of letters rogatory executed by foreign officials.	$2,275.
52. Taking depositions or executing commissions to take testimony:	
(a) Scheduling/arranging appointments for depositions, including depositions by video teleconference (per daily appointment).	$1,283.
(b) Attending or taking depositions, or executing commissions to take testimony (per hour or part thereof)	$309 per hour plus expenses.
(c) Swearing in witnesses for telephone depositions	Consular time (Item 75) plus expenses.
(d) Supervising telephone depositions (per hour or part thereof over the first hour)	Consular time (Item 75) plus expenses.
(e) Providing seal and certification of depositions	$415.
53. Exemptions: Deposition or executing commissions to take testimony. Fees (Item 52) will not be charged when the service is performed:	
(a) At the direct request of any Federal Government agency, any state or local government, the District of Columbia, or any of the territories or possessions of the United States (unless significant time required and/or expenses would be incurred).	NO FEE.
(b) Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of Federal court on behalf of an indigent party.	NO FEE.
(Items 54 through 60 vacant.)	
Services Relating to Vessels and Seamen	
61. Shipping and Seaman's services: Including but not limited to recording a bill of sale of a vessel purchased abroad, renewal of a marine radio license, and issuance of certificate of American ownership.	Consular time (Item 75) plus expenses.
(Items 62 through 70 vacant.)	
Administrative Services	
71. Non-emergency telephone calls	$10 plus long distance charge.

SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
72. Setting up and maintaining a trust account: For 1 year or less to transfer funds to or for the benefit of a U.S. citizen in need in a foreign country.	$30.
73. Transportation charges incurred in the performance of fee and no-fee services when appropriate and necessary.	Expenses incurred.
74. Return check processing fee	$25.
75. Consular time charges: As required by this Schedule and for fee services performed away from the office or during after-duty hours (per hour or part thereof/per consular employee).	$231.
76. Photocopies (per page)	$1.
(Items 77 through 80 vacant.)	

PART 51—[PASSPORTS]

■ 3. The authority citation for part 51 continues to read as follows:

Authority: 8 U.S.C. 1504; 18 U.S.C. 1621; 22 U.S.C. 211a, 212, 213, 213n (Pub. L. 106–113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A–430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2721, & 3926; 26 U.S.C. 6039E; 31 U.S.C. 9701; 42 U.S.C. 652(k) [Div. B, Title V of Pub. L. 103–317, 108 Stat. 1760]; E.O. 11295, Aug. 6, 1966, FR 10603, 3 CFR, 1966–1970 Comp., p. 570; Sec. 1 of Pub. L. 109–210, 120 Stat. 319; Sec. 2 of Pub. L. 109–167, 119 Stat. 3578; Sec. 5 of Pub. L. 109–472, 120 Stat. 3554; Pub. L. 108–447, Div. B, Title IV, Dec. 8, 2004, 118 Stat. 2809; Pub. L. 108–458, 118 Stat. 3638, 3823 (Dec. 17, 2004).

■ 4. In § 51.51, revise paragraph (d) to read as follows:

§ 51.51 Passport fees.

* * * * *

(d) A surcharge in the amount of twenty-two dollars ($22) on the filing of each application for a passport book, in the amount of twenty-two dollars ($22) on the filing of each application for a passport card for an applicant age 16 or over, and in the amount of fifteen dollars ($15) on the filing of each application for a passport card for an applicant under age 16, in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458 (8 U.S.C. 1185 note). The surcharge will be recovered by the Department of State from within the passport application fee reflected in the Schedule of Fees for Consular Services.

Dated: June 22, 2010.

Patrick F. Kennedy,

Under Secretary of State for Management, Department of State.

[FR Doc. 2010–15622 Filed 6–25–10; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

Freedom of Information Act, Privacy Act of 1974; Implementation

AGENCY: Department of the Treasury.

ACTION: Final rule; correcting amendment.

SUMMARY: On January 6, 2010, the Department of the Treasury published a document in the **Federal Register**, amending the Department of the Treasury's regulations on the disclosure of records under the Freedom of Information Act (FOIA) and its regulations concerning the Privacy Act of 1974 (Privacy Act). It also amended the appendices to these subparts setting forth the administrative procedures by which the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") will process requests for records made under the FOIA, and set forth the administrative procedures by which SIGTARP will implement the Privacy Act. In addition, that document revised the list of Treasury offices and bureaus found this part.

The Department of the Treasury is publishing this document to make correcting amendments to correct errors made in that document.

DATES: *Effective Date:* June 28, 2010.

FOR FURTHER INFORMATION CONTACT: Dale Underwood, Privacy Act Officer, Department of the Treasury, phone number 202–622–0874 or *dale.underwood@do.treas.gov*.

SUPPLEMENTARY INFORMATION: The final rule published on January 6, 2010, was for the purpose of updating the list of Treasury bureaus and offices enumerated in 31 CFR 1.1 and 1.20, and conform the regulations with the organization of the Department as set out in Treasury Order 101–05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury" dated February 19, 2008. The description of the revisions made to § 1.20 of this part were not clear resulting in redundant paragraphs at the end of that section.

In FR Doc. E9–31150 appearing in column 3 on page 745 in the **Federal Register** of Wednesday, January 6, 2010, a number of errors were made. This document amends 31 CFR 1.20 to correct those errors.

List of Subjects in 31 CFR Part 1

Freedom of Information; Privacy.

■ Accordingly, part 1 of title 31 of the Code of Federal Regulations is corrected by making the following correcting amendments:

PART 1—DISCLOSURE OF RECORDS

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also is issued under 5 U.S.C. 552, as amended. Subpart C also is issued under 5 U.S.C. 552a.

Subpart C—[Amended]

■ 2. Section 1.20 is amended as follows:

■ a. Revise paragraph (j).

■ b. Remove paragraphs (k) through (m).

■ c. Revise the first sentence of the undesignated paragraph at the end of the section.

The revisions read as follows:

§ 1.20 Purpose and scope of regulation.

* * * * *

(j) Financial Crimes Enforcement Network.

* * * * *

For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (a)(23), (a)(24), (a)(25), (b) through (j) of this section are to be considered a part of such components. * * *

* * * * *

Dated: June 21, 2010.

Melissa Hartman,

Acting Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2010–15369 Filed 6–25–10; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

RIN 1505–AC22

Office of the Special Inspector General for the Troubled Asset Relief Program; Privacy Act of 1974; Implementation

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the Department of the Treasury amends this part to exempt several systems of records maintained by the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) from certain provisions of the Privacy Act.

DATES: *Effective Dates:* June 28, 2010.

FOR FURTHER INFORMATION CONTACT: Bryan Saddler, Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L St., NW., Washington, DC 20220, (202) 927–8938.

SUPPLEMENTARY INFORMATION: The Department of the Treasury published a notice of a proposed rule exempting five systems of records from provisions of the Privacy Act of 1974, as amended, on January 14, 2010, at 75 FR 2086. The Department also published the notices of the new systems of records in their entirety on January 14, 2010, at 75 FR 2188.

Under 5 U.S.C. 552a(j)(2), the head of a Federal agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is "maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision."

To the extent that these systems of records contain investigative material within the provisions of 5 U.S.C. 552a(j)(2), the Department of the Treasury has exempted the following systems of records from various provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2):

DO .220—SIGTARP Hotline Database.
DO .221—SIGTARP Correspondence Database.
DO .222—SIGTARP Investigative MIS Database.
DO .223—SIGTARP Investigative Files Database.
DO .224—SIGTARP Audit Files Database.

The exemption under 5 U.S.C. 552a(j)(2) for the above-referenced systems of records is from provisions 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

Under 5 U.S.C. 552a(k)(2), the head of a Federal agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is "investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2)." To the extent that these systems of records contain investigative material within the provisions of 5 U.S.C. 552a(k)(2), the Department of the Treasury has exempted the following systems of records from various provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2):

DO .220—SIGTARP Hotline Database.
DO .221—SIGTARP Correspondence Database.
DO .222—SIGTARP Investigative MIS Database.
DO .223—SIGTARP Investigative Files Database.
DO .224—SIGTARP Audit Files Database.

The exemption under 5 U.S.C. 552a(k)(2) for the above-referenced systems of records is from provisions 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

The regulation will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The final rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this final rule would not impose new record keeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

■ Part 1, Subpart C of Title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a, as amended.

■ 2. Section 1.36 is amended as follows:
■ a. Paragraph (c)(1)(i) is amended by adding new entries for DO .220, .221, .222, .223, and .224 to the table in numerical order.
■ b. Paragraph (g)(1)(i) is amended by adding new entries for DO .220, .221, .222, .223, and .224 to the table in numerical order.

The additions to Sec. 1.36 read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(c) * * *

(1) * * *

(i) * * *

Number	System name
* * * * *	
DO .220 ...	SIGTARP Hotline Database.
DO .221 ...	SIGTARP Correspondence Database.

Number	System name
DO .222 ...	SIGTARP Investigative MIS Database.
DO .223 ...	SIGTARP Investigative Files Database.
DO .224 ...	SIGTARP Audit Files Database.

* * * * *

* * * * *

(g) * * *

(1) * * *

(i) * * *

Number	System name
DO .220 ...	SIGTARP Hotline Database.
DO .221 ...	SIGTARP Correspondence Database.
DO .222 ...	SIGTARP Investigative MIS Database.
DO .223 ...	SIGTARP Investigative Files Database.
DO .224 ...	SIGTARP Audit Files Database.

* * *

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Dated: June 21, 2010.

Melissa Hartman,

Acting Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2010–15365 Filed 6–25–10; 8:45 am]

BILLING CODE 4810–25–P

POSTAL SERVICE

39 CFR Part 111

Express Mail Next Day Delivery Postage Refund Amendment

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 114.2, 414.3, and 604.9, to state the conditions for Express Mail® Next Day Delivery postage refunds when shipments are mailed each year during the time period of December 22 through December 25.

DATES: *Effective Date:* August 2, 2010.

FOR FURTHER INFORMATION CONTACT: Karen Key (202) 268–7492 or Carol A. Lunkins (202) 268–7262.

SUPPLEMENTARY INFORMATION:

On April 30, 2010, the Postal Service published a **Federal Register** proposed rule (75 FR 22725–22727) inviting comments on our proposal to revise the standards for Express Mail Next Day Delivery postage refunds during the time period of December 22 through December 25. When items are made available for pickup at the destination office, attempted for delivery, or delivered within two business days, postage refunds will not be available for Express Mail Next Day Delivery during this period. However, when items are not available for customer pickup at the destination office or delivery to the addressee was not attempted within two business days, Express Mail Next Day Delivery postage refunds will be authorized.

There were no comments received regarding this proposed revision.

The Postal Service adopts the following changes to the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), which is incorporated by reference in the Code of Federal Regulations. *See* 39 CFR part 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

100 Retail Letters, Cards, Flats, and Parcels

* * * * *

110 Express Mail

* * * * *

114 Postage Payment Methods

* * * * *

2.0 Postage Refunds

[Delete the heading of 2.1 in its entirety and incorporate the introductory paragraph and remaining text into 2.0 as follows:]

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or for any of the following reasons:

[Revise items a, b, and c of former 2.1, and add new items d through h as follows:]

a. The item was properly detained for law enforcement purposes.

b. The item was delayed due to strike or work stoppage.

c. The item was delayed because of an incorrect ZIP Code or address; forwarding or return service was provided after the item was made available for claim.

d. The shipment is available for delivery, but the addressee made a written request, *i.e.* Hold Mail request, that the shipment be held for a specific day(s).

e. The delivery employee discovers that the shipment is undeliverable as addressed before leaving on the delivery route.

f. If authorized by USPS Headquarters, and the delay was caused by governmental action beyond the control of USPS or air carriers; war, insurrection, or civil disturbance; delay or cancellation of flights; projected or scheduled transportation delays; breakdown of a substantial portion of USPS transportation network resulting from events or factors outside the control of USPS; or acts of God.

g. The shipment contained live animals and was delivered or delivery was attempted within 3 days of the date of mailing.

h. The Express Mail Next Day shipment was mailed December 22 through December 25 and was delivered or delivery was attempted within 2 business days of the date of mailing.

* * * * *

400 Commercial Parcels

* * * * *

410 Express Mail

* * * * *

414 Postage Payment and Documentation

* * * * *

3.0 Postage Refunds

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or for any of the following reasons:

[Revise items a, b, and c of 3.0 and add new items "d through h" as follows:]

a. The item was properly detained for law enforcement purposes.

b. The item was delayed due to strike or work stoppage.

c. The item was delayed because of an incorrect ZIP Code or address; forwarding or return service was

provided after the item was made available for claim.

d. The shipment is available for delivery, but the addressee made a written request, *i.e.* Hold Mail request, that the shipment be held for a specific day(s).

e. The delivery employee discovers that the shipment is undeliverable as addressed before leaving on the delivery route.

f. If authorized by USPS Headquarters, and the delay was caused by governmental action beyond the control of USPS or air carriers; war, insurrection, or civil disturbance; delay or cancellation of flights; projected or scheduled transportation delays; breakdown of a substantial portion of USPS transportation network resulting from events or factors outside the control of USPS; or acts of God.

g. The shipment contained live animals and was delivered or delivery was attempted within 3 days of the date of mailing.

h. The Express Mail Next Day shipment was mailed December 22 through December 25 and was delivered or delivery was attempted within 2 business days of the date of mailing.

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

604 Postage Payment Methods

* * * * *

9.0 Refunds and Exchanges

* * * * *

9.5 Express Mail Postage Refund

* * * * *

9.5.2 Conditions for Refund

[Revise the introductory paragraph of 9.5.2 as follows:]

A refund request must be made within 90 days after the date of mailing. Except as provided in 114.2.1 and 414.3.1, a mailer may file for a postage refund only under one of the following circumstances:

* * * * *

9.5.3 Refunds Not Given

[Revise 9.5.3 as follows:]

A postage refund will not be given if the guaranteed service was not provided due to any of the circumstances in 114.2.1 and 414.3.1.

* * * * *

We will publish an amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010–15336 Filed 6–25–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–RCRA–2009–0708; FRL–9161–9]

Arkansas: Final Authorization of State-initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: During a review of Arkansas' regulations, the EPA identified a variety of State-initiated changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for Final authorization and are authorizing the State-initiated changes through this direct Final action. In addition, this document corrects technical errors made in the April 24, 2002, and August 15, 2007, **Federal Register** authorization documents for Arkansas.

The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of Arkansas hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

DATES: This regulation is effective August 27, 2010, unless the EPA receives adverse written comment on this regulation by the close of business July 28, 2010. If the EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves this incorporation by reference as of August 27, 2010, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–RCRA–2009–0708, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2 *E-mail: patterson.alima@epa.gov*.

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2009–0708. EPA's policy is that all comments received will be included in the public docket without change, including personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov*, or e-mail. The Federal *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy the documents that form the basis for this

authorization and codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator, and Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone numbers: (214) 665–8533, and (214) 665–8178. E-mail address *patterson.alima@epa.gov* and *banks.julia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Authorization of State-Initiated Changes

A. Why are revisions to state programs necessary?

States which have received Final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal program changes, the States must change their programs and ask the EPA to authorize the changes. Changes to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What decisions have we made in this rule?

We conclude that Arkansas' revisions to its authorized program meet all of the statutory and regulatory requirements established by RCRA. We found that the State-initiated changes make Arkansas' rules more clear or conform more closely to the Federal equivalents and are so minor in nature that a formal application is unnecessary. Therefore, we grant Arkansas final authorization to operate its hazardous waste program with the changes described in the table at Section G below. Arkansas has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Arkansas, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Arkansas subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Arkansas has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the statutes and regulations for which Arkansas is being authorized by today's action are already effective and are not changed by today's action.

D. Why wasn't there a proposed rule before this rule?

The EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the Proposed Rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if EPA receives comments that oppose this action?

If the EPA receives comments that oppose this authorization or the incorporation-by-reference of the State program, we will withdraw this rule by publishing a timely document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes, or the incorporation-by-reference, on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. If you want to comment on this authorization and incorporation-by-reference, you must do so at this time. You may not have another opportunity to comment. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program or the incorporation-by-reference of the State program, we may withdraw only that part of this rule, but the authorization of the program changes or the incorporation-by-reference of the State program that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization or incorporation-by-reference of the State program will become effective and which part is being withdrawn.

F. For what has Arkansas previously been authorized?

Arkansas initially received final authorization on January 25, 1985 (50 FR 1513), to implement its Base Hazardous Waste Management program. Arkansas received authorization for revisions to its program on January 11, 1985 (50 FR 1513), effective January 25, 1985; March 27, 1990 (55 FR 11192), effective May 29, 1990; September 18, 1991 (56 FR 47153), effective November 18, 1991; October 5, 1992 (57 FR 45721), effective December 4, 1992; October 7, 1994 (59 FR 51115), effective December 21, 1994; April 24, 2002 (67 FR 20038), effective June 24, 2002; and August 15, 2007 (72 FR 45663), effective October 15, 2007.

G. What changes are we authorizing with this action?

The State has made amendments to the provisions listed in the table which follows. These amendments clarify the State's regulations and make the State's regulations more internally consistent. The State's laws and regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the Federal laws and regulations. These State-initiated changes satisfy the requirements of 40 CFR 271.21(a). We are granting Arkansas final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These

provisions are analogous to the indicated RCRA statutory provisions or RCRA regulations found at 40 CFR as of July 1, 2005. The Arkansas provisions are from the Arkansas Pollution Control and Ecology Commission Regulation No. 23, Hazardous Waste Management, as amended December 9, 2005, effective March 23, 2006.

State requirement	Analogous federal requirement
260.10 "director"	No Federal Analog.
260.10 "EPA identification number"	260.10 "EPA identification number".
260.10 "Solid waste management unit" or "SWMU""	No Federal analog.
260.20(b) intro	260.20(b) intro.
260.20(b)(3)	260.20(b)(3).
260.20(c)–(f)	260.20(c)–(e) related.
261.5(b)	261.5(b).
261.8	261.8.
262.13(f)	No Federal analog.
262.24(a)	No Federal analog.
262.35(a) except (a)(2)	261.5 related.
262.35(b)	261.5(f)(3)&(g)(3) related.
264.75 intro	264.75 intro.
264.75(h)	264.75 related.
264.75(i)	264.75 related.
264.141(f) "completed fiscal year"	264.141(f) related.
264.143(e)(1)	264.143(e)(1).
264.143(f)(3)(iv)	264.143(f) related.
264.145(e)	264.145(e).
264.145(f)(3)(iv)	264.145(f) related.
264.147(a)(1)	264.147(a)(1).
264.147(b)(1)(ii)	264.147(b)(1)(ii).
264.147(f)(3)(iv)	264.147(f) related.
264.175(b)(2)	264.175 related.
264.314(d) & (f)	264.314(d) & (f).
264.601(d) & (e)	No Federal analog.
265.75 intro	265.75 intro.
265.75(h)	265.75(f).
265.75(i)	265.75 related.
265.110(b)(5)	No Federal analog.
265.141(f) "completed fiscal year"	265.141(f) related.
265.143(d)(1)	265.143(d)(1).
265.143(e)(3)(iv)	265.143(e) related.
265.145(e)(3)(iv)	265.145(e) related.
265.147(f)(3)(iv)	265.147(f) related.
265.314(c) & (e)	265.314(c) & (e).
270.7(b)	270.14 related.
270.7(g)	124.10(c)(4) related.
270.7(h)(8)	124.10(b) & (c), 124.11 and 124.12(a).
270.10(e)(1)	270.10 related.
270.10(e)(7)	No Federal analog; Related to: 264.70, 264/265.140(a), 270.70, 270.30.
270.10(l)(1) intro	No Federal analog.
270.13(j)	270.13(j).
270.13(o)	No Federal Analog.
270.14(b)(7)	270.14 (b)(7) and 270.14(b) related.
270.34	No Federal analog.
270.70(a)	270.70(a) and (c).

H. Who handles permits after the authorization takes effect?

This authorization does not affect the status of State permits and those permits issued by the EPA because no new substantive requirements are a part of these revisions.

I. How does this action affect Indian country (18 U.S.C. 1151) in Arkansas?

Arkansas is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

II. Technical Corrections

The following technical corrections are made to the April 24, 2002 (67 FR 20038) and August 15, 2007 (72 FR 45663) Arkansas authorization **Federal Register** documents. There are two types of corrections being made (the corrections have been italicized). The first type includes additions or corrections to the list of State citations for Checklist entries that were actually included in the published **Federal Register** documents The second type of correction is the addition of entire Checklist entries for the following Federal requirements which were inadvertently omitted from the original authorization tables.

- Land Disposal Restrictions—Phase IV—Mineral Processing Secondary Materials Exclusion, [63 FR 28556] May 26, 1998.
- Hazardous Air Pollutant Standards for Combustors [64 FR 52828–53077, September 30, 1999 as amended November 19, 1999, at 64 FR 63209–63213.].
- Methods Innovation Rule and SW–846 Final Update IIIB [70 FR 34538–34592, June 14, 2005, as amended August 1, 2005; 70 FR 44150–44151].

A. Corrections to the April 24, 2002 (67 FR 20038) Authorization Document

1. In the entry for Checklist 107, the citation "261.4(b)(15)" is corrected to read "*261.4(b)(13)*".

2. In the entry for Checklist 109, add *268.46, 268, Appendix II.*

3. In the entry for Checklist 110:

• The citation "261.4(a)(1)" is corrected to read "*261.4(a)(10)*".

• The citation "261, Appendix VIII" is corrected to read "*261, Appendix VII*".

4. In the entry for Checklist 114, add *266.103(c)(1)(xi) introductory paragraph.*

5. In the entry for Checklist 118, add *265.316(b) and (c).*

6. In the entry for Checklist 122, add *261.4(b)(13) and (b)(14), 264.1(g)(2), 265.1(c)(6).*

7. In the entry for Checklist 124, add *264.1(g)(6), 265.1(c)(10), 268.1(e)(4) intro, 268.1(e)(5), 268.7(b)(3)(ii), 268.9(a), 268.40(b), 270.42 Appendix I.*

8. In the entry for Checklist 126, add *265.190(a); 265.314(c).*

9. In the entry for Checklist 135, add *261.3(c)(2)(ii)(B).*

10. In the entry for Checklist 137, add *264.1(g)(6), 265.1(c)(10), 266.23(a), 266 Appendix XIII, 268.2(g) and (i).*

11. In the entry for Checklist 140, the citation "§ 261.3(a)(2)(iv)(G)" is corrected to read *§§ 261.3(a)(2)(iv)(E)–(G)*".

12. In the entry for Checklist 142 B: Add: *261.6(a)(3)(ii), 268.1(f) intro and (f)(1), 270.1(c)(2)(viii) intro and (c)(2)(viii)(A).*

13. In the entry for Checklist 142 C, add *268.1(f)(2), 270.1(c)(2)(viii)(B).*

14. In the entry for Checklist 142 D, add *268.1(f)(3), 270.1(c)(2)(viii)(C)*

15. In the entry for Checklist 144, the citation "270.10(e)(4)" should be corrected to read "*270.10(e)(5)*".

16. In the entry for Checklist 148: The citation "270.7(d)(f)" is corrected to read "*270.7(d)–(f)*".

17. In the entry for Checklist 151:

• Add: *268.1(c)(3) intro through (c)(3)(ii), 268.1(c)(4), 268.1(e)(3), 268.1(e)(4), 268.1(e)(5), 268.42/Table 1*

• The citation "268.(a)" is corrected to read "*268.40(a)*".

18. In the entry for Checklist 154, 154.1, 154.2, 154.3, 154.4, 154.5, and 154.6, add *264.13(b)(6) and (b)(8), 264.15(b)(4), 264.73(b)(3) and (b)(6), 264.77(c), 264.179, 264.200, 264.232, 264.1030(b), 264.1033(a)(2)(i)&(ii), 264.1033(f)(2)(vi)(B), 264.1033(k) through (o), 264.1034(b) intro, 264.1035(c)(9) and (10), 264.1035(d), 264.1050(b), (c) and (f), 264.1055, 264.1058(e), 264.1064(g)(6), 265.1(b), 265.13(b)(6) and (b)(8), 265.15(b)(4), 265.73(b)(3) and (b)(6), 265.77(d), 265.178, 265.202, 265.231, 265.1030(b), 265.1033(a)(2) intro, 265.1033(f)(2)(vi)(B), 265.1033(j) intro, 265.1033(j)(1) and (2), 265.1033(k) through (n), 265.1034(b) intro, 265.1035(c)(3), 265.1034(c)(9) and (c)(10), 265.1035(d), 265.1050(b) and (e), 265.1055, 265.1058(e), 265.1064(g)(6), 265, Appendix VI.*

19. In the entry for Checklist 156, the entry "263.10(e) & (f)" is corrected to read "*263.10(f) & (g)*".

20. In the entry for Checklist 157:

• The citation "262.30(a)–(e)" is corrected to read "*268.30(a)–(e)*".

• The citation "261.69(a)(3)(ii)" is corrected to read "*261.6(a)(3)(ii)*".

21. In the entry for Checklist 163, add *264.15(b)(4), 264.73(b)(6), 264.1030(b)(3), (c) and (d), 264.1031* "*in light liquid service*", *264.1033(a)(2)(i) through (iv), 264.1050(b), (c) and (f), 264.1060(a) and (b), 264.1062(b)(2) and (b)(3), 264.1064(g)(6) and (m), 265.15(b)(4), 265.1030(b)(3), 265.1030(d), 265.1033 (a)(2)(i)–(iv), 265.1033(f)(2)(vi)(B), 265.1050(b)(3) and (e), 265.1060(a) and (b), 265.1064(g)(6) and (m), 265, Appendix VI; 270.14(b)(5).*

22. In the entry for Checklist 167 E, add *261.3(a)(2)(i), 261.4(b)(7).*

23. In the entry for Checklist 168:

• The citation "261.4(a)(16)(iii)" is corrected to read "*261.4(a)(16)*".

• Add *270.42(j), 270.42 Appendix I.*

24. In the entry for Checklist 169, add *261.32(a), 261, Appendix VII, 268.35, 268.40/Table.*

25. In the entry for Checklist 172, the citation "268.34(b)" is corrected to read "*268.34*".

26. In the entry for Checklist 174, add *264.90(e) and (f), 264.110(c), 264.112(b)(8), 264.112(c)(2)(iv), 264.118(b)(4) and (d)(2)(iv), 264.140(d), 265.90(f), 265.110(c)&(d), 265.112(b)(8) and (c)(1)(iv), 265.118(c)(4), (c)(5) and (d)(1)(iii), 265.121, 265.140(d), 270.1(c) introductory paragraph.*

27. In the entry for Checklist 175:

• Add: *264.1(j) intro and (j)(1), 264.73(b)(17), 264.554 intro and (a) intro, 265.1(b), 265.118(c)(4), 265.118(c)(5), 265.118(d)(1)(iii), 265.121, 265.140(d), 268.2(c), 268.50(g).*

• The citation "264.1(j)(4)–(17)" should be corrected to read *264.1(j)(4)–(13).*

28. In the entry for Checklist 177: Add *264.1031* "*equipment*", *264.1031* "*open-ended valve or line*".

29. In the entry for Checklist 179:

• The citation "268.40(e)"' is corrected to read "*268.40(i) and (j)*",

• Add *261.2(c)(3), 261.2(c)/Table I, 261.2(e)(1)(iii), 261.4(b)(7)(iii).*

30. Add the following new entry to the Table:

Federal citation	State analog
* * * * * * *	
81. Land Disposal Restrictions—Phase IV—Mineral Processing.	*A.C.A. §§ 8–7–209(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5), (6), (7), (8), (10), & (12), 8–7–209(b)(5) & (6), 8–7–210(b), 8–7–212, 8–7–213, 8–7–214*
Secondary Materials Exclusion, [63 FR 28556] May 26, 1998. (Checklist 167 D).	*APC&EC Regulation 23 Regulation 23, §§ 261.2(c)(3), 261.2(c)/Table I, 261.2(e)(1)(iii), 261.4(a)(17), as amended February 25, 2000, effective May 20, 2000.*

B. Corrections to the August 15, 2007 (72 FR 45663) Authorization Document

1. In the entry for Checklist 185:

• The citation "261.32(f)/Table" is corrected to read "*261.33(f)/Table*".

• Add *261.32(a), 268.48(a)/Table UTS.*

2. In the entry for Checklist 190:

• The citation "268.32(b)(i)–(ii)" is corrected to read "*268.32(b)(1)(i)–(b)(2)(ii)*".

• Add *268.49(d), 268 Appendix III.*

3. In the entry for Checklist 192 B, the citation "Appendix VII/Table" is corrected to read "268 Appendix VII/Table".

4. In the entry for Checklist 195, add *268.40/Table.*

5. In the entry for Checklist 197:

• The citation "266.100(b)(20)(i)–(v)" is corrected to read "*266.100(b)(2)(i)–(v)*".

• Add *270.22 intro.*

6. In the entry for Checklist 199, add *261.24(a).*

7. In the entry for Checklist 203, the citation "279.10(j)" is corrected to read "*279.10(i)*".

8. In the entry for Checklist 206, add the following note at the end of the entry: *The State's regulations effective March 23, 2006 erroneously omits the changes addressed by the February 24, 2005 final rule. This error is corrected in the State's June 2007 proposed rulemaking (APC&E Commission Docket #07–007–R).*

9. In the entry for Checklist 207, the citation "264.71(e)" is corrected to read "*264.71(f)*".

10. Add the following new entries to the Table:

Description of Federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous State authority
* *	* *	* * *
26. Hazardous Air Pollutant Standards for Combustors (Checklist 182).	*64 FR 52828–53077, September 30, 1999 as amended November 19, 1999, at 64 FR 63209–63213.*	*Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23 (Hazardous Waste Management) (HWM) Sections 260.10 "dioxins and furans (D/F)", 260.10 "TEQ", 261.38/Table 1, 264.340(b)–(e), 264.601 intro, 265.340(b) & (c), 266.100(b) through (h), 266.101(c) intro and (c)(1), 266.105(c) and (d), 266.112(b)(1) intro, 266.112(b)(2)(i), 266 Appendix VIII, 270.19 intro, 270.19(e), 270.22 intro, 270.42 Appendix I, 270.62 intro and 270.66 intro, as amended December 9, 2005 effective March 23, 2006.*
27. Methods Innovation Rule and SW–846 Final Update IIIB (Checklist 208).	*70 FR 34538–34592, June 14, 2005, as amended August 1, 2005; 70 FR 44150–44151.*	*Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23 (Hazardous Waste Management) (HWM) Sections 260.11, 261.3(a)(2)(v), 261.21(a)(1), 261.22(a)(1) & (2), 261.35(b)(2)(iii)(A) & (B), 261.38(c)(7) intro, 261 Appendix I, 261 Appendix IX, 264.190(a), 264.314(c), 264.1034(c)(1)(ii) and (iv), 264.1034(d)(1)(iii) and (f), 264.1063(d)(2), 264 Appendix IX, 265.190(a), 265.314(d), 265.1034(c)(1)(ii) and (iv), 265.1034(d)(1)(iii) and (f), 265.1063(d)(2), 265.1081 "waste stabilization process", 265.1084, 266.100(d)(1)(ii), 266.100(g)(2), 266.102(b)(1), 266.106(a), 266.112(b)(1) intro, 266.112(b)(2)(i), 266 Appendix IX, 268.40(b), 268 Appendix IX, 270.19(c)(1)(iii) and (iv), 270.22(a)(2)(ii)(B), 270.62(b)(2)(i)(C) and (D), 270.66(c)(2)(i) and (ii), 279.10(b)(1)(ii), 279.44(c) intro, 279.53(c) intro, and 279.63(c) intro, as amended December 9, 2005 effective March 23, 2006.*

11. Add the following text immediately after the Table:

Note: Arkansas requirement at 268.42(b) is not part of the State's authorized program. The requirement is not delegable to States.

III. Incorporation-by-Reference

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and State requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. What is the history of the codification of Arkansas' hazardous waste management program?

The EPA incorporated by reference Arkansas' then authorized hazardous waste program effective December 13, 1993 (58 FR 52674) and August 21, 1995 (60 FR 32112). In this action, EPA is revising subpart E of 40 CFR part 272 to include the recent authorization revision actions effective June 24, 2002 (67 FR 20038), and October 15, 2007 (72 FR 45663).

C. What codification decisions have we made in this rule?

The purpose of today's **Federal Register** document is to codify Arkansas' base hazardous waste management program and its revisions to that program. The EPA provided notices and opportunity for comments on the Agency's decisions to authorize the Arkansas program, and the EPA is not now reopening the decisions, nor requesting comments, on the Arkansas authorizations as published in the **Federal Register** notices specified in Section I.F of this document.

This document incorporates by reference Arkansas' hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying Arkansas' authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of Federally approved requirements of the Arkansas hazardous waste management program.

The EPA is incorporating by reference the Arkansas authorized hazardous waste program in subpart E of 40 CFR part 272. Section 272.201 incorporates by reference Arkansas' authorized hazardous waste statutes and regulations. Section 272.201 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part

of the hazardous waste management program under Subtitle C of RCRA.

D. What is the effect of Arkansas' codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Arkansas procedural and enforcement authorities. Section 272.201(c)(2) of 40 CFR lists the statutory and regulatory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

E. What state provisions are not part of the codification?

The public needs to be aware that some provisions of Arkansas' hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (*see* 40 CFR 271.1(i));

(2) Unauthorized amendments to authorized State provisions; and

(3) New unauthorized State requirements.

State provisions that are "broader in scope" than the Federal program are not part of the RCRA authorized program and EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.201(c)(3) lists the Arkansas regulatory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. "Broader in scope" provisions cannot be enforced by EPA; the State, however, may enforce such provisions under State law.

Additionally, Arkansas' hazardous waste regulations include amendments which have not been authorized by the EPA. Since the EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by the EPA include amendments to previously authorized State regulations as well as new State requirements. State regulations that are not incorporated by reference in today's rule at 40 CFR 272.201(c)(1), or that are not listed in 40 CFR 272.201(c)(3) ("broader in scope"), are considered new unauthorized State requirements. These requirements are not Federally enforceable.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

F. What will be the effect of Federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

Statutory and Executive Order Reviews

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore, this action is not subject to review by OMB. This rule authorizes and incorporates by reference Arkansas' authorized hazardous waste management regulations, and imposes no additional requirements beyond those imposed by State law. This final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Incorporation by reference will not impose any new burdens on small entities. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely authorizes and incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approves under 40 CFR part 271, and does not impose any additional enforceable duty beyond that required by State law, it 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).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes and incorporates by reference existing State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, "Actions Concerning Regulations That

Significantly Affect Energy Supply Distribution or Use" (66 FR 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

The final rule does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective August 27, 2010.

List of Subjects in 40 CFR Parts 271 and 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 5, 2010.

Lawerence E. Starfield,

Regional Administrator, Region 6.

■ For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), EPA is granting final authorization under part 271 to the State of Arkansas for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows.

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Subpart E—[Amended]

■ 2. Revise § 272.201 to read as follows:

§ 272.201 Arkansas State-administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Arkansas final authorization for the following elements as submitted to EPA in Arkansas' Base program application for final authorization which was approved by EPA effective on January 25, 1985. Subsequent program revision applications were approved effective on May 29, 1990; November 18, 1991; December 4, 1992; December 21, 1994, June 24, 2002, October 15, 2007, and August 27, 2010.

(b) The State of Arkansas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.*

(1) The Arkansas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Arkansas statutes that are incorporated by reference are available from Michie Publishing, 1275 Broadway Albany, New York 12204, Phone: (800) 223–1940. Copies of the Arkansas regulations that are incorporated by reference are available from the Arkansas Department of Environmental Quality Web site at *http://www.adeq.state.ar.us* or the Public Outreach Office, ADEQ, Post Office Box 8913, Little Rock, AR 72219–8913, Phone: (501) 682–0923. You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202 (Phone number (214) 665–8533), or 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.*

(i) The Binder entitled "EPA Approved Arkansas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated October 2007.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Arkansas Code of 1987 Annotated (A.C.A.), 2000 Replacement, Title 4, Business and Commercial Law, Chapter 75: Section 4–75–601(4) "Trade Secret".

(ii) Arkansas Code of 1987 Annotated (A.C.A.), 2000 Replacement, Title 8, Environmental Law, Chapter 1: Section 8–1–107.

(iii) Arkansas Hazardous Waste Management Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2000 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Sections 8–7–205 through 8–7–214, 8–7–217, 8–7–218, 8–7–220, 8–7–222, 8–7–224 and 8–7–225(b) through 8–7–225(d).

(iv) Arkansas Hazardous Waste Management Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2005 Supplement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Sections 8–7–204 (except 8–7–204(e)(3)(B)), 8–7–227.

(v) Arkansas Resource Reclamation Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2000 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 3: Sections 8–7–302(3), 8–7–303, 8–7–308.

(vi) Remedial Action Trust Fund Act of 1985, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2000

Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 5: Sections 8–7–505(3), 8–7–507, 8–7–511.

(vii) Remedial Action Trust Fund Act of 1985, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2005 Supplement, Title 8, Environmental Law, Chapter 7, Subchapter 5: Sections 8–7–503(6) and (7), 8–7–508, 8–7–512.

(viii) Arkansas Freedom of Information Act (FOIA) of 1967, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2005 Supplement, Title 25, State Government, Chapter 19: Sections 25–19–103(1), 25–19–105, 25–19–107.

(ix) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended December 9, 2005, effective March 23, 2006, Chapter One; Chapter Two, Sections 1, 2, 3(a), 3(b)(3), 4, 260.2, 260.20(c) through (f), 261 Appendix IX, 270.7(h) and (j), 270.10(e)(8), 270.34; Chapter Three, Sections 19 and 21, 22; Chapter Five, Section 28.

(x) Arkansas Pollution Control and Ecology (APC&E) Commission, Regulation No. 7, Civil Penalties, July 24, 1992.

(xi) Arkansas Pollution Control and Ecology (APC&E) Commission, Regulation No. 8, Administrative Procedures, June 12, 2000.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Arkansas Hazardous Waste Management Act, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2000 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Section 8–7–226.

(ii) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended December 9, 2005, effective March 23, 2006, Chapter Two, Sections 6, 262.13(c), 262.24(d), 263.10(e), 263.13, 264.71(e), 265.71(e); Chapter Three, Section 25.

(4) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VI and the State of Arkansas, signed by the Executive Director of the Arkansas Department of Environmental Quality (ADEQ) on November 3, 2000, and by the EPA Regional Administrator on April 5, 2002, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(5) *Statement of Legal Authority.* "Attorney General's Statement for Final Authorization," signed by the Attorney General of Arkansas on July 9, 1984 and revisions, supplements, and addenda to that Statement dated September 24, 1987, February 24, 1989, December 11, 1990, May 7, 1992 and by the Independent Legal Counsel on May 10, 1994, February 2, 1996, March 3, 1997, July 31, 1997, December 1, 1997, December 12, 2001, and July 27, 2006 are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272, State Requirements, is amended by revising the listing for "Arkansas" to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Arkansas

The statutory provisions include:

Arkansas Hazardous Waste Management Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2000 Replacement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Sections 8–7–202, 8–7–203, 8–7–215, 8–7–216, 8–7–219, 8–7–221, 8–7–223 and 8–7–225(a).

Arkansas Code of 1987 Annotated (A.C.A.), 2000 Supplement, Title 8, Environmental Law, Chapter 10, Subchapter 3: Section 8–10–301(d).

Copies of the Arkansas statutes that are incorporated by reference are available from Michie Publishing, 1275 Broadway, Albany, New York 12204, Phone: (800) 223–1940.

The regulatory provisions include:

Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended December 9, 2005, effective March 23, 2006. Please note that the 2006 APC&E Commission Regulation No. 23, is the most recent version of the Arkansas authorized hazardous waste regulations. For a few provisions, the authorized version is found in the APC&E Commission Regulation 23, dated January 21, 1996. Arkansas made subsequent changes to these provisions but these changes have not been authorized by EPA. The provisions from the January 21, 1996 regulations are noted below.

Chapter Two, Sections 3(b) introductory paragraph, 3(b)(2), 3(b)(4); Section 260—Hazardous Waste Management System—General—260.1, 260.3, 260.10 (except the definitions of "consolidation" and "mercury-containing device," and the phrase "a written permit issued by the Arkansas Highway and Transportation Department authorizing a person to transport hazardous waste (Hazardous Waste Transportation Permit), or" in the definition for "permit"), 260.11 (except 260.11(d)(2), (e)(2), (f)(2) and (g)(2)), 260.20(a), and (b), 260.21, 260.23, 260.30 through 260.33, 260.40, 260.41 and Appendix I.

Section 261—Identification and Listing of Hazardous Waste—261.1, 261.2, 261.3 (except 261.3(a)(2)(iii) and (e)), 261.4, 261.5, 261.6 (except (a)(5)), 261.7 through 261.11, 261.20 through 261.24, 261.30 through 261.33, 261.35, 261.38, Appendices I, VII and VIII.

Section 262 Standards Applicable to Generators of Hazardous Waste—262.10 (except 262.10(d)), 262.11, 262.12, 262.13 (except 262.13(c)), 262.20 (except 262.20(e)), 262.21, 262.22, 262.23, 262.24 (except 262.24(d)), 262.27, 262.30, 262.31 through 262.34, 262.35 (except the phrase "and the requirements of § 262.13(d) and § 263.10(d)" at 262.35(a)(2)), 262.40, 262.41 (except references to PCBs) (January 21, 1996), 262.42, 262.43, 262.50 through 262.58, 262.60 (except 262.60(e)), 262.70 and Appendix I.

Section 263—Standards Applicable to Transporters of Hazardous Waste 263.10 (except 263.10(d) and (e)), 263.11, 263.12, 263.20 (except 263.20(g)(4)), 263.21, 263.22, 263.30 and 263.31.

Section 264—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—264.1 (except 264.1(f) and 264.1(g)(7)), 264.3, 264.4, 264.10, 264.11, 264.12 (except 264.12(a)(2)), 264.13 through 264.19, 264.20(a) through (c), 264.30 through 264.35, 264.37, 264.50 through 264.56, 264.70, 264.71 (except 264.71(a)(3), (d) and (e)), 264.72, 264.73, 264.74, 264.75 (except 264.75(g)), 264.75(g) (January 21, 1996), 264.75(h) (January 21, 1996), 264.76 (except 264.76(b)), 264.77, 264.90 through 264.101, 264.110 through 264.120, 264.140, 264.141 (except the definition of "captive insurance" at 264.141(f)), 264.142, 264.143 (except the last sentence of 264.143(e)(1)), 264.144, 264.145 (except the last sentence of 264.145(e)(1)), 264.146, 264.147 (except the last sentences of 264.147(a)(1)(i) and 264.147(b)(1)(ii) and except 264.147(g)(1)(ii)), 264.148, 264.151, 264.170 through 264.174, 264.175 (except 264.175(d)(2)), 264.176 through 264.179, 264.190 through 264.200, 264.220 through 264.223, 264.226 through 264.232, 264.250 through 264.254, 264.256 through 264.259, 264.270 through 264.273, 264.276, 264.278 through 264.283, 264.300 through 264.304, 264.309, 264.310, 264.312(a), 264.313, 264.314 (except 264.314(a)(2) and (a)(3)), 264.315, 264.316, 264.317, 264.340 through 264.345, 264.347, 264.351, 264.550 through 264.553, 264.554 (except 264.554(a)(2)), 264.555, 264.570 through 264.575, 264.600 through 264.603, 264.1030 through 264.1036, 264.1050 (except 264.1050(g)), 264.1051 through 264.1065, 264.1080 through 264.1090, 264.1100, 264.1101, 264.1102, 264.1200, 264.1201, 264.1202, Appendix I (except codes T78 and T79 in Table 2), and Appendices IV, V and IX.

Section 265—Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities—265.1 (except 265.1(c)(2) and (c)(4)), 265.4, 265.10, 265.11, 265.12 (except 265.12(a)(2)),

265.13 through 265.19, 265.30 through 265.35, 265.37, 265.50 through 265.56, 265.70, 265.71 (except 265.71(a)(3), (d) and (e)), 265.72, 265.73, 265.74, 265.75 (except 265.75(g)), 265.75(g) (January 21, 1996), 265.75(h) (January 21, 1996), 265.76, 265.77, 265.90 through 265.94, 265.110 through 265.121, 265.140, 265.141 (except the definition of "captive insurance" at 265.141(f)), 265.142, 265.143 (except the last sentence of 265.143(d)(1)), 265.144, 265.145, 265.146, 265.147 (except the last sentences of 265.147(a)(1) and 265.147(b)(1) and except 265.147(g)(1)(ii)), 265.148, 265.170 through 265.174, 265.176, 265.177, 265.178, 265.190 through 265.202, 265.220 through 265.226, 265.228 through 265.231, 265.250 through 265.260, 265.270, 265.272, 265.273, 265.276, 265.278 through 265.282, 265.300 through 265.304, 265.309, 265.310, 265.312(a), 265.313, 265.314 (except 265.314(a)(2) and (3)), 265.315, 265.316, 265.340, 265.341, 265.345, 265.347, 265.351, 265.352, 265.370, 265.373, 265.375, 265.377, 265.381, 265.382, 265.383, 265.400 through 265.406, 265.430, 265.440 through 265.445, 265.1030 through 265.1035, 265.1050 (except 265.1050(f)), 265.1051 through 265.1064, 265.1080 through 265.1102, 265.1200, 265.1201, 265.1202, Appendix I (except codes T78 and T79 in Table 2), and Appendices III through VI.

Section 266—Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities—266.20 through 266.23, 266.70 (except 266.70(b)(3)), 266.80, 266.100 through 266.112, 266.200 through 266.206, 266.210, 266.220, 266.225, 266.230, 266.235, 266.240, 266.245, 266.250, 266.255, 266.260, 266.305, 266.310, 266.315, 266.320, 266.325, 266.330, 266.335, 266.340, 266.345, 266.350, 266.355, 266.360 and Appendices I through XIII.

Section 268—Land Disposal Restrictions—268.1 through 268.4, 268.7 (except 268.7 (a)(2)(ii)), 268.9 (except 268.9(d)(2)(ii)), 268.13, 268.14, 268.20, 268.30 through 268.39, 268.40 (except 268.40(e)(1)—(4) and 268.40(i)), 268.41, 268.42 (except 268.42(b)), 268.43, 268.45, 268.46, 268.48, 268.49, 268.50, Appendices III, IV, VI through IX and XI.

Section 270—Administered Permit Programs: The Hazardous Waste Permit Program—270.1, 270.2, 270.3 (except 270.3(f), 270.4, 270.5, 270.6(a) (except the reference to SW–846)), 270.6(b), 270.7 (except 270.7(h) and (j)), 270.10 (except 270.10(e)(8) and (k)), 270.11 through 270.33, 270.40 through 270.43, 270.50, 270.51, 270.60 (except 270.60(a)), 270.61 through 270.66, 270.68, 270.70 through 270.73, 270.79, 270.80, 270.85, 270.90, 270.95, 270.100, 270.105, 270.110, 270.115, 270.120, 270.125, 270.130, 270.135, 270.140, 270.145, 270.150, 270.155, 270.160, 270.165, 270.170, 270.175, 270.180, 270.185, 270.190, 270.195, 270.200, 270.205, 270.210, 270.215, 270.220, 270.225, 270.230 and 270.235.

Section 273—Standards for Universal Waste Management—273.1 through 273.4, 273.5 (except 273.5(b)(3)), 273.6, 273.8 through 273.20, 273.30 through 273.40, 273.50 through 273.56, 273.60, 273.61, 273.62, 273.70, 273.80, 273.81.

Section 279—Standards for the Management of Used Oil—279.1, 279.10, 279.11, 279.12, 279.20 through 279.24, 279.30, 279.31, 279.32, 279.40 through 279.47, 279.50 through 279.67, 279.70 through 279.75, 279.80, 279.81 and 279.82(a).

Copies of the Arkansas regulations that are incorporated by reference are available from the Arkansas Department of Environmental Quality Web site at *http://www.adeq.state.ar.us* or the Public Outreach Office, ADEQ, Post Office Box 8913, Little Rock, AR 72219–8913, Phone (501) 682–0923.

* * * * *

[FR Doc. 2010–15332 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R06–2009–0567; FRL–9162–7]

Oklahoma: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of Oklahoma's hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

DATES: This regulation is effective August 27, 2010, unless the EPA receives adverse written comment on this regulation by the close of business July 28, 2010. If the EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves this incorporation by reference as of August 27, 2010, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail: patterson.alima@epa.gov.*

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2009–0567. EPA's policy is that all comments received will be included in the public docket without change, including personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or e-mail. The Federal *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.spa.gov/epahome/dockets.htm.*)

You can view and copy the documents that form the basis for this codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the

following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas, 75202–2733, phone number (214) 665–8533 or (214) 665–8178. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, (214) 665–8533 or (214) 665–8178, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, and e-mail address *patterson.alima@epa.gov* or *banks.Julia@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. What is the history of the authorization and codification of Oklahoma's Hazardous Waste Management program?

Oklahoma initially received Final authorization effective January 10, 1985 (49 FR 50362), to implement its Base Hazardous Waste Management program. Subsequently, the EPA approved additional program revision applications effective on June 18, 1990 (55 FR 14280), November 27, 1990 (55 FR 39274), June 3, 1991 (56 FR 13411), November 19, 1991 (56 FR 47675), November 29, 1993 (58 FR 50854), December 21, 1994 (59 FR 51116), April 27, 1995 (60 FR 2699), March 14, 1997 (62 FR 12100), July 14, 1998 (63 FR 23673), November 23, 1998 (63 FR 50528), February 8, 1999 (63 FR 67800), March 30, 2000 (65 FR 16528), July 10, 2000 (65 FR 29981), March 5, 2001 (66 FR 28), and February 4, 2009 (74 FR 6010). The EPA incorporated by reference Oklahoma's then-authorized hazardous waste program effective December 13, 1993 (58 FR 52679), July 14, 1998 (63 FR 23673), October 25, 1999 (64 FR 46567), and October 27, 2003 (68 FR 51488). In this document, the EPA is revising Subpart LL of 40 CFR part 272 to include the recent authorization revision actions effective June 9, 2003 (68 FR 17308), and April 6, 2009 (74 FR 5994).

C. What codification decisions have we made in this rule?

The purpose of this **Federal Register** document is to codify Oklahoma's base hazardous waste management program and program its revisions through RCRA Cluster XVII. The EPA provided notices and opportunity for comments on the Agency's decisions to authorize the Oklahoma program, and the EPA is not now reopening the decisions, nor requesting comments, on the Oklahoma authorizations as published in the **Federal Register** notices specified in Section B of this document.

This document incorporates by reference Oklahoma's hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying Oklahoma's authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of Federally approved requirements of the Oklahoma hazardous waste management program.

The EPA is incorporating by reference the Oklahoma authorized hazardous waste program in subpart LL of 40 CFR part 272. Section 272.1851 incorporates by reference Oklahoma's authorized hazardous waste statutes and regulations. Section 272.1851 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

D. What is the effect of Oklahoma's codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Oklahoma procedural and enforcement authorities. Section 272.1851(c)(2) of 40 CFR lists the statutory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

E. What state provisions are not part of the codification?

The public needs to be aware that some provisions of Oklahoma's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Oklahoma is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference.

State provisions that are "broader in scope" than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1851(c)(3) lists the Oklahoma regulatory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. "Broader in scope" provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Oklahoma has adopted but is not authorized for the Federal rules published in the **Federal Register** on October 5, 1990 (55 FR 40834); February 1, 1991 (56 FR 3978); February 13, 1991 (56 FR 5910); April 2, 1991 (56 FR 13406); May 1, 1991 (56 FR 19951); December 23, 1991 (56 FR 66365); June 29, 1995 (60 FR 33912); May 26, 1998 (63 FR 28556); June 14, 2005 (70 FR 34538); August 1, 2005 (70 FR 44150). Therefore, these Federal amendments included in Oklahoma's adoption by

reference at 252:205–3–2(b) through 252:205–3–2(m) of the Oklahoma Administrative Code, are not part of the State's authorized program and are not part of the incorporation by reference addressed by this **Federal Register** document.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

F. What will be the effect of federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by the EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 *FR* 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

G. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 *FR* 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This rule incorporates by reference Oklahoma's authorized hazardous waste management regulations and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, it 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).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely incorporates by reference existing authorized State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

The requirements being codified are the result of Oklahoma's voluntary participation in the EPA's State program authorization process under RCRA Subtitle C. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective August 27, 2010.

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 30, 2010.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.1851 to read as follows:

§ 272.1851 Oklahoma State-administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Oklahoma final authorization for the following elements as submitted to EPA in Oklahoma's base program application for final authorization which was approved by EPA effective on January 10, 1985. Subsequent program revision applications were approved effective on June 18, 1990, November 27, 1990, June 3, 1991, November 19, 1991, November 29, 1993, December 21, 1994, April 27, 1995, March 14, 1997, July 14, 1998 and November 23, 1998, February 8, 1999, March 30, 2000, July 10, 2000, March 5, 2001, June 9, 2003 and April 6, 2009.

(b) The State of Oklahoma has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.*

(1) The Oklahoma statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Oklahoma regulations that are incorporated by reference in this paragraph from the State's Office of Administrative Rules, Secretary of State, P.O. Box 53390, Oklahoma City, OK 73152–3390; Phone number: 405–521–4911; Web site: *http://www.sos.state.ok.us/oar/oar_welcome.htm.* The statutes are available from West Publishing Company, 610 Opperman Drive, P.O. Box 64526, St. Paul, Minnesota 55164–0526; Phone: 1–800–328–4880; Web site: *http://west.thomson.com.* You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202 (Phone number (214) 665–8533), or 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.*

(i) The binder entitled "EPA Approved Oklahoma Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated April 4, 2009.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Oklahoma Environmental Crimes Act, as amended through 2007, 21 Oklahoma Statutes (O.S.), Sections 1230.1 *et seq.*

(ii) Oklahoma Open Meetings Act, as amended through 2007, 25 Oklahoma Statutes (O.S.), Sections 301 *et seq.*

(iii) Oklahoma Statutes, Title 27A, "Environment and Natural Resources", as amended through 2007: Chapter 1, "Oklahoma Environmental Quality Act", Sections 1–1–101 *et seq.;* Chapter 2, "Oklahoma Environmental Quality Code", Sections 2–2–101, 2–2–104, 2–2–201, 2–3–101(F)(1), 2–3–104, 2–3–202, 2–3–501, 2–3–502, 2–3–503, 2–3–504; "Oklahoma Hazardous Waste Management Act", Sections 2–7–102, 2–7–104, 2–7–105 (except 2–7–105(27), 2–7–105(29) and 2–7–105(34)), 2–7–106, 2–7–107, 2–7–108(B)(2), 2–7–109, 2–7–110(A), 2–7–111(C)(2)(b) and (c), 2–7–111(C)(3), 2–7–113.1, 2–7–115, 2–7–116(A), 2–7–116(G), 2–7–116(H)(1), 2–7–117, 2–7–123, 2–7–126, 2–7–129, 2–7–130, 2–7–131, 2–7–132, and 2–7–133; "Oklahoma Uniform Environmental Permitting Act", Sections 2–14–101 *et seq.*

(iv) Oklahoma Open Records Act, as amended through 2007, 51 Oklahoma Statutes (O.S.), Sections 24A.1 *et seq.*

(v) Oklahoma Administrative Procedures Act, as amended through 2007, 75 Oklahoma Statutes (O.S.), Sections 250 *et seq.*

(vi) The Oklahoma Administrative Code (OAC), Title 252, Chapter 205, Hazardous Waste Management, effective July 1, 2008: Subchapter 1, Sections 252:205–1–1(b), 252:205–1–3(a) and (b), 252:205–1–4(a)–(d); Subchapter 3, Sections 252:205–3–2(a) introductory paragraph, 252:205–3–2(a)(1) and 252:205–3–2(a)(3); Subchapter 11, Section 252:205–11–3.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statutes (O.S.) as amended through 2007, Sections 2–7–119, 2–7–120, 2–7–121, 2–7–121.1 and 2–7–134.

(ii) The Oklahoma Administrative Code (OAC), Title 252, Chapter 205, effective July 1, 2008: Subchapter 1, Sections 252:205–1–1(c)(2) and (3), 252:205–1–2 "RRSIA". 252:205–1–2 "Reuse", 252:205–1–2 "Speculative accumulation", 252:205–1–2 "Transfer facility", 252:205–1–2 "Transfer station", 252:205–1–4(e); Subchapter 5, Section 252:205–5–1(4), Subchapter 15; Subchapter 17; Subchapter 21; Subchapter 23; and 252:205 Appendices B, C and D.

(4) *Unauthorized State Amendments.* The State's adoption of the Federal rules listed in the following table is not approved by the EPA and are, therefore, not enforceable:

Federal requirement	**Federal Register** reference	Publication date
Toxicity Characteristics; Hydrocarbon Recovery Operations	55 FR 40834	10/5/90
	56 FR 3978	2/1/91
	56 FR 13406	4/2/91
Toxicity Characteristics; Chlorofluorocarbon Refrigerants	56 FR 5910	2/13/91
Administrative Stay for K069 Listing	56 FR 19951	5/1/91
Amendments to Interim Status Standards for Downgradient Ground-water Monitoring Well Locations	56 FR 66365	12/23/91
Removal of Legally Obsolete Rules	60 FR 33912	6/29/95
Mineral Processing Secondary Materials Exclusion—Amendments to 40 CFR	63 FR 28556	5/26/98

Federal requirement	Federal Register reference	Publication date
Methods Innovation: SW–846	70 FR 34538	6/14/05
	70 FR 44150	8/1/05

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the State of Oklahoma, signed by the EPA Regional Administrator on November 11, 2009, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of Oklahoma January 20, 1984 and revisions, supplements and addenda to that Statement dated January 14, 1988 (as amended July 20, 1989); December 22, 1988 (as amended June 7, 1989 and August 13, 1990); November 20, 1989, November 16, 1990, November 6, 1992, June 24, 1994, December 8, 1994, March 4, 1996, April 15, 1997, February 6, 1998, December 2, 1998, October 15, 1999, May 31, 2000, October 15, 2001, June 27, 2003, March 1, 2005, July 12, 2005, July 03, 2006, and August 25, 2008 are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''Oklahoma'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Oklahoma

The statutory provisions include:

Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute (O.S.) 1997 Edition (unless otherwise specified), Sections 2–7–103 (2008 supplement), 2–7–108(A) (2008 supplement), 2–7–108(B)(1) (2008 supplement), 2–7–108(B)(3) (2008 supplement), 2–7–108(C) (2008 supplement), 2–7–110(B), 2–7–110(C), 2–7–111(A), 2–7–111(B), 2–7–111(C)(1), 2–7–111(C)(2)(a), 2–7–111(D), 2–7–111(E), 2–7–112, 2–7–116(B) through 2–7–116(F), 2–7–116(H)(2), 2–7–118, 2–7–124, 2–7–125 (2008 supplement), 2–7–127 and 2–10–301(G), as published by West Publishing Company, 610 Opperman Drive, P.O. Box 64526, St. Paul, Minnesota 55164–0526; Phone: 1–800–328–4880; Web site: *http://west.thomson.com.*

The regulatory provisions include:

The Oklahoma Administrative Code (OAC), Title 252, Chapter 205, effective July 1, 2008: Subchapter 1, Sections 252:205–1–1(a), 252:205–1–1(c) introductory paragraph, 252:205–1–1(c)(1), 252:205–1–2 introductory paragraph, 252:205–1–2 ''OHWMA'', 252:205–1–2 ''Post-closure permit'', 252:205–1–3(c); Subchapter 3, Sections 252:205–3–1, 252:205–3–2(a)(2), 252:205–3–2(b)–(n), 252:205–3–4, 252:205–3–5 and 252:205–3–6; Subchapter 5, Sections 252:205–5–1 (except 252:205–5–1(4)), 252:205–5–2 through 252:205–5–5; Subchapter 7, Sections 252:205–7–2 and 252:205–7–4 (except the phrase ''or in accordance with 252:205–15–1(d)); Subchapter 9, Sections 252:205–9–1 through 252:205–9–4; Subchapter 11, Sections 252:205–11–1(a) (except the word ''recycling''), 252:205–11–1(b)–(e) and 252:205–11–2; and Subchapter 13, Sections 252:205–13–1(a)–(e), as published by the State's Office of Administrative Rules, Secretary of State, P.O. Box 53390, Oklahoma City, OK 73152–3390; Phone number: 405–521–4911; Web site: *http://www.sos.state.ok.us/oar/oar_welcome.htm.*

* * * * *

[FR Doc. 2010–15328 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 08–209]

Amendment of the Schedule of Application Fees Set

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: In this document, the Commission corrects the language in § 1.1113 (c) which was referenced in the **Federal Register** publication on January 29, 2009 (74 FR 5107). This document corrects the final regulations by revising § 1.1113 (c).

DATES: Effective June 28, 2010.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a correction to the Order FCC 08–209 that was published in the **Federal Register** on January 29, 2009. Accordingly, this correcting amendment corrects the final regulations by revising the language in § 1.1113 (c) as indicated below.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

■ Accordingly, 47 CFR part 1 is corrected by making the following correcting amendments:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

■ 2. Amend § 1.1113 by revising paragraph (c) to read as follows:

§ 1.1113 Filing locations.

* * * * *

(c) Fees for applications and other filings pertaining to the Wireless Radio Services that are submitted electronically via ULS may be paid electronically or sent to the Commission's lock box bank manually. When paying manually, applicants must include the application file number (assigned by the ULS electronic filing system on FCC Form 159) and submit such number with the payment in order for the Commission to verify that the payment was made. Manual payments must be received no later than ten (10) days after receipt of the application on ULS or the application will be dismissed. Payment received more than ten (10) days after electronic filing of an application on a Bureau/Office electronic filing system (*e.g.,* ULS) will be forfeited (*see* §§ 1.934 and 1.1111.)

* * * * *

[FR Doc. 2010–15628 Filed 6–25–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 234

[Docket No. FRA–2009–0032; Notice No. 5]

RIN 2130–AC20

State Highway-Rail Grade Crossing Action Plans

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule complies with a statutory mandate that the Secretary of Transportation (Secretary) issue a rule to require the ten States with the most highway-rail grade crossing collisions, on average, over the past three years, to develop State highway-rail grade crossing action plans. The final rule addresses the development, review, and approval of these highway-rail grade crossing action plans. This final rule also removes the preemption provision of this regulation.

DATES: This final rule is effective August 27, 2010.

FOR FURTHER INFORMATION CONTACT: Ron Ries, Office of Safety, FRA, 1200 New Jersey Ave. SE., RRS–23, Mail Stop 25, Washington, DC 20590 (Telephone 202–493–6299), or Zeb Schorr, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Ave., SE., Mail Stop 10, Washington, DC 20590 (Telephone 202–493–6072).

SUPPLEMENTARY INFORMATION:

I. Proceedings to Date

Pursuant to FRA's direct final rulemaking procedures set forth at 49 CFR 211.33, FRA first published the State Highway-Rail Grade Crossing Action Plans as a direct final rule in the **Federal Register** on September 2, 2009 (74 FR 45336). FRA received one adverse comment regarding the direct final rule. Pursuant to 49 CFR 211.33(d), FRA withdrew the direct final rule and issued a notice of withdrawal to the **Federal Register**. However, due to regulatory production schedules and time constraints, the direct final rule was not withdrawn before its effective date. As a result, on November 13, 2009, FRA published a removal of the direct final rule provisions in the **Federal Register**, which removed the changes effected by the direct final rule, and contemporaneously published a notice of proposed rulemaking (NPRM).

Subsequent to the publication of the NPRM, FRA received written requests for a public hearing. FRA held a public hearing in Washington, DC on February 22, 2010, and extended the comment period for an additional fourteen (14) days following the hearing, up to and including March 8, 2010. The hearing enabled the exchange of information regarding FRA's proposed amendments, and allowed the public to articulate their issues and concerns regarding the NPRM. FRA received oral and written testimony at the hearing as well as written comments during the extended comment period. A copy of the hearing transcript was placed in Docket No. FRA–2009–0032, which is available at *http://www.regulations.gov.*

When developing this final rule, FRA carefully considered all of the comments, information, data, and proposals submitted to Docket No. FRA–2009–0032 and discussed during the hearing. In addition, FRA's extensive knowledge and experience was relied upon when developing this final rule. FRA addresses the comments in the section-by-section analysis and elsewhere as appropriate.

II. Background

This final rule is intended to comply with section 202 of the Rail Safety Improvement Act of 2008 (RSIA08), Public Law 110–432, Division A, which was signed into law on October 16, 2008. Section 202 requires the Secretary (delegated to the Federal Railroad Administrator by 49 CFR 1.49) to identify the ten States that have had the most highway-rail grade crossing collisions, on average, over the past three years, and to require those States to develop State highway-rail grade crossing action plans, within a reasonable period of time, as determined by the Secretary. Section 202 further provides that these plans must identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, and must focus on crossings that have experienced multiple accidents or are at high risk for such accidents.

a. Comments—In General

FRA received a number of comments of a personal nature about highway-rail grade crossing safety. FRA greatly appreciates the time, effort, and commitment of the persons who submitted these comments. FRA understands that it can be very difficult to share these personal events. FRA considers these comments, along with all of the other comments it receives. These comments are an important and positive contribution to the discussion of highway-rail grade crossing safety.

b. State Identification

As discussed, Congress expressly directed FRA to identify the ten States that have had the most highway-rail grade crossing collisions, on average, over the past three years. FRA maintains a database of highway-rail grade crossing accidents/incidents occurring at public and private grade crossings, as such events must be reported to FRA pursuant to 49 CFR 225.19. From this database, FRA identified the ten States with the most reported highway-rail grade crossing accidents/incidents at public and private grade crossings during 2006, 2007, and 2008, to be, as follows: Alabama, California, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Ohio, and Texas. FRA will issue letters to these identified States and copies of such letters will be placed in the public docket of this proceeding.

Comments to the NPRM stated that the methodology used to identify the States did not account for the rate or frequency of highway-rail grade crossings and motor vehicle traffic, and that a more appropriate measure for determining highway-rail grade crossing collisions within a State would be to measure the number of collisions relative to the number of vehicles and the number of highway-rail grade crossings, as well as consideration of the actions already taken by that State that have directly resulted in the reduction of highway-rail grade crossing collisions. The final rule does not adopt these suggestions because the statute expressly directed FRA to use the particular methodology articulated in the final rule (i.e., to identify the ten States that have had the most highway-rail grade crossing collisions, on average, over the past three years). *See* RSIA08 section 202(a).

Another comment stated that the criteria for selecting the States should be limited to reported highway-rail grade crossing collisions at public crossings. However, again, the statute directed FRA to identify the ten States that have had the most highway-rail grade crossing collisions, and, as such, did not limit the criteria to only public crossings. *See Id.*

c. Time Period To Develop State Action Plan and Duration of Plan

Section 202 of RSIA08 instructs FRA to determine a reasonable period of time within which the ten identified States must develop a State highway-rail grade crossing action plan and the period of time to be covered by such a plan. Based on previous experience working with States on highway-rail grade crossing action plans, FRA has determined that

States can reasonably develop such plans within one year from the date this regulation goes into effect, and that such plans should cover a period of five years. A five-year period is appropriate because many of the remedial actions that may be included in these plans (e.g., closures and grade separations) may take up to five years to implement. In addition, any identified State that has already developed an action plan in conjunction with a recommendation from DOT's Office of Inspector General must ensure compliance with this final rule and must resubmit the plan as required.

d. Assistance and Coordination

FRA is available, including FRA regional grade crossing managers and FRA experts from the grade crossing and trespasser prevention division, to provide assistance to States in developing and carrying out, as appropriate, the State highway-rail grade crossing action plans. FRA's Safetydata Web site (*http://www.safetydata.fra.dot.gov*) also contains detailed data that may be of use in the development of the plans. In addition, the State highway-rail grade crossing action plans may be coordinated with other State or Federal planning requirements. For example, States may want to coordinate such plans with their Strategic Highway Safety Plans that are required by SAFETEA–LU, as appropriate.

A comment stated that the NPRM was redundant with the States' obligation to prepare a Highway Safety Improvement Plan, and would result in a burdensome duplication of efforts. As discussed, this rulemaking is required by statute. *See* RSIA08 section 202. In addition, as noted above, States may coordinate their action plans with their Strategic Highway Safety Plans.

e. Conditioning the Awarding of Grants

Section 202 of RSIA08 also empowers FRA to condition the awarding of any grants under 49 U.S.C. 20158, 20167, or 22501, to an identified State under this section on the development of such State's plan. Although FRA does not anticipate employing this authority, FRA reserves its right to pursue such a course of action in the event that an identified State fails to comply with this final rule.

A comment to the NPRM stated that FRA had limited its enforcement authority by "excusing" it's authority to condition certain grants to States based on their compliance with the plan requirements. However, FRA believes that the final rule adequately conveys that FRA may condition the awarding of grants under 49 U.S.C. 20158, 20167, or 22501, to an identified State on the development of such State's plan, and does not diminish FRA's enforcement authority.

III. Section-by-Section Analysis

Section 234.1 Scope

This section contains the scope provisions related to this part. An amendment to this paragraph includes reference to § 234.11, State Highway-Rail Grade Crossing Action Plans, as being within this part's scope.

A comment to the NPRM asserts that this rulemaking should not be included in part 234 of Title 49 of the Code of Federal Regulations, and that, instead, should be included in a separate part. FRA believes that it is perfectly appropriate to include the provisions contained in this final rule in part 234 and finds the assertion without merit. Thus, FRA adopts the provision as proposed.

Section 234.3 Application

This section outlines the application of this part. The amendment to this paragraph excepts § 234.11, State Highway-Rail Grade Crossing Action Plans, from the specific applicability provisions contained in this section. A comment to the NPRM requested that FRA provide guidance or otherwise clarify whether two particular rail systems were exempt from the requirements of part 234. This rulemaking, however, is not the appropriate setting to make jurisdiction determinations regarding particular rail systems. Such jurisdiction determinations are more appropriately handled through direct contact with FRA's Office of Chief Counsel.

Section 234.4 Preemptive Effect

The final rule removes this section from part 234. Although FRA proposed amending this section in the NPRM, FRA now believes that this section is unnecessary because 49 U.S.C. 20106 sufficiently addresses the preemptive effect of FRA's regulations. Providing a separate Federal regulatory provision concerning the regulation's preemptive effect is duplicative and unnecessary. Consequently, FRA believes that it is not necessary to address the comments submitted regarding this section of the NPRM.

Section 234.6 Penalties

These section details the civil and criminal penalties that a person may be subject to when violating the requirements of this part. The amendments to this section provide that a violation of § 234.11, State Highway-Rail Grade Crossing Action Plans, will not give rise to either a civil or criminal penalty. In addition, a technical amendment is made to the criminal penalty section. Specifically, the citation to section 209(e) of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 438(e)) is removed and replaced with a citation to 49 U.S.C. 21311(a).

Section 234.11 State Highway-Rail Grade Crossing Action Plans

Paragraph (a) of this section explains that the purpose of this section is to reduce collisions at highway-rail grade crossings in the ten identified States that have had the most highway-rail grade crossing collisions, on average, over the past three years. This paragraph makes clear that this regulation does not restrict any other State, or other entity, from adopting a highway-rail grade crossing action plan, nor does it restrict any of the identified States from adopting a plan with additional or more stringent requirements not inconsistent with this regulation.

Paragraph (b) of this section makes clear that this section applies to the ten States with the most highway-rail grade crossing collisions, on average, during the calendar years 2006, 2007, and 2008.

Paragraph (c) of this section requires each of the ten identified States to develop a State highway-rail grade crossing action plan and to submit such plans to FRA for review and approval not later than one year after the date this regulation goes into effect. This paragraph also details the specific requirements of the State highway-rail grade crossing action plans. This paragraph requires that such plans shall: identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations; focus on crossings that have experienced multiple accidents or are at high risk for such accidents; and cover a five-year period.

Paragraph (d) of this section identifies the FRA contact information to which the identified States must direct the highway-rail grade crossing action plans for review and approval and details the process for handling such plans. This paragraph makes clear that FRA will review and approve or disapprove a State highway-rail grade crossing action plan within 60 days of receiving the plan. This paragraph further states that, if the proposed State highway-rail grade crossing action plan is disapproved, FRA will notify the affected State as to the specific areas in which the proposed plan is deficient, and the State will have to correct all deficiencies within 30 days following receipt of written notice from

FRA. Lastly, this paragraph states that FRA may condition the awarding of any grants under 49 U.S.C. 20158, 20167, or 22501 to an identified State on the development of an FRA approved State highway-rail grade crossing action plan.

FRA received a number of comments about the State highway-rail grade crossing action plans proposed in the NPRM.

One comment requested that, in the event a submitted State action plan is disapproved by FRA, the notice of disapproval articulate the action plan's deficiencies and recommend corrections. FRA intends, in the disapproval notice, to provide sufficient information to enable a State to successfully correct its plan.

Another comment stated that the NPRM did not address how proposed action plans were to be evaluated by FRA, and what standards would be applicable, including the applicable engineering criteria. As an initial matter, the State action plans are planning documents and, as such, it was not necessary to develop specific engineering criteria. FRA will evaluate the action plans to ensure that the specific statutory requirements, as articulated in this final rule, are met. FRA expects that, at a minimum, identified States will analyze highway-rail grade crossing collision data for commonalities that may indicate particular areas that need improvements. For example, one State that voluntarily prepared an action plan found that most multiple-collision crossings were in close proximity to a highway-highway intersection. Further investigation determined that there was a general lack of knowledge on interconnecting highway traffic signals with automatic warning devices at highway-rail grade crossings (which subsequently led the State to provide training on the interconnection). That State's plan then provided specific items that should be considered when evaluating such crossings.

Another comment sought clarification on whether the action plans should provide specific safety solutions for specific highway-rail grade crossings, or whether the plans should provide specific safety solutions for highway-rail grade crossings more broadly. A similar comment stated that the NPRM did not contain any criteria for determining how many highway-rail grade crossings should be addressed in the action plans, and whether any engineering criteria should be applied in selecting specific crossings for inclusion in the action plans. To clarify, the final rule is intended to require the identified States to develop action plans that identify specific safety solutions for highway-rail grade crossings broadly. With that said, the rule also requires the States to focus on crossings that have experienced multiple accidents or are at high risk for such accidents. As such, a component of the action plans may include safety solutions for specific highway-rail grade crossings.

A comment also asserted that the NPRM departed from prior Federal-State relationships regarding highway-rail grade crossings. However, as discussed above, this rulemaking was promulgated pursuant to a statutory mandate. *See* RSIA08 section 202.

Another comment to the NPRM claimed that highway-rail grade crossing safety could be increased by modifying 23 U.S.C. 130 to allow for more flexibility in the use of Federal dollars for consolidation crossing efforts. A similar comment emphasized the importance of retaining a dedicated funding source for highway-rail grade crossing improvements. Other comments stated that Federal funds should be taken from highway-rail grade crossing education efforts, such as Operation Lifesaver, and redirected to implementing safety improvements in highway-rail grade crossings in the identified States. FRA understands that increased Federal funding may facilitate the closure of redundant crossings and otherwise improve highway-rail grade crossings; however, this issue is outside the scope of this rulemaking and the involved statutory mandate.

Several comments also asserted that the NPRM was an unfunded mandate that would burden the identified States and penalize their citizens, and that railroads, instead of the identified States, should plan and implement safety improvements to highway-rail grade crossings. Another comment claimed that the independent preparation of the action plans is not an efficient use of the States' resources and that, instead, the States should collaborate with each other and review best practices for effective safety programs. However, as previously discussed, a statute expressly directed FRA to promulgate this rulemaking and, specifically, to identify ten States, and to impose certain requirements on those States. *See* RSIA08 section 202. Moreover, States may work with each other, along with FRA staff, to further facilitate the process. Comments also noted that requiring only ten States to put forth such plans, with each State having varying levels of expertise and creating individualized plans, would result in a rule that would be neither national nor uniform. However, again, FRA promulgated this rule pursuant to a specific statutory mandate. *See Id.* Moreover, there is no requirement that States have uniform highway-rail grade crossing safety action plans as each State may have different issues to address.

A comment to the NPRM also suggested that the final rule provide that the State action plans be protected from subpoenas and Freedom of Information Act (FOIA) requests. The final rule does not adopt this suggestion. FRA has articulated a process for requesting confidential treatment of documents provided to FRA in connection with its enforcement of statutes or FRA regulations related to railroad safety. *See* 49 CFR 209.11. Moreover, the statute requiring the action plans does not provide for such a confidentiality provision. *See* RSIA08 section 202.

A comment also asserted that the identified States do not generally have the required expertise to prepare the required action plans. Again, FRA promulgated this rule pursuant to a statutory mandate. *See Id.* In addition, FRA believes that the identified States will be able to successfully develop these plans. Furthermore, FRA is available, including FRA regional grade crossing managers and FRA experts from the grade crossing and trespasser prevention division, to provide assistance to States in developing and carrying out, as appropriate, the State highway-rail grade crossing action plans.

Comments also stated that the NPRM should not only focus on two safety solutions for highway-rail grade crossings. These comments suggested that there are other safety solutions, in addition to crossing closure and grade separation solutions discussed in the NPRM, and that grade separation is expensive and not viable for most circumstances. The final rule, however, makes reference to the crossing closure and grade separation solutions because the statute mandated that the plans address highway-rail grade crossing closures or grade separations. *See* RSIA08 section 202(a). Moreover, the final rule does not prohibit the plans from also addressing other viable safety solutions.

One comment asserted that the NPRM did not provide any specific requirements for the State action plans, and suggested that engineering evaluations of the safety issues in the identified States be required. As an initial matter, the final rule does provide specific requirements for the action plans, including that they: identify specific solutions for improving safety at crossings (including highway-rail grade crossing closures or grade

separations), and focus on crossings that have experienced multiple accidents or are at high risk for such accidents. These requirements, moreover, do not prohibit the identified States from performing engineering evaluations. In fact, an action plan may identify a specific problem that will require engineering evaluations to be performed at highway-rail grade crossings that meet certain criteria.

Other comments recommended that the action plans should: encourage States to address obstructed motorist sight lines at highway-rail grade crossings; incorporate the American Association of State Highway and Transportation Officials (AASHTO) line of sight parameters; and include on-the-ground assessments of grade crossings. As an initial matter, this final rule does not prohibit the identified States from addressing motorist sight lines, or other safety approaches, in their action plans. Moreover, the final rule relies on the ability of the identified States to identify problem areas and to develop strategies to mitigate such problems. And, as discussed, those specific strategies may be included in an action plan.

A comment also suggested that the identified States should not rely on historic data, in trying to improve crossing safety. The NPRM, however, did not discuss the States' use of historic data, beyond noting in the preamble that the development of such plans would enhance these States' ability to interpret historical accident information, among many other things. Another comment contended that the NPRM was inadequate because it did not constitute a long-term plan, was a one-time effort to address safety problems at highway-rail grade crossings, and did not impose any implementation requirements, or any requirements for periodically updating the action plans. As discussed above, this rule was promulgated pursuant to a specific statutory mandate. *See* RSIA08 § 202. FRA believes that the final rule is faithful to the statutory requirements. In addition, the final rule does not prohibit the identified States from making the action plans permanent, with periodic updates.

Several comments to the NPRM sought new highway-rail grade crossing regulations and made more general suggestions regarding improving crossing safety. For example, one comment suggested the promulgation of a uniform Federal safety standard of active warning devices for highway-rail grade crossings. Another comment submitted draft legislation addressing highway-rail grade crossing safety. And, one other comment stated that it is essential to prepare draft uniform highway-rail grade crossing safety standards that incorporate Department of Transportation publications, industry studies, and AASHTO publications. Finally, one comment stated that: There needs to be widespread installation of crossing gates and lights; there needs to be more research of, and improvements to, crossing safety devices; and any minimum standard of safety must not stifle the incentives for continuing improvement in both technology and application. FRA appreciates this dialogue regarding the improvement of highway-rail grade crossing safety; however, all of these comments seek actions that are beyond the scope of this rulemaking.

A comment also stated that the identified States should develop an inventory of all highway-rail grade crossings in order to identify and address the most dangerous crossings. FRA appreciates the suggestion, but again notes that this specific request is beyond the scope of this rulemaking. FRA also notes that States and railroads are required to provide annual updates to the U.S. DOT Crossing Inventory, and that such information is available to the States. In addition, most States currently have their own crossing inventory databases. Another comment to the NPRM stated that FRA should use FRA's database as a tool for identifying areas of opportunity, instead of burdening the identified States with these responsibilities. Still another comment to the NPRM asserted that FRA should assign this responsibility to the railroads as well as the identified State's Department of Transportation, in a collaborative effort to improve the safety of highway-rail grade crossings. As previously discussed, this rulemaking is mandated by statute. *See* RSIA08 section 202. In addition, the U.S. DOT Crossing Inventory is available to the States, and most States have their own crossing inventory databases. Moreover, FRA staff will be available to the States to help facilitate this process.

There were several comments that were more general in nature. One comment asserted that the highest priority of any requirement in the design and operation of any highway facility should be safety. With respect to highway-rail grade crossings, the subject of this rulemaking, FRA believes safety improvement is critical, and this general concept is reflected in the final rule. Another comment claimed that the NPRM did not appear to have been prepared by a person with engineering expertise in highway-rail grade crossing safety, and that the NPRM's objective was "political." FRA strongly disagrees with this characterization. This final rule is being promulgated pursuant to specific requirements articulated by a Congressionally enacted statute, and FRA believes the final rule is faithful to those requirements. Lastly, one comment stated that the NPRM should not restrict locomotive engineers. FRA does not believe that the final rule imposes any further restrictions on locomotive engineers.

IV. Regulatory Impact and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This discussion represents the regulatory impact analysis (RIA). There is not a separate RIA for inclusion in the public docket. This final rule has been evaluated in accordance with existing policies and procedures, and has been determined not to be significant under both Executive Order 12866 and DOT policies and procedures (44 FR 11034; Feb. 26, 1979). The ten States identified for compliance with the development of the State highway-rail grade crossing action plans are Alabama, California, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Ohio, and Texas. These ten States will incur the burden associated with implementation of this final rule. The estimated total quantified compliance cost for these ten States is approximately $259,000 over the next year. The benefits resulting from the prevention of collisions at highway-rail grade crossings are expected to exceed the burden of developing the action plans. This analysis includes a quantitative burden measurement and a qualitative benefit discussion for this final rule.

The primary burden imposed will be for State labor resources spent to comply with the development of the mandated action plans. FRA estimates that, on the average, each State will assign the plan development responsibilities to a team composed of a program manager, a project engineer, a budget analyst, a business specialist, and a legal expert. Table A lists the aggregate salary estimates and man-year allocations for the entire mandated population.

TABLE A—AGGREGATED SALARY SUMMARY OF THE 10 IDENTIFIED STATES

Position	Salary	Hourly rate	Labor hours	Estimate
Program Manager, Transportation	$483,000.00	$39.90	40	$2,793.27
Project Engineer	69,000.00	33.17	80	4,644.23
Budget Analyst	52,000.00	25.00	40	1,750.00
Business Specialist, Transportation	43,000.00	20.67	400	14,471.15
Legal Expert	68,000.00	32.69	40	2,288.46
				25,947.12

The estimated cost is found as the product of the hourly rate, the labor hours, and an estimated overhead rate. Overhead is considered at 75% of the hourly rate. *Example Calculation:* [($39.90 per hour) * (40 hours) * (1 + .75 (overhead rate))] = $2,793.27.

The final rule requires that FRA review and approve each submitted plan consistent with the statutory mandate. FRA anticipates that the average review time for each of the initial submissions will be 6 hours per plan. Table B lists the aggregated Federal burden associated with the review and approval of the required plans.

TABLE B—FEDERAL COMPLIANCE SUMMARY

Tasking	States	Labor hours	Rate	Estimate
Plan Submission Review	10	6	$52.50	$5,512.50
				5,512.50

To summarize quantitatively, the State burden that will be imposed by this final rule was derived from the estimated sum of the original burden submission from the ten identified States and the burden resubmission from the quantum that may not comply during the initial submission. FRA considers $259,000 to represent the aggregated State burden for the one year period of this requirement. Listed in Table C is the aggregated burden summary.

TABLE C—AGGREGATED BURDEN SUMMARY

	Estimate	Quantity	Total estimates
State Submission Burden	$25,947.12	10	$259,471.15
			259,471.15

The development of State highway-rail grade crossing action plans will likely result in a reduction in highway-rail grade crossing safety collisions. Development of such plans will enhance these States' ability to view their population of grade crossings, interpret historical accident information, evaluate the overall state of highway-rail grade crossing safety, and identify particular areas in need of attention. Any patterns of collisions or causal factors will become more readily apparent as a result of the detailed study, assessment, and status reporting involved in the development of the State action plan. In these plans, each State will identify specific solutions for improving safety at individual crossings, including crossing closures or grade separations, with special focus on those crossings that are found to have experienced multiple accidents or that show a heightened risk for accidents. Identification of high risk corridors may also occur as a result of the analysis component of the State action plan. As each State's highway-rail grade crossing action plan may be coordinated with other State or Federal planning requirements, additional benefits may be obtained through closer integration of grade crossing safety issues into the overall State transportation safety planning efforts.

During the three-year time period, 2006 through 2008, the ten States with the most grade crossing collisions, as currently reported, accounted for 51 percent, or almost 4,200 accidents, of all grade crossing collisions nationwide. Highway vehicle damage accounted for more than $28.5 million during this three-year time period, and a combined total of 546 lives were lost. Economic research indicates that $6.0 million per statistical life saved is a reasonable estimate of people's willingness to pay for transportation safety improvements. Therefore, FRA estimates an accumulated $3.28 billion to represent the statistical value of the lives lost as a result of grade crossing collisions in these ten States. Finally, there were 1,666 injuries over the same three-year time period in these ten States. Assuming very conservatively, for purposes of this analysis, that these injuries were all minor in nature (*e.g.,* injuries that may not require professional medical treatment and where recovery is usually rapid and complete) and thus assigning a cost of $12,000 per injury (i.e., 0.2% of the value of a statistical life), injury costs for this three-year period totaled close to $20 million. Thus, the cost to society of the average incident in the three-year time period was $796,000. Prevention of just one such incident would more than exceed the cost of implementing this rule. FRA believes that it is reasonable to expect that such an incident may be prevented by the implementation of this rule. In addition to the safety benefits, other potential benefits will include: Increased train and highway traffic mobility by reducing collisions, fewer

demands on emergency services to respond to crossing collisions, and some improvement in air quality by reducing emissions from vehicles that are unable to move due to crossing collisions.

The findings of this analysis are sensitive to its assumptions. The burden estimates are largely driven by the composition of the State's team and the level of effort expended by each individual. Such factors may vary from team to team. FRA realizes that the level of expertise per State, per team, per member, will vary and, therefore, has applied a 20 percent sensitivity factor above and below the baseline as follows:

TABLE D—AGGREGATED SENSITIVITY ANALYSIS SUMMARY

	Estimate	Low	High
Aggregated Submission Burden	$259,471.15	$207,576.92	$ 311,365.38

Thus, when defining the projected cost burden to the individual States within the framework of team complexion and with regard to the estimated sensitivity of the individual expertise of the employee selected, FRA finds that it is reasonable to estimate that the burden could range from $20,800 to $31,100 per State. FRA finds that the total cost burden associated with this final rule ranges from $208,000 to $311,000.

In commenting on FRA's RIA of the NPRM, one commenter contended that the action plans should be prepared by licensed professional engineers practicing in the transportation area with expertise in grade crossing design, operations, and safety. Although it may be necessary to use such an engineer to implement aspects of an action plan, FRA believes that the development of the actions plans do not require the direction of such engineers. Another commenter questioned the identified States ability to develop action plans under the NPRM's time and cost parameters, and suggested that the States will develop general plans proposing "one-size-fits-all" solutions. As discussed previously, FRA believes that the identified States will be able to successfully develop these plans in the allotted timeframe. Furthermore, FRA is available, including FRA regional grade crossing managers and FRA experts from the grade crossing and trespasser prevention division, to provide assistance to States in developing and carrying out, as appropriate, the State highway-rail grade crossing action plans. In addition, FRA believes that each identified State will develop an action plan tailored to address that State's particular safety issues. One commenter also questioned FRA's estimate of the cost of preparing the actions plans and stated that the estimate of $26,000 per State was an under-valuation. As described above, the time and cost parameters represent an aggregation of information and estimates obtained from a sample of the States as to their own individual estimates necessary to comply with the provisions of the final rule. In addition, the estimated cost per State of approximately $26,000 is an average composed of estimated costs significantly larger and smaller.

Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) and Executive Order 13272 require a review of proposed and final rules to assess their impact on small entities. An agency must prepare a final regulatory analysis, unless it determines and certifies that the rule would not have a significant economic impact on a substantial number of small entities.

"Small entity" is defined in 5 U.S.C. 601. Section 601(3) defines a "small entity" as having the same meaning as "small business concern" under § 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Section 601(4) includes not-for-profit enterprises that are independently owned and operated, and are not dominant in their field of operations within the definition of "small entities." Additionally, § 601(5) defines as "small entities" governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

The U.S. Small Business Administration (SBA) stipulates "size standards" for small entities. It provides that the largest a for-profit railroad business firm may be (and still classify as a "small entity") is 1,500 employees for "Line-Haul Operating" railroads, and 500 employees for "Short-Line Operating" railroads.[1]

SBA size standards may be altered by Federal agencies in consultation with SBA, and in conjunction with public comment. Pursuant to the authority provided to it by SBA, FRA has published a final policy, which formally establishes small entities as railroads that meet the line haulage revenue requirements of a Class III railroad.[2] Currently, the revenue requirements are $20 million or less in annual operating revenue, adjusted annually for inflation. The $20 million limit (adjusted annually for inflation) is based on the Surface Transportation Board's threshold of a Class III railroad carrier, which is adjusted by applying the railroad revenue deflator adjustment.[3]

This rule would apply to States—none of which is small as defined above. Thus, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities, as it only affects ten identified States.

Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq*. The section that contains the new information collection requirements is noted below, and the estimated burden times to fulfill each requirement are as follows:

[1] "Table of Size Standards," U.S. Small Business Administration, January 31, 1996, 13 CFR part 121. *See also* NAICS Codes 482111 and 482112.

[2] *See* 68 FR 24891 (May 9, 2003).

[3] For further information on the calculation of the specific dollar limit, please see 49 CFR part 1201.

CFR Section	Respondent universe	Total annual responses	Average time per response (hours)	Total annual burden hours
234.11—State Highway-Rail Grade Crossing Action Plans:				
—Development and Submission of Plans	10 States	10 plans	600	6,000
—Disapproval of State Highway-Rail Grade Crossing Action Plan and Submission of Revised Plan.	10 States	5 revised plans	80	400

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. For information or a copy of the paperwork package submitted to OMB, contact Mr. Robert Brogan at 202–493–6292 or Ms. Kimberly Toone at 202–493–6132 or via e-mail at the following addresses: *Robert.Brogan@dot.gov; Kimberly.Toone@dot.gov.*

Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via e-mail to the Office of Management and Budget at the following address: *oira_submissions@omb.eop.gov.*

OMB is required to make a decision concerning the collection of information requirements contained in this direct final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

FRA cannot impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any new information collection requirements resulting from this rulemaking action prior to the effective date of this final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

Environmental Impact

FRA has evaluated this final rule in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this final rule is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547, May 26, 1999. In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this final rule that might trigger the need for a more detailed environmental review. As a result, FRA finds that this final rule is not a major Federal action significantly affecting the quality of the human environment.

Federalism Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, "Federalism" (64 FR 43255, Aug. 4, 1999), which requires FRA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

FRA has determined that this final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among various levels of government. In addition, FRA has determined that this final rule will not impose substantial direct compliance costs on State and local governments. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

Although this final rule removes the preemption section of part 234, FRA notes that this part could have preemptive effect by the operation of law under the FRSA. 49 U.S.C. 20106. Section 20106 provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the "essentially local safety or security hazard" exception to § 20106.

This final rule also amends FRA's regulations by adding a provision for State highway-rail grade crossing action plans. This provision expressly provides that it does not restrict any State, not identified by the final rule, or other entity, from adopting a highway-rail grade crossing action plan, nor does it restrict any of the identified States from developing action plans with additional or more stringent requirements that are not inconsistent with this final rule.

In sum, FRA has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132, and has determined that preparation of a federalism summary impact statement for this final rule is not required.

Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate

requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $141,300,000 or more in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. This final rule will not result in the expenditure, in the aggregate, of $141,300,000 or more in any one year, and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking that: (1)(i) Is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this final rule in accordance with Executive Order 13211. FRA has determined that this final rule will not have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

Privacy Act Information

Interested parties should be aware that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit *http://www.regulations.gov.*

List of Subjects in 49 CFR Part 234

Highway safety; Penalties; Railroad safety; and Reporting and recordkeeping requirements.

The Rule

■ In consideration of the foregoing, FRA amends part 234 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 234—GRADE CROSSING SIGNAL SYSTEM SAFETY AND STATE ACTION PLANS

■ 1. The authority citation for part 234 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; Pub. L. 110–432, Div. A, § 202; and 49 CFR 1.49.

■ 2. The heading for part 234 is revised to read as set forth above.

■ 3. Section 234.1 is revised to read as follows:

§ 234.1 Scope.

This part imposes minimum maintenance, inspection, and testing standards for highway-rail grade crossing warning systems. This part also prescribes standards for the reporting of failures of such systems and prescribes minimum actions railroads must take when such warning systems malfunction. This part also requires particular identified States to develop State highway-rail grade crossing action plans. This part does not restrict a railroad or a State from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

■ 4. Section 234.3 is revised to read as follows:

§ 234.3 Application.

With the exception of § 234.11, this part applies to all railroads except:

(a) A railroad that exclusively operates freight trains only on track which is not part of the general railroad system of transportation;

(b) Rapid transit operations within an urban area that are not connected to the general railroad system of transportation; and

(c) A railroad that operates passenger trains only on track inside an installation that is insular; i.e., its operations are limited to a separate enclave in such a way that there is no reasonable expectation that the safety of the public—except a business guest, a licensee of the railroad or an affiliated entity, or a trespasser—would be affected by the operation. An operation will not be considered insular if one or more of the following exists on its line:

(1) A public highway-rail crossing that is in use;

(2) An at-grade rail crossing that is in use;

(3) A bridge over a public road or waters used for commercial navigation; or

(4) A common corridor with a railroad, i.e., its operations are within 30 feet of those of any railroad.

§ 234.4 [Removed]

■ 5. Section 234.4 is removed.

■ 6. Section 234.6 is revised to read as follows:

§ 234.6 Penalties.

(a) *Civil penalty.* Any person (an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part, except for any violation of § 234.11 of this part, or causes the violation of any such requirement is subject to a civil penalty of at least $650, but not more than $25,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed $100,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. Appendix A to this part contains a schedule of civil penalty amounts used in connection with this rule. The railroad is not responsible for compliance with respect to any condition inconsistent with the technical standards set forth in this part where such variance arises as a result of actions beyond the control of the railroad and the railroad could not have prevented the variance through the exercise of due diligence. The foregoing sentence does not excuse any instance of noncompliance resulting from the actions of the railroad's employees, agents, or contractors.

(b) *Criminal penalty.* Whoever knowingly and willfully makes, causes to be made, or participates in the making of a false entry in reports required to be filed by this part, or files a false report or other document

required to be filed by this part, except for any document filed pursuant to § 234.11 of this part, is subject to a $5,000 fine and 2 years imprisonment as prescribed by 49 U.S.C. 522(a) and 21311(a).

Subpart B—Reports and Plans

■ 7. The heading to subpart B is revised to read as set forth above.

■ 8. Section 234.11 is added to subpart B to read as follows:

§ 234.11 State highway-rail grade crossing action plans.

(a) *Purpose.* The purpose of this section is to reduce collisions at highway-rail grade crossings in the ten States that have had the most highway-rail grade crossing collisions, on average, during the calendar years 2006, 2007, and 2008. This section does not restrict any other State, or other entity, from adopting a highway-rail grade crossing action plan. This section also does not restrict any of the States required to develop action plans under this section from adopting a highway-rail grade crossing action plan with additional or more stringent requirements not inconsistent with this section.

(b) *Application.* This section applies to the ten States that have had the most highway-rail grade crossing collisions, on average, during the calendar years 2006, 2007, and 2008.

(c) *Action plans.* (1) The ten identified States shall each develop a State highway-rail grade crossing action plan and submit such a plan to FRA for review and approval not later than August 27, 2011.

(2) A State highway-rail grade crossing action plan shall:

(i) Identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations;

(ii) Focus on crossings that have experienced multiple accidents or are at high risk for such accidents; and

(iii) Cover a five-year time period.

(d) *Review and approval.* (1) State highway-rail grade crossing action plans required under paragraph (c) of this section shall be submitted for FRA review and approval using at least one of the following methods: Mail to the Associate Administrator for Railroad Safety/Chief Safety Officer, U.S. Department of Transportation, Federal Railroad Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; or e-mail to *rrs.correspondence@fra.dot.gov.*

(2) FRA will review and approve or disapprove a State highway-rail grade crossing action plan submitted pursuant to paragraph (d) of this section within 60 days of receipt.

(3) If the proposed State highway-rail grade crossing action plan is disapproved, FRA will notify the affected State as to the specific areas in which the proposed plan is deficient. A State shall correct all deficiencies within 30 days following receipt of written notice from FRA.

(4) FRA may condition the awarding of any grants under 49 U.S.C. 20158, 20167, or 22501 to an identified State on the development of an FRA approved State highway-rail grade crossing action plan.

Issued in Washington, DC, on June 22, 2010.

Karen Rae,

Deputy Administrator, Federal Railroad Administration.

[FR Doc. 2010–15534 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 100107011–0248–03]

RIN 0648–AY43

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 21

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

ACTION: Final rule.

SUMMARY: NMFS is implementing measures specified in Framework Adjustment 21 (Framework 21) to the Atlantic Sea Scallop Fishery Management Plan (FMP), which was developed by the New England Fishery Management Council (Council). Framework 21 specifies the following management measures for the 2010 scallop fishery: Total allowable catch (TAC); open area days-at-sea (DAS) and Sea Scallop Access Area (access area) trip allocations; DAS adjustments if an access area yellowtail flounder (YTF) TAC is caught; limited access general category (LAGC) access area trip allocations; management measures to minimize impacts of incidental take of sea turtles as required by the March 14, 2008, Atlantic Sea Scallop Biological Opinion (Biological Opinion); minor adjustments to the LAGC individual fishing quota (IFQ) program; and minor adjustments to the industry-funded observer program. This action also adjusts regulatory language to eliminate duplicative and outdated text, and to clarify provisions in the regulations that are currently unclear.

DATES: Effective June 28, 2010.

ADDRESSES: An environmental assessment (EA) was prepared for Framework 21 that describes the action and other considered alternatives and provides a thorough analysis of the impacts of the measures and alternatives. Copies of Framework 21, the EA, and the Initial Regulatory Flexibility Analysis (IRFA) are available upon request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Policy Analyst, 978–281–9244; fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

Framework 21 was developed and adopted by the Council in order to meet the FMP's objectives to prevent overfishing and improve yield-per-recruit from the fishery. The FMP requires biennial adjustments to ensure that the measures meet the fishing mortality rate (F) and other goals of the FMP and achieve optimum yield (OY) from the scallop resource on a continuing basis. Framework 21 measures will replace those that were specified for the March 1, 2010, start of the fishing year (FY). Framework 21 specifies measures only for FY 2010. Amendment 15 to the FMP, currently under development by the Council, will identify and implement annual catch limits and accountability measures to bring the FMP into compliance with the new requirements of the re-authorized Magnuson-Stevens Fishery Conservation and Management Act (MSA) for FY 2011 and beyond. Framework 22 will be developed by the Council to set the specifications for FYs 2011 and 2012.

The Council approved Framework 21 at its November 18, 2009, meeting and submitted Framework 21 to NMFS for review on December 21, 2009. At its November 2009 meeting, the Council focused on two F target alternatives that did not involve a new access area closure: A target F of 0.24 (TAC of 47.3 M lb), and a lower target F of 0.20 (TAC of 41.5 M lb), which was ultimately selected by the Council. The Council's quota allocation recommendation for FY 2010 became very controversial due to industry concerns over the FY 2010 economic impacts of what some

believed to be an overly precautionary F target. Following public testimony from both scallop and groundfish fishery participants who supported adoption of a higher allocation alternative, and an in-depth review of the two alternatives, the Council amended its previous Framework 21 decision and voted to adopt the higher F target of 0.24 for FY 2010 at its January 27, 2010, meeting. The Council's rationale for the amended decision was primarily based on the fact that the Framework 21 allocation alternatives were analyzed using a revised landings-per-unit effort (LPUE) calculation applied to the DAS model that would likely be more reflective of actual fishing effort than the DAS model used in Framework 19 to the FMP. Framework 19's LPUE model had underestimated fishing effort in open areas in FYs 2008 and 2009, resulting in higher levels of harvest than projected. The adjusted LPUE used in Framework 21 increased, resulting in lower overall DAS allocations that take into account higher effort levels. After an extensive discussion of the aggregate impacts of the revised LPUE calculation, in addition to setting a lower F target, the Council determined that the higher F target (0.24), in addition to the revised DAS model, would better achieve OY while also being appropriately precautionary. The Council subsequently revised its recommendations for action in Framework 21 and resubmitted the document with updated analyses reflecting the higher F target allocation to NMFS for review on March 19, 2010.

The Council reviewed the Framework 21 proposed rule regulations as drafted by NMFS, which included regulations proposed by NMFS under the authority of section 305(d) of the MSA, and on March 30, 2010, deemed them to be necessary and consistent with section 303(c) of the MSA. The proposed rule for Framework 21 published in the **Federal Register** on April 27, 2010, with a 15-day public comment period that ended May 12, 2010. Three comments were received on the proposed measures.

The IFQ Program was implemented on March 1, 2010. As a result, limited access scallop vessels, limited access scallop vessels with LAGC IFQ permits, and LAGC IFQ vessels will receive 94.5 percent, 0.5 percent, and 5 percent of the allocated target TAC, respectively, after accounting for applicable research and observer set-asides.

The final management measures are described below. Details concerning the Council's development of these measures were presented in the preamble of the proposed rule and are not repeated here.

Acceptable Biological Catch (ABC) and TAC

The Council's Scientific and Statistical Committee (SSC) recommended an ABC for the 2010 scallop fishery based on an F of 0.284, which results in a TAC of 57,803,000 lb (26,219 mt) after accounting for discards and incidental mortality. The calculation on which this ABC recommendation is based assumes that mortality in the scallop fishery is spatially and temporarily uniform, and that all exploitable scallop biomass is accessible to the fleet. However, due to various rotational and permanent closures, as well as area-based differences in F, the PDT developed and analyzed allocation alternatives with various F targets below 0.284 in order to prevent localized overfishing in areas that are accessible to the fleet. Based on these analyses, and in order to minimize adverse impacts on Essential Fish Habitat (EFH), minimize bycatch, and achieve OY to the extent practicable, the Council ultimately based the target TAC on an F of 0.24. This results in a TAC of 47,278,000 lb (21,445 mt).

After the deduction of the incidental target TAC (50,000 lb, 22.7 mt) allocated to vessels with LAGC incidental permits, the remaining TAC is 47,228,000 lb (21,422 mt). This TAC is allocated into several components: Open area DAS; individual access area trips for limited access vessels; IFQ allocations, including access area allocations, to vessels with LAGC IFQ permits; and research and observer set-asides.

Open Area DAS Allocations

This action implements the following vessel-specific DAS allocations for FY 2010: Full-time vessels will be allocated 38 DAS; part-time vessels will be allocated 15 DAS; and occasional vessels will be allocated 3 DAS.

Because Framework 21 was not implemented by the start of the FY on March 1, 2010, and the regulations in effect at the start of FY 2010 are inconsistent with Framework 21 specifications, it is possible that a scallop vessel may have exceeded its DAS allocation during the interim period between March 1, 2010, and the effective date of this final rule. Therefore, any limited access open area DAS used in FY 2010 by a vessel that is above the final FY 2010 allocation for that vessel will be deducted from the vessel's FY 2011 DAS allocation.

Open Area DAS Adjustment if Access Area Yellowtail Flounder (YTF) TAC Is Attained

Under the Northeast Multispecies FMP, 10 percent of the Southern New England (SNE) YTF TAC is allocated to scallop vessels fishing in the Nantucket Lightship Access Area (NLAA). For FY 2010, this equates to 47 mt; 103,617 lb (April 9, 2010; 75 FR 18356). If the NLAA YTF TAC is caught, the NLAA will be closed to further scallop fishing for the remainder of the FY. If a vessel has unutilized trip(s) after the access area is closed due to reaching the YTF TAC, it will be allocated additional open area DAS at a reduced rate. This trip/DAS conversion will apply only to full-time vessels, and to occasional or part-time vessels that have no other available access areas in which to take their access area trip(s). Full-time vessels will be allocated 5.8 DAS per unutilized trip in the NLAA. If part-time and occasional vessels have no available access areas in which to take an unused trip, they will be allocated 4.6 DAS and 1.9 DAS, respectively.

If a vessel has unused compensation trip(s) from a previously broken trip(s) when the access area closes due to reaching the YTF TAC, it will be issued additional DAS in proportion to the unharvested possession limit. For example, if a full-time vessel had an unused 9,000-lb (4,082-kg) NLAA compensation trip (half of the full possession limit) at the time of a NLAA YTF TAC closure, the vessel will be allocated 2.9 DAS (half of the 5.8 DAS that will be allocated for a full NLAA trip).

Limited Access Trip Allocations, and Possession Limits for Scallop Access Areas

In FY 2010, full-time scallop vessels are allocated one trip in the NLAA, two trips in the Elephant Trunk Access Area (ETAA), and one trip in the Delmarva Access Area (Delmarva). A part-time scallop vessel is allocated two trips, which can be taken as follows: two trips in the ETAA; one trip in the ETAA and one trip in the NLAA; one trip in the ETAA and one trip in Delmarva; or one trip in NLAA and one trip in Delmarva. An occasional vessel is allocated one trip, which can be taken in any one open access area. The FY 2010 limited access scallop possession limit for access area trips is 18,000 lb (8,165 kg) for full-time vessels, 14,400 lb (6,532 kg) for part-time vessels, and 6,000 lb (2,723 kg) for occasional vessels.

Because Framework 21 was not implemented by the start of the FY on March 1, 2010, and the regulations in

effect at the start of FY 2010 are inconsistent with Framework 21 specifications, it is possible that scallop vessels could exceed their ETAA access area trip allocation during the interim period between March 1, 2010, and the effective date of this final rule. There were three ETAA trips allocated for full-time scallop vessels at the start of FY 2010, but this final rule allocates only two trips. If a full-time vessel takes three trips into the ETAA during FY 2010, the vessel's FY 2011 overall access area trip allocation will be reduced by one trip to account for the FY 2010 overage. The access area trip allocations for FY 2011 are not yet determined; vessel owners who exceed their ETAA trip allocations for FY 2010 will have their overage deducted from their ETAA allocation, if there is a trip allocated into the ETAA for FY 2011. If no ETAA trips are allocated in FY 2011, vessel owners will be given the opportunity to select the area from which their trip overage would be deducted, with NMFS determining the area, if the vessel owner fails to respond.

Framework 21 reduces the access area possession limit for part-time and occasional vessels. Therefore, it is also possible that a part-time or occasional vessel may have exceeded its trip possession limit during the interim period between March 1, 2010, and the effective date of this final rule. If a part-time or occasional vessel exceeds its FY 2010 possession limit, the overage will be deducted from that vessel's FY 2011 possession limit allocation.

LAGC Measures

1. *TAC for LAGC vessels with IFQ permits.* This action specifies a 2,326,700-lb (1,055-mt) annual TAC for LAGC vessels with IFQ permits for FY 2010. IFQ allocations will be calculated by applying each vessel's IFQ contribution percentage to this TAC.

2. *TAC for Limited Access Scallop Vessels with IFQ Permits.* This action specifies a 232,670-lb (106-mt) annual TAC for limited access scallop vessels with IFQ permits for FY 2010. IFQ allocations will be calculated by applying each vessel's IFQ contribution percentage to this TAC.

3. *LAGC IFQ Trip Allocations and Possession Limits for Scallop Access Areas.* The LAGC IFQ fishery is allocated 5 percent of the overall ETAA, NLAA, and Delmarva TACs, resulting in a fleet-wide trip allocation of 1,377 trips in the ETAA and 714 trips in both the NLAA and in Delmarva. These areas will close to LAGC vessels when the Regional Administrator determines that the allocated number of trips have been taken in the respective areas.

Framework 21 reduces the number of LAGC trips into the ETAA and Delmarva. Therefore, it is possible that LAGC scallop vessels could exceed the FY 2010 fleet-wide trip allocations in the ETAA and Delmarva. If LAGC vessels exceed the number of allocated trips from the ETAA or Delmarva in FY 2010, the number of excess trips will be deducted from the LAGC IFQ fleet access area trip allocation in FY 2011 in the ETAA or Delmarva, respectively.

4. *Northern Gulf of Maine (NGOM) TACS.* This action specifies a 70,000-lb (31,751-kg) annual NGOM TAC for FY 2010.

5. *Scallop Incidental Catch Target TAC.* This action specifies a 50,000-lb (22,680-kg) scallop incidental catch target TAC for FY 2010 to account for mortality from this component of the fishery and to ensure that F targets are not exceeded.

Research Set-Aside (RSA) Allocations

Two percent of each scallop access area quota and 2 percent of the DAS allocation are set aside as the Scallop RSA to fund scallop research and to compensate participating vessels through the sale of scallops harvested under RSA quota. The FY 2010 RSA access area allocations are: NLAA—117,820 lb (53 mt); ETAA—227,060 lb (103 mt); and Delmarva—117,700 lb (53 mt). The FY 2010 RSA DAS allocation is 269 DAS.

Observer Set-Aside Allocations

One percent of each scallop access area quota and 1 percent of the DAS allocation are set aside as part of the industry-funded observer program to help defray the cost of carrying an observer. Scallop vessels on an observed DAS trip are charged a reduced DAS rate, and scallop vessels on an observed access area trip are authorized to have an increased possession limit. Unless changed by the Regional Administrator, the current compensation rate for FY 2010 will continue, as follows: Limited access DAS vessels carrying an observer on access area trips will receive 180 lb (82 kg) of scallops per day, or part of a day, in ETAA, Delmarva, and NLAA; LAGC IFQ vessels carrying an observer on access area trips will receive 180 lb (82 kg) of scallops per trip in ETAA, Delmarva, and NLAA; and limited access DAS vessels will be compensated 0.10 DAS per DAS fished during observed open area trips (*i.e.,* vessels will be charged 0.90 DAS per DAS fished with an observer onboard). The Regional Administrator will re-evaluate the compensation rates for FY 2010 should new information regarding monitoring and coverage levels indicate the need for adjustment. The 2010 observer set-aside access area allocations are: NLAA—58,910 lb (27 mt); ETAA—113,530 lb (52 mt); and Delmarva—58,850 lb (27 mt). The FY 2010 DAS observer set-aside allocation is 135 DAS.

Reasonable and Prudent Measures

The Incidental Take Statement of the March 14, 2008, Biological Opinion required NMFS to implement five non-discretionary reasonable and prudent measures (RPMs) identified as necessary or appropriate to minimize the impacts of any incidental take, as well as Terms and Conditions for implementing each RPM. Framework 21 includes management measures to comply with the first of these RPMs, which requires a limit of fishing effort in the Mid-Atlantic during times when sea turtle distribution is expected to overlap with scallop fishing activity. The Biological Opinion requires that this restriction on fishing effort must be in place no later than FY 2010 and shall be limited to a level that will not result in more than a minor impact on the fishery.

For FY 2010, Framework 21 defined a "more than minor impact" on the fishery as one that would result in a 10-percent shift in baseline effort from the Mid-Atlantic during June 15 through October 31 into other areas and times of year when sea turtle interactions are less likely. This definition, as well as management measures to comply with the Biological Opinion and any future Biological Opinions, will be reevaluated for future FYs in Framework 22 and subsequent actions.

This action will close the Delmarva access area from September 1, 2010, through October 31, 2010. In addition, because the ETAA and Delmarva are in the Mid-Atlantic, full-time limited access vessels will be restricted to taking two of the access area trips allocated to those areas, or to maximum landings of 36,000 lb (16,329 kg) from those areas (*i.e.,* the equivalent of two access area trips), during the period June 15, 2010, through August 31, 2010. Compliance with the trip restriction will be monitored by pounds of scallops landed during June 15, 2010, through August 31, 2010, rather than trip declarations, which could result in landings that are less than the allowable trip possession limit. The additional pounds allocated to vessels with on-board observers during trips taken within this time period will not count towards this 36,000-lb (16,329-kg) limit. If a vessel fishes any part of an access area trip in the ETAA or Delmarva during this time period (*i.e.,* starts a trip on June 13, 2010, and ends the trip on

June 15, 2010), landings from that trip would count towards the two-trip limit.

In addition, compensation trips may not be combined during this time period in a way that would allow more than 36,000 lb (16,329 kg) to be landed from the ETAA or Delmarva from June 15, 2010, through August 31, 2010. For example, this final rule allocates three total trips into the Mid-Atlantic access areas to a full-time vessel for FY 2010 (One trip in Delmarva; two trips in the ETAA). If that vessel declared and subsequently broke one of the three trips into Mid-Atlantic access areas prior to June 15, it would have two full trips (*i.e.,* 36,000 lb, 16,329 kg) available for use during the trip-restriction window. In that case, the vessel could only harvest up to 36,000 lb (16,329 kg) total from June 15, 2010, through August 31, 2010, in the Mid-Atlantic access areas, either by fishing its compensation trip and one full access area trip or by fishing two full access area trips and waiting to conduct the compensation trip on or after November 1, 2010 (*i.e.,* after the ETAA and Delmarva seasonal closures).

Part-time and occasional vessels are not affected by this trip restriction because they are not allocated more than two trips during the entire FY. LAGC IFQ vessels are also not affected by this trip restriction.

Adjustments to the Industry-Funded Observer Program

The following measures were developed by the Council to improve the administration of the industry-funded observer program.

1. *Limit the amount of observer compensation LAGC IFQ vessels can possess per observed trip in access areas.* This action requires that for access area trips declared after the effective date of this action, the possession limit to defray the cost of an observer for LAGC IFQ vessels fishing in access areas be specified by trip, not by fishing day. For example, if the limited access vessel daily possession limit to defray the cost of an observer is 180 lb (82 kg), the LAGC IFQ possession limit will be 180 lb (82 kg) per observed trip. In this scenario, an LAGC IFQ vessel with an onboard observer will be able to land up to 580 lb (263 kg), the sum of its regular possession limit of 400 lb (181 kg) plus the additional observer compensation, during an access area trip, regardless of trip length. The intent of this measure is to avoid allocating observer compensation in excess of the amount necessary to pay for the observer costs for these trips in order to minimize the possibility of fully harvesting the observer set-aside in an access area prior to the end of the FY.

2. *Providers must charge a prorated fee for vessels fishing in access areas if the observer set-aside has been fully harvested.* This action requires that, for observed access area trips declared after NMFS announces that the annual observer set-aside for a given access area is fully exhausted, service providers must prorate their fees on an hourly basis for the remainder of the FY, similar to how observer fees are charged for vessels fishing on open area scallop trips. The intent of this measure is avoid observer fees charged in excess of actual time spent on an observed trip in an access area once the set-aside allocated to that specific access area is no longer available to defray observer costs.

Adjustments to the IFQ Program

This final rule will enable the owner of an IFQ vessel or IFQ confirmation of permit history (CPH) to lease some or all of its IFQ to or from and other IFQ vessel during a single FY. This measure removes the restriction that requires leasing only of an entire IFQ. This alternative only applies to leases, and not to permanent transfers, which will still require a vessel's entire IFQ allocation to be transferred permanently. Vessel owners intending to lease some or all of their IFQ allocation to another IFQ vessel(s) may not fish any of their IFQ allocation prior to the lease transaction.

This action requires partial IFQ leases to be at least 100 lb (45 kg). If a vessel owner has previously leased a portion of the vessel's IFQ, and the remaining allocation is less than 100 lb (45 kg), the remaining IFQ may be transferred in full to another vessel.

This action also revises regulatory text to remove or clarify text that was duplicative and unnecessary, outdated, or unclear.

Comments and Responses

Three comment letters were received in response to the proposed rule from an individual; the Fisheries Survival Fund (FSF), writing on behalf of full-time limited access scallop fleet members; and Oceana, an environmental organization. The comments relating to the proposed Framework 21 measures are responded to below. Other comments, including those raising specific concerns about the contents and development of the March 14, 2008, Biological Opinion for the sea scallop fishery, are not the subject of this rulemaking and are therefore not responded to in this document. The FSF stated in its comment letter that it intended to incorporate by reference other comments made during the Council's development of Framework 21; NMFS notes that the rulemaking process does not recognize such non-specific incorporation by reference. As a general matter, NMFS is constrained to only approve, disapprove, or partially approve measures in Framework 21, and cannot substantively amend or add to these regulations beyond what is necessary under section 305(d) of the MSA to discharge its responsibility to carry out such measures.

Comment 1: The FSF noted that it disagrees with the requirements of the Biological Opinion, characterizing them as ultraconservative, but reluctantly accepted the measures specified to comply with the RPM in the Biological Opinion. The FSF noted that, while the measures meet the criteria of having no more than a minor impact on the fishery, they will have negative economic impacts on the scallop industry because they will divert fishing activity to sub-optimal times of the year, when scallop yields are lower. However, FSF recognized that the findings of the Biological Opinion impose legal duties on NMFS that must be addressed through Framework 21, and that the scallop fleet will have to bear the costs of the measures.

Response: NMFS recognizes that FSF has concerns about the Biological Opinion that are not directly related to this rulemaking. NMFS agrees that the Framework 21 analysis shows that there will be some economic losses as a result of the diversion of fishing from the Mid-Atlantic region during a productive fishing period into areas and times with lower scallop yields. As FSF notes, however, the analysis concluded that the measures would comply with the RPM specified in the Biological Opinion, and have no more than a minor impact on the fishery, as required by the Endangered Species Act (ESA).

Comment 2: Oceana contended that Framework 21 fails to protect threatened and endangered sea turtles, fails to protect habitat, fails to reduce bycatch of sea turtles and finfish, and fails to achieve OY of scallops. Oceana suggests that NMFS should disapprove the use of the F=0.24 target and should approve and implement the measures developed by the Council to be consistent with the F=0.20 target. Oceana suggested that NMFS should disapprove Framework 21 and return the document to the Council for revision.

Response: Additional specific concerns noted by Oceana are characterized further and responded to in subsequent comments. NMFS disagrees with Oceana's suggestion that Framework 21 should be disapproved.

NMFS has found that the measures in Framework 21 comply with the MSA, ESA, NEPA, and all other applicable laws. Oceana's comments are based largely on the comparison of the impacts of the management alternatives considered by the Council. These alternatives included measures that would have achieved the F=0.24 and F=0.20 targets. There is no legal requirement when such alternatives are considered to necessarily select the more restrictive alternative for implementation. The analysis in Framework 21 demonstrates that the F=0.24 target is not expected to result in overfishing and would achieve OY on a continuing basis, fully in compliance with MSA and the FMP. The F=0.24 target is approximately 80 percent of the F=0.284 overfishing threshold, and is consistent with the overfishing definition in the FMP. Framework 21 complies with NEPA, as it clearly presents the purpose and need for Framework 21, includes all necessary components of a NEPA document, fully analyzes and compares the impacts of a well-developed range of alternatives, and makes conclusions directly based on the information and analyses.

NMFS notes that a disapproval of Framework 21 would mean that the current management program would continue in effect. While the overall TAC is slightly higher in Framework 21 than the status quo, it is distributed to the fishery in a way that results in fewer open area DAS and access area trips. This, in turn, represents a reduction of the amount of the sea bottom where fishing occurs (overall swept area), with associated reductions in bycatch and habitat impacts. Failing to enact the measures in Framework 21 at this time would mean that there would be no measures to reduce interactions with sea turtles, as specified in the Biological Opinion.

Comment 3: Oceana's comments about ESA requirements include concerns that there should be a reintiation of consultation on this fishery and that the current Biological Opinion for the scallop fishery must be updated because new information is available concerning loggerhead sea turtles as reflected in a status review and by a proposed listing of the North Atlantic distinct population segment as endangered. Although Oceana stops short of advocating disapproval of Framework 21 while a reintiation occurs, it recommends that NFMS should implement the F=0.20 alternative originally adopted by the Council and that there should be specific management measures that would apply to both the open area and access areas in the Mid-Atlantic region. Oceana objects to the fact that the DAS allocated in Framework 21 are higher than those that would have been allocated if the target F was 0.20. Because the measures proposed in Framework 21 are applicable only to the access areas, Oceana contends that the measures do not comply with the requirements of the Biological Opinion.

Response: NMFS has determined that the measures in Framework 21 comply with the requirements of the MSA, the ESA and, specifically, the current Biological Opinion, even in light of the new status review and proposed listing. As a preliminary matter, NMFS is constrained from implementing the F=0.20 alternative or any new sea turtle measures under the MSA because it can only approve, disapprove, or partially approve measures included in a framework adjustment. NMFS does not believe that the 2009 loggerhead sea turtle status review or proposed listing is cause to reinitiate ESA Section 7 consultation on the Atlantic sea scallop fishery. The status review did not focus on the scallop fishery or Framework 21, and therefore there is no new information provided in the status review specifically regarding the exposure of loggerhead sea turtles to scallop fishing gear. The status review provides no new information regarding risk from Framework 21 or the scallop fishery to loggerhead sea turtles. The status review states that the decline of loggerhead sea turtles in the Northwest Atlantic is largely driven by mortality due to bycatch throughout the North Atlantic Ocean; however, these bycatch mortalities are from multiple fisheries operating under the jurisdiction of multiple countries, not just the U.S. Atlantic sea scallop fishery. The Population Viability Analysis conducted for the 2008 Biological Opinion, which specifically examined the effects of the scallop fishery on sea turtles in the North Atlantic, found that the mortality caused by the scallop fishery did not significantly alter the risk of extinction or quasi-extinction of loggerheads in the North Atlantic. The status review used the same nesting beach abundance data as the March 14, 2008, Biological Opinion, and the two documents identify the same key nesting beach and oceanic threats to survival and recovery of the species. Both documents utilized similar modeling techniques, and used the same nesting data. Because the status review's modeling exercise relied on essentially the same information that was used in the Biological Opinion, the status review does not provide new information that indicates effects of Framework 21 or the scallop fishery on loggerhead sea turtles, in a manner or to an extent not considered in the 2008 Biological Opinion. The comments made by Oceana related to the loggerhead sea turtle status review also presume the outcome of the agency process relating to making a future listing decision. If NMFS and the U.S. Fish and Wildlife Service (FWS) do make a final listing decision to list the Northwest Atlantic Distinct Population Segment of loggerhead sea turtles (as described in the status review and the proposed rule published on March 16, 2010 (75 FR 12597)), then reinitiation of consultation will be required. However, without such a final listing decision, NMFS does not consider the triggers for reinitiation of consultation to have been met. The publication of the status review in and of itself does not meet the triggers for reinitiation and, thus, by logical extension, there are no grounds for adjusting the RPMs or enacting any other restrictive measures relating to sea turtle protection.

NMFS has found that Framework 21 complies with the requirements of the RPM, and also meets the ESA criteria of having no more than minor impact on the fishery. Framework 21 includes measures to assure compliance with RPM #1 of the March 14, 2008 (amended February 5, 2009) Biological Opinion. This RPM stated that "NMFS must limit the amount of allocated scallop fishing effort by 'limited access scallop vessels' as such vessels are defined in the regulations (50 CFR 648.2), that can be used in the area and during the time of year when sea turtle distribution overlaps with scallop fishing activity." The non-discretionary Term and Condition that implements the RPM above mandates that "no later than the 2010 scallop FY, NMFS must limit the amount of allocated limited access scallop fishing effort that can be used in waters south of the northern boundaries of statistical areas 612, 613, 533, 534, 541–543 during the periods in which turtle takes have occurred. Restrictions on fishing effort described above shall be limited to a level that will not result in more than a minor impact on the fishery." The Council took these requirements into account throughout the development of Framework 21 and considered measures to limit effort in the Mid-Atlantic area from mid-June through the end of October that also would not result in more than a minor impact on the fishery. The measures ranged from limits on DAS or access area trips that could be used in that area and time

period, seasonal closures of access areas in the Mid-Atlantic, and reduced possession limits in Mid-Atlantic access areas.

After a number of discussions, the Council decided that Framework 21 measures would include a seasonal closure of the Delmarva access area and a limit on the number of Mid-Atlantic access area trips. The restrictions are intended to remove fishing effort during the time when effort overlaps with sea turtle distribution. The seasonal closure of the Delmarva access area takes place from September 1 through October 31. This measure will remove an estimated 563 DAS from the sea turtle window. Although this measure may increase the DAS needed to land the same amount of pounds of scallops in other areas, this increase in effort will take place in areas and at times of the year when sea turtles are less abundant in the action area. Limiting the number of Mid-Atlantic access area trips that can be taken during times when sea turtles are most abundant will likely benefit sea turtles. Each vessel is restricted to taking two of the three allocated access area trips in the Mid-Atlantic during June 15 to October 31. Since both Mid-Atlantic access areas are now closed from September 1 to October 31 to reduce impacts on sea turtles, the limit is applicable for June 15 through August 31. Limiting the maximum number of trips to two per vessel will move 358 DAS from the sea turtle window to the rest of the year, which constitutes a 3.5-percent effort shift. In summary, the combined measures will result in an 8.9-percent shift of effort from the sea turtle window (June 15–October 31) into the rest of the year, which is slightly below a threshold level suggested by the Scallop PDT (10 percent) for a minor change to the fishery based on the analyses prepared by the Scallop PDT for the RPM in Framework 21. Thus, the measures taken in Framework 21 meet the requirements of the RPM and Term and Condition in the March 14, 2008 (amended February 5, 2009) Biological Opinion in that they shift effort away from times and areas where the fishery and sea turtles overlap, but do not result in more than a minor impact on the fishery.

With respect to compliance with the ESA, NMFS has concluded that the operation of the scallop fishery under Framework 21 measures will not affect endangered and threatened species in a way that has not already been considered and analyzed. Considering all aspects of Framework 21, including the measures to implement the RPM and term and condition from the Biological Opinion and the F=0.24 target, overall fishing effort in the fishery will be reduced compared to that which would occur in the absence of Framework 21 and to that considered in the Biological Opinion. It is significant, also, that Framework 21 is a one-year measure only. The Council and NMFS will need to reconsider the adequacy of sea turtle measures for FYs beyond 2010, and, if there are any changes based on new information or a determination concerning the proposed listing, reintiation would be required and new measures may be appropriate.

Comment 4: Oceana commented that, by allowing fishing levels consistent with the F=0.24 target, Framework 21 fails to minimize bycatch of finfish and adverse effects on EFH. Oceana concluded that the amount of swept area would have been lower under a target F=0.20. This, Oceana concluded, means that Framework 21 does not minimize impacts on adverse impacts to the extent practicable to EFH. Oceana expressed concern that estimates of YTF bycatch are higher under the higher target F, and will likely have impacts on the fledgling sector management program for NE multispecies.

Response: As noted in Response to Comment 2, when the Council compares alternatives, there is no legal requirement to select the most restrictive alternative for implementation. The measures in Framework 21 achieve a variety of objectives, including preventing overfishing and achieving OY of scallops. This action must be put into perspective of the overall FMP, which contains more comprehensive analysis and consideration of bycatch and EFH concerns. This action merely makes adjustments to the FMP on a one-year basis and is limited in scope. In the process of achieving those FMP objectives, the Council and NMFS must only minimize adverse impacts on EFH and minimize bycatch to the extent practicable. The National Standard Guidelines for minimizing EFH impacts and bycatch explicitly acknowledge that social and economic impacts are important considerations in determining the practicablilty of EFH and bycatch reduction measures (*see* 50 CFR 600.350(d)(3) and 600.815(a)(2)(iii)). The Council and NMFS are also required to minimize the economic impacts when there are multiple alternatives that may be consistent with conservation objectives. NMFS has concluded that Framework 21 analyzes and balances these objectives and complies with all applicable legal requirements.

Comment 5: The FSF commented that the Framework 21 allocations based on the F=0.24 target are overly precautionary, and that at least one additional access area trip is justified based on levels of scallop abundance. The FSF criticized the Council for not considering an alternative that included an additional access area trip. However, FSF concluded that the recommended specifications are fully within the legal parameters established in the MSA and the National Standard 1 guidelines.

Response: The allocations for access areas and open areas combine to achieve the F=0.24 target. NMFS notes that allocating additional access area trips likely would have reduced open area DAS because of the additional mortality caused by fishing within Closed Area I or Closed Area II.

Comment 6: Oceana commented that Framework 21 establishes a level of fishing at the F=0.24 target that allows localized overfishing of the scallop resource, which is illegal. It further alleges that the Council was swayed by political pressure to select the F=0.24 target in order to reap short-term gains for the scallop fishery in FY 2010. Oceana encouraged NMFS to disapprove the F=0.24 strategy and substitute the more risk-averse and profitable F=0.20 strategy for FY 2010. Oceana commented that the F=0.24 strategy provides only minor short-term economic benefits for the fishery that come at a considerable cost to the ocean ecosystem, in violation of MSA requirements.

Response: The analysis of the impacts of Framework 21 management measures on the scallop resource demonstrate clearly that the F=0.24 target is not expected to result in overfishing and is expected to achieve OY on a continuing basis. The MSA requires overfishing to be prevented on the stock as a whole, and, in fact, the MSA does not define localized overfishing. The area rotation management program established by the FMP presumes that F will vary by area, depending upon the distribution of biomass. The analysis of economic impacts demonstrates that cumulative profits over several years may be marginally higher under the F=0.20 target, but the Council chose to adopt measures with marginally lower cumulative profits because of its concern about the negative economic, community, and social impacts that could have resulted in the first year of the management measures under F=0.20. There was great concern among some members of the public that the future return in landings and revenue under F=0.20 would not outweigh the risk of lost market share that could occur in FY 2010, particularly if a lower quota resulted in a ripple effect

throughout the major ports that could potentially affect business and fisheries outside of those directly tied to scallops. Should this occur, businesses currently impacted by the recent economic climate would have a difficult time recovering their losses in the future, regardless of whether the allocations increased after FY 2010. Ultimately, the Council considered that the longer-term benefits do not outweigh these short-term impacts. Although this action will have marginally smaller positive long-term economic impacts in comparison to the F=0.20 alternative, Framework 21 is only addressing the allocations for FY 2010. Future management measures in FY 2011 and beyond will affect these forecasts. NMFS finds that this is fully consistent with the MSA because Framework 21 measures under the F=0.24 alternative prevent overfishing the scallop stock, achieve OY on a continuing basis, and reduce negative impacts on fishing communities.

Comment 7: The FSF suggested that the final rule for Framework 21 clarify how ETAA trips will be addressed in FY 2011 if a vessel exceeds its Framework 21 two-trip allocation by taking three trips prior to the implementation of Framework 21, as allowed.

Response: NMFS has clarified that a vessel will lose one access area trip if it takes more than two trips allocated in the ETAA under Framework 21 prior to the effective date of Framework 21. It is not yet known whether the ETAA will be open as an access area in FY 2011. If the ETAA is open, the deduction would be taken from the FY 2011 ETAA allocation. If the ETAA is not open, vessel owners would be given the opportunity to select the access area from which the overage would be deducted, with NMFS determining the area, if the vessel owner fails to respond. This is consistent with the Framework 21 access area trip provisions described in Section 2.2.3 of the Framework 21 document.

Comment 8: The FSF urged NMFS to recalculate the conversion factor that would be used to convert unused NLAA access area trips into open area DAS if the area is closed due to attainment of the YTF TAC. The FSF believes that the FMP requires the 5.8 DAS given as compensation for an NLAA trip to be increased in order to assure that a vessel with unharvested poundage from the NLAA trip is able to harvest the full amount of 18,000 lb (8,165 kg) of scallops (the amount allocated for a full-time vessel trip into the NLAA).

Response: The FSF has incorrectly characterized the objective of the FMP measure that specifies that unused NLAA trips will be converted to open area DAS. This measure was initially established through Joint Framework 16/39 (69 FR 63460; November 2, 2004), which modified both the Sea Scallop and NE Multispecies FMPs and went into effect in FY 2005. The objective of the measure is not, as FSF states, to assure that vessels should be allocated DAS that are sufficient to fully harvest 18,000 lb (8,165 kg). The measure, which is described in Section 2.5.1.1 of Framework 21, was established to ensure that the transfer of fishing effort from the access area to the open area is conservation neutral. This calculation takes into account the expected average landings per DAS based on relative biomass and scallop size in open areas, compared to the NLAA. Framework 21 calculated that, in the NLAA, based on the F=0.24 target, the average NLAA scallop meat count will be 11.5 meats per lb—therefore 207,000 scallops (18,000 lb * 11.5) would be removed per trip. In the open areas, the average meat count will be 21.2 meats per lb, so that 207,000 scallops per trip correspond to 9,764 lb (4,429 kg) of scallops (207,000 lb/21.2 meats per lb). With an expected landings per unit effort of 1,693 lb (768 kg) per DAS, the open area DAS to harvest 9,764 lb (4,429 kg) is 5.77 DAS (9,764 lb/1,693 lb per DAS).

Comment 9: The FSF commented in support of the regulatory changes related to the industry funded observer program compensation rates for vessels that carry observers. The FSF supports the provision that requires observer service providers to prorate the observer coverage fee if the set aside is exhausted.

Response: The measures have been enacted through this action.

Changes From Proposed Rule to Final Rule

The section heading of § 648.10 is revised to correct an inadvertent change made through a previous action, paragraph (c)(1) is revised to clarify the current Vessel Monitoring System (VMS) regulations, and paragraph (f)(4) is revised to correctly reference the name of the required catch report for NGOM and LAGC vessels.

In § 648.11, paragraph (g)(5)(i)(A) is revised to clarify that observer service providers must charge a prorated fee when issuing an observer to a vessel on an access area trip after NMFS has announced that the observer set-aside for that specific access area has been fully utilized.

In § 648.14, paragraph (i)(4)(i) is revised to clarify that LAGC IFQ vessels may only exceed the possession and landing limit if granted observer compensation while carrying an observer in an access area.

Other editorial and minor changes were made throughout the rule to clarify various provisions in this action.

Classification

NMFS has determined that Framework 21 as implemented by this rule is necessary for the conservation and management of the Atlantic sea scallop fishery and is consistent with the MSA and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries has determined that the need to implement these measures in an expedited manner in order to help achieve conservation objectives for threatened and endangered sea turtles and certain fish stocks constitutes good cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness. Framework 21 includes management measures to minimize fishery interaction with threatened and endangered sea turtles and prevent overfishing. Specifically, Framework 21 includes a measure that specifies that vessels may take only two of their three allocated access area trips in the ETAA and Delmarva between June 15 and August 31, 2010. This limitation complies with one of the RPMs required in the most recent Biological Opinion completed for the scallop fishery. The Biological Opinion examined fishery interactions with threatened and endangered sea turtles and specified RPMs to minimize the impacts on sea turtles. If implementation is delayed greatly beyond June 15, 2010, sea turtle conservation benefits during this short window of time will be compromised.

In addition, if there is a delay in implementing the measures in Framework 21, the scallop fleet will continue under the current DAS, observer set-aside, access area trip allocations, and access area trip possession limits for part-time and occasional vessels. These allocations are higher than the measures specified in Framework 21, which were developed to reflect an updated estimate of the annual catch that can be harvested without resulting in overfishing. As a result, vessel owners and operators have the potential of exceeding the catch levels specified in Framework 21. Further continuation of the inconsistent FY 2009 management measures increases the risk that the actual F will exceed the target level upon which Framework 21 management measures are based. Actual F was higher than

projected in both FYs 2008 and 2009, a situation which was addressed in the DAS model used to calculate the Framework 21 allocations. Continuing this trend in higher-than-projected fishing mortality could result in overfishing and future decreases in allowable harvest.

NMFS was unable to incorporate the delay in effectiveness into the timeline for Framework 21 rulemaking due to the Council's January 2010 reconsideration and amendment of its initial Framework 21 recommendations, which were originally submitted to NMFS on December 21, 2009. The Council resubmitted the Framework 21 document with updated analyses to NMFS on March 19, 2010, after the March 1 start of the 2010 scallop FY.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), has completed a final regulatory flexibility analysis (FRFA) in support of Framework 21 in this final rule. The FRFA incorporates the IRFA, a summary of the significant issues raise by the public comments in response to the IRFA, and NMFS's responses to those comments, and a summary of the analyses prepared for Framework 21. This FRFA describes the economic impact that this final rule, along with non-adopted alternatives, will have on small entities. A copy of the IRFA, the RIR, and the EA are available upon request (*see* **ADDRESSES**).

Statement of Objective and Need for This Action

This action specifies the FY 2010 management measures for the Atlantic sea scallop fishery. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to the proposed and final rules and are not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The vessels in the Atlantic sea scallop fishery are all considered small business entities and, therefore, there is no disproportionate impact on small entities. All of the vessels grossed less than $3 M according to dealer data for the FYs 1994 through 2008. According to this information, annual total revenue, including revenue from species other than scallops, has averaged over $1 M per full-time limited access vessel since FY 2004. According to FY 2008 dealer data, total revenue per vessel, including revenue from species other than scallops, averaged $1,079,722 per full-time limited access vessel, and $135,378 per general category vessel.

Framework 21 measures affect all Federal scallop vessels. The Framework 21 document provides extensive information on the number and size of vessels and small businesses that would be affected by these measures, by port and State. In FY 2008 (the most recent complete FY for which data are complete), there were 321 full-time, 34 part-time, and 1 occasional limited access scallop permits issued, and 459 general category permits issued to vessels in the LAGC fishery. Amendment 11 to the FMP established a limited access fishery for general category vessels and the appeals and limited access permit process for the LAGC fleet was completed in January 2010. There are now 329 vessels that qualified for IFQ permits, 40 limited access vessels that qualified for IFQ permits, 107 vessels that qualified for NGOM permits, and 288 vessels that qualified for incidental permits.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

One commenter expressed concern about the economic impacts of the measures to comply with the Biological Opinion. The FSF noted that, while the measures meet the criteria of having no more than a minor impact on the fishery, they will have negative economic impacts on the scallop industry because they will divert fishing activity to sub-optimal times of the year, when scallop yields are lower. However, FSF recognized that the findings of the Biological Opinion impose legal duties on NMFS that must be addressed through Framework 21, and that the scallop fleet will have to bear the costs of the measures. No modifications to the proposed rule were made as a result of this comment. As FSF recognized, the Framework 21 analysis concluded that the measures would comply with the RPM specified in the Biological Opinion, and have no more than a minor impact on the fishery, as required by the ESA.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action contains no new collection-of-information, reporting, and recordkeeping requirements. It does not duplicate, overlap, or conflict with any other Federal law.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, 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 Which Affect the Impact on Small Entities Was Rejected

The analysis of the fleet-wide aggregate economic impacts indicate that the final DAS allocations will have slightly negative economic impacts on the revenues and profits of the scallop vessels in FY 2010, compared with the No Action alternative and compared to the levels in FYs 2008 and 2009. Because this action will reduce the open area DAS allocations from 42 DAS to 38 DAS for each full-time limited access vessel (with similar reductions, proportionally for part-time and occasional vessels), the total landings will decline by 6 percent in FY 2010, from $50 M under No Action to $47 M under this action, reducing FY 2010 revenues for an average vessel by about 2 percent. In comparison to FYs 2008 and 2009 average, the adopted action will result in a 14-percent decrease in landings, representing a 2.3-percent decrease in revenues. The percentage decline in revenues is less than the percentage decline in landings because the price per pound of scallops is estimated to be higher for the adopted action ($7.27 per lb) compared with No Action ($7.07 per lb), the price in FY 2008 ($6.92 per lb) and the price in FY 2009 ($6.45 per lb).

Although this action will produce slightly less revenue in FY 2010 compared to FYs 2008 and 2009, it will result in higher revenues for full-time limited access vessels from FY 2011 through FY 2016. This was also true of the non-selected alternatives.

Over the short term, from FY 2010 through FY 2016, the action's cumulative revenues are estimated to be slightly lower than the No Action revenues, by $9 M, representing a 0.3-percent decrease. However, the No Action alternative does not prevent overfishing and would result in suboptimal allocation of open area DAS and access area trips. Under the No Action alternative, there is no access into the NLAA, but the biomass in that area can support one trip. In addition, under No Action, open area DAS allocations would be higher than sustainable levels because there is no adjustment to reflect the present

conditions of biomass in those areas. For these reasons, the levels of exploitable biomass for the No Action alternative will be less than the levels for this action and all the other alternatives considered. Consequently, No Action would have long-term negative impacts on the scallop stock biomass, landings, revenues, and economic benefits of the scallop fishery. Over the long term (FYs 2010 to 2023), the alternative implemented by this rule will generate $53 M more in total revenues than the No Action alternative.

The non-selected Closure (F=0.20) and Closure (F=0.18) alternatives would allocate higher DAS (51 and 42 DAS, respectively) to full-time vessels than this action and would have had positive economic impacts on scallop vessels in FY 2010. However, these alternatives would have negative biological impacts because the new rotational area closure resulted in a higher area-swept estimate in the Mid-Atlantic open area, which may have impacts on non-target species in those areas and increase the possibility of localized overfishing in open areas. If these negative biological impacts were to occur as a result of the Closure (F=0.18) or Closure (F=0.20) alternatives, more stringent measures would have to be taken in the future to reduce effort, with potentially negative impacts on the scallop vessels. Therefore, these alternatives are not expected to generate higher benefits for the scallop vessels in the long term, compared to this action.

The revenue for an average full-time limited access vessel is estimated to be $931,799 for this action, which ranges from $108,152 to $18,661 lower than the Closure (F=0.18), Closure (F=0.20), and No Action alternatives. However, because this action will allocate fewer open area DAS in FY 2010 compared to these three alternatives, and also will allocate access area trips in more productive areas compared to No Action, the trip costs would be comparatively reduced. The average trip costs per vessel ($111,621) would decline by a range of 20 to 9 percent in comparison to the higher DAS alternatives. The allowance for carry-over DAS is another factor that could mitigate some of the negative impacts of this action on vessel revenues and profits in FY 2010. Vessels may save up to 10 of their open area DAS in FY 2009 to mitigate the slightly smaller FY 2010 DAS allocations compared to No Action, Closure (F=0.18), or Closure (F=0.20) alternatives.

Although the No Closure (F=0.20) alternative would produce the marginally greater benefits over the long term compared to the selected alternatives, it would result in a 13-percent and 11-percent loss in FY 2010 average annual revenue compared to No Action and this action, respectively. This action would result in average FY 2010 revenues that are $109,563 greater than the No Closure (F=0.20) alternative. This action yields 5.8 M lb (2.6 M kg) more in 2010 than the No Closure (F=0.20) alternative, which equates to an increase in $41 M in ex-vessel revenues. In consideration of the FY 2010 economic benefits under this action, the future return in landings and revenue under No Closure (F=0.20), representing an increase in 10.3 M lb (4.7 M kg) and $58 M over FYs 2011–2016, does not outweigh the risk of lost market share that could occur in FY 2010, particularly if a lower quota results in a ripple effect throughout the major ports that could potentially affect business and fisheries outside of those directly tied to scallops. Should this occur, businesses currently impacted by the recent economic climate would have a difficult time recovering their losses in the future, regardless of whether the allocations increased after FY 2010. This action also minimizes impacts on the fishery by helping to stabilize landings from year to year (*i.e.,* between FY 2009 and FY 2011) compared to other alternatives considered. In addition, although this action will have marginally smaller positive long-term economic impacts in comparison to the No Closure (F=0.20) alternative, Framework 21 is only addressing the allocations for FY 2010. Future management measures in FY 2011 and beyond will affect these forecasts.

Under all alternatives, including No Action, the LAGC fleet is allocated 5 percent of the TAC. This means the relative comparison of this action to the other alternatives is similar to the comparison for the limited access fleet. For example, similar to full-time limited access vessels, the revenues of LAGC vessels are expected to be 2 percent lower under this action than under No Action in FY 2010.

Compared to FYs 2008 and 2009, however, the revenues of LAGC vessels will decline by a larger percentage due to the implementation of the IFQ program, as required by Amendment 11 to the FMP. The total scallop revenue for the general category fishery was estimated to be $30.8 M for FY 2008 and $29.6 M for FY 2009, averaging $30.2 M across both FYs. During FYs 2008 and 2009, the LAGC fishery was under a transition period while the final decisions for IFQ permit appeals were determined. The transition period allocated 10 percent of the TAC to LAGC IFQ vessels, as well as vessels that were granted a letter of authorization to fish for scallops while their IFQ permit applications were under appeal. FY 2010 marks the first year that the IFQ program is in effect, and LAGC IFQ vessels are now allocated 5 percent of the TAC. As a result, revenues for LAGC vessels under this action are projected to be $17 M, representing a 43-percent decline. The short- and long-term economic impacts of allocating 5 percent of the total TAC to LAGC vessels were analyzed in Amendment 11 to the FMP. The economic impacts of the LAGC TAC are within the range of the impacts previously analyzed in Amendment 11.

This action will have positive economic impacts for the LAGC fishery starting in FY 2011, as the LAGC TAC is expected to increase compared to the FY 2010 allocation.

Other Framework 21 measures, such as observer program improvements, IFQ program improvements, NGOM hard TAC, and YTF TAC adjustments are expected to provide additional positive impacts by providing vessels the opportunity to reduce fishing costs and increase revenues from scallop fishing.

Economic Impacts of the Final Action

The following describes all of the alternatives considered by the Council.

1. Open Area DAS Adjustment if Access Area YTF TAC Is Attained

This action maintains a provision that allocates additional open area DAS if an access area closes due to the attainment of the scallop YTF TAC. This will continue the current measures with the same impacts as the No Action alternative. This conversion will help to minimize lost catch and revenue if the NLAA closes due to the full harvest of the YTF quota. As a result, this measure will have positive economic impacts on scallop vessels, although the scallop pounds per trip could be lower than the allocated pounds for NLAA trips due to proration to assure that the measure is conservation neutral. There were no alternatives considered to address this issue that would generate higher economic benefits for the participants of the scallop fishery.

2. Research and Observer Set-Aside TACs

This action will continue to set aside 2 percent of the scallop TAC for the RSA program and 1 percent of the scallop TAC for the industry-funded observer set-aside program. These set-asides are expected to have indirect economic benefits for the scallop fishery by improving scallop information and data made possible by research and the

observer program. Although allocating higher set-aside percentages could result in higher indirect benefits to the scallop fleet by increasing available funds for research and the observer program, these set-aside increases could decrease direct economic benefits to the fishery by reducing revenues, and no such alternatives were considered.

3. Access Area Management

This action will allow access into both ETAA and Delmarva for both the limited access DAS and LAGC fleets. By itself, allocations for these highly productive areas in FY 2010 will have positive economic impacts on both limited access and LAGC vessels. The only alternative that would have generated higher benefits than the proposed action is the No Action alternative, which would have allocated three trips to ETAA, rather than two trips. This number of trips is higher than the projected biomass in that area can support. As a result, the No Action alternative would have had negative impacts on the biomass and yield from the ETAA after FY 2010. As occurred in the Hudson Canyon Access Area in FY 2005, excessive harvest in an access area can lead to rapid, almost immediate, depletion of the area's resource, leading to poor catch rates and elevated fishing costs.

This action will allocate one access area trip into the NLAA. All alternatives considered, with the exception of No Action, included this trip allocation. The biomass in this area is estimated to be high, and trip costs will be lower, because the same amount of scallops could be landed in a shorter time frame compared to areas with lower scallop abundance. Providing access to high abundance areas will help increase yield, landings, and revenues from the fishery both in the short- and long-term, benefiting both limited access and LAGC vessels that participate in the scallop fishery. Because there is no trip allocation to the NLAA area under No Action, economic benefits would have been lower both in the short- and long-term compared to the adopted alternative, and other alternatives considered.

4. NGOM Hard TAC

This action establishes a 70,000-lb (31,751-kg) TAC for the NGOM. This is the same TAC as the No Action alternative and all other alternatives. The FMP specifies that the NGOM TAC should be based on historic landings levels until the stock in the NGOM can be assessed formally, and there has been no stock assessment to date. The NGOM TAC has been specified at this level since FY 2008, and the fishery has harvested less than 15 percent of the TAC in each of those years; therefore, the TAC has no negative economic impacts.

5. Allow LAGC IFQ Vessel or CPH Owners To Lease Some or All of Their IFQ

This action allows LAGC IFQ vessels owners (or IFQ CPH owners) to lease some or all of their IFQ allocations to other vessels during a given FY. This action will provide increased flexibility for LAGC IFQ vessel owners, who, to date, are required to lease the entirety of their IFQ allocations. This measure will have positive impacts on vessel revenues and profits. The only other alternative was the No Action alternative, which would have required that vessel owners continue to lease unused quota allocations in full.

6. Reasonable and Prudent Measures

This action will close the Delmarva access area in September and October and will limit the maximum number of trips (two per full-time vessel) that can be taken in the Mid-Atlantic areas from June 15 to August 31. Because fishing effort is shifted to a relatively less productive season, total fleet trip costs are expected to increase slightly (*i.e.,* less than 0.2 percent) due to reduced scallop catch rates. Since there is no change in the scallop possession limit, the trips that are shifted from this season are expected to be taken outside of this time period, without a loss in total revenue, as long as this adopted measure does not have a negative impact on prices. The closure in the Delmarva access area from September 1 through October 31 applies to all scallop vessels, including LAGC IFQ vessels. This measure is not expected to affect the LAGC fleet specifically, since the access area trips for this fleet are allocated as a fleet-wide number of trips, and tend to be used outside of the closure period. No other alternatives considered would generate higher benefits for the scallop vessels, other than the No Action alternative. The No Action alternative, however, would not comply with the RPMs specified in the Biological Opinion. This measure is expected to minimize the effort shift from the given time period compared to the other alternatives considered by the Council; thus, there are no other alternatives that would generate higher benefits for the scallop vessels.

7. Limit the Amount of Observer Compensation for LAGC Vessels in Access Areas

This action will limit the total amount of observer compensation LAGC IFQ vessels may receive on observed trips in access areas to the equivalent of 1 day's compensation, regardless of trip length. The No Action alternative would continue to provide LAGC IFQ vessels observer compensation on a daily basis and would generate higher benefits for the scallop vessels while the observer set-aside is available. This, however, may exhaust the set-aside TAC before the end of the FY. The current LAGC IFQ access area observer compensation contributed to fully harvesting the FY 2009 observer set-aside earlier than anticipated. This had negative impacts fleet-wide because vessels had to provide full payment to observers without available observer compensation after the observer set-aside was exhausted. These negative impacts were not equally distributed across the fleet.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guild (the guide) was prepared. Copies of this final rule are available from the Northeast Regional Office, and the guide, *i.e.,* permit holder letter, will be sent to all holders of permits for the scallop fishery. The guide and this final rule will be available upon request.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: June 22, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, 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 § 648.10, revise the section heading and paragraphs (c)(1) and (f)(4) to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(c) * * *

(1) Except as provided in paragraph (c)(2) of this section, or unless otherwise required by paragraph (c)(1)(ii) of this section, all vessels required to use VMS units, as specified in paragraph (b) of this section, must transmit a signal indicating the vessel's accurate position, as specified under paragraph (c)(1)(i) of this section:

(i) At least every hour, 24 hr a day, throughout the year; or

(ii) At least twice per hour, 24 hr a day, throughout the year, for vessels issued a scallop permit.

* * * * *

(f) * * *

(4) *Catch reports.* (i) All scallop vessels fishing in the Sea Scallop Area Access Program as described in § 648.60 are required to submit daily reports, through VMS, of scallops kept and yellowtail flounder caught (including discarded yellowtail flounder) on each Access Area trip. The VMS catch reporting requirements are specified in § 648.60(a)(9).

(ii) *Scallop Pre-Landing Catch Reports for IFQ and NGOM vessels.* Using the Scallop Pre-Landing Catch Report, a vessel issued an IFQ or NGOM scallop permit must report through VMS the amount of any scallops kept on each trip declared as a scallop trip, including declared scallop trips where no scallops were landed. In addition, vessels with an IFQ or NGOM permit must submit a Scallop Pre-Landing Catch Report on trips that are not declared as scallop trips, but on which scallops are kept incidentally. A limited access vessel that also holds an IFQ or NGOM permit must submit the Scallop Pre-Landing Catch Report only when fishing under the provisions of the vessel's IFQ or NGOM permit. VMS Scallop Pre-Landing Notification forms must be submitted no less than 6 hr prior to crossing the VMS Demarcation Line on the way back to port, and must include the amount of scallop meats or bushels to be landed, the estimated time of arrival in port, the port at which the scallops will be landed, and the VTR serial number recorded from that trip's VTR. If the scallop harvest ends less than 6 hr prior to landing, then the Scallop Pre-Landing Catch Report must be submitted immediately upon leaving the fishing grounds.

* * * * *

■ 3. In § 648.11, revise paragraph (g)(5)(i)(A) to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(g) * * *

(5) * * *

(i) * * *

(A) *Access Area Trips.* (*1*) For purposes of determining the daily rate for an observed scallop trip in a Sea Scallop Access Area when that specific Access Area's observer set-aside specified in § 648.60(d)(1) has not been fully utilized, a service provider shall charge a vessel owner from the time an observer boards a vessel until the vessel disembarks (dock to dock), where "day" is defined as a 24-hr period, or any portion of a 24-hr period, regardless of the calendar day. For example, if a vessel with an observer departs on July 1 at 10 p.m. and lands on July 3 at 1 a.m., the time at sea equals 27 hr, which would equate to 2 full "days."

(*2*) For purposes of determining the daily rate in a specific Sea Scallop Access Area for observed scallop trips taken after NMFS has announced the industry-funded observer set-aside in that specific Access Area has been fully utilized, a service provider shall charge a vessel owner from the time an observer boards a vessel until the vessel disembarks (dock to dock), where "day" is defined as a 24-hr period, and portions of the other days would be pro-rated at an hourly charge (taking the daily rate divided by 24). For example, if a vessel with an observer departs on July 1 at 10 p.m. and lands on July 3 at 1 a.m., the time spent at sea equals 27 hr, so the provider shall charge 1 day and 3 hr.

* * * * *

■ 4. In § 648.14, paragraphs (i)(2)(vi)(F) and (G) are added, paragraph (i)(4)(i) is revised, and paragraph (i)(4)(iii)(F) is removed and reserved.

The additions and revision read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(2) * * *

(vi) * * *

(F) Declare more than two access area trips into the Delmarva and Elephant Trunk Access Areas, as specified in § 648.59(a) and (e), during the period June 15 through August 31, unless at least one trip is terminated early and trips in excess of two are declared compensation trips authorized under § 648.60(c); and

(G) Vessels do not fish for, possess, or retain more than a combined total of 36,000 lb (16,329 kg) of scallops from the Delmarva and Elephant Trunk Access Areas specified in § 648.59(a) and (e) during the period June 15 through August 31. This restriction does not include the additional possession allowance to defray the cost of carrying an observer, as specified in § 648.60(d), that occurs during observed trips between June 15 and August 31.

* * * * *

(4) * * *

(i) *Possession and landing.* (A) Fish for or land per trip, or possess at any time, in excess of 400 lb (181.4 kg) of shucked scallops, unless the vessel is carrying an observer as specified in § 648.11 while participating in the Area Access Program specified in § 648.60, and an increase in the possession limit is authorized by the Regional Administrator and not exceeded by the vessel, as specified in §§ 648.52(g) and 648.60(d)(2).

* * * * *

■ 5. In § 648.52, paragraphs (a) and (f) are revised, and paragraph (g) is added to read as follows:

§ 648.52 Possession and landing limits.

(a) A vessel issued an IFQ scallop permit that is declared into the IFQ scallop fishery as specified in § 648.10(b), unless as specified in paragraph (g) of this section or exempted under the State waters exemption program described in § 648.54, may not possess or land, per trip, more than 400 lb (181.4 kg) of shucked scallops, or possess more than 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 100 bu (35.2 hL) of in-shell scallops seaward of the VMS demarcation line on a properly declared IFQ scallop trip.

* * * * *

(f) A vessel that is declared into the Sea Scallop Area Access Program as described in § 648.60, may not possess more than 50 bu (17.6 hL) of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

(g) *Possession limit to defray the cost of observers in Access Areas for LAGC IFQ vessels.* An LAGC IFQ vessel with an observer on board may retain, per observed trip, up to 1 day's allowance of the possession limit allocated to limited access vessels, as established by the Regional Administrator in accordance with § 648.60(d), provided the observer set-aside specified in § 648.60(d)(1) has not been fully utilized. For example, if the limited access vessel daily possession limit to

defray the cost of an observer is 180 lb (82 kg), the LAGC IFQ possession limit to defray the cost of an observer would be 180 lb (82 kg) per trip, regardless of trip length.

■ 6. In § 648.53:

■ a. The section heading is revised;

■ b. Paragraphs (a)(1), (a)(4)(i), (a)(5), (a)(9), (b)(1), (b)(4), (b)(5)(i), (g)(1), (g)(2), (h)(2) introductory text, (h)(5)(i), (h)(5)(iii), (h)(5)(iv)(A), (h)(5)(iv)(B), and (h)(5)(iv)(C) are revised; and

■ c. Paragraphs (a)(2), (a)(4)(ii), (a)(7), (a)(8), and (b)(5)(ii) are removed and reserved.

The revisions read as follows:

§ 648.53 Target total allowable catch, DAS allocations, and Individual Fishing Quotas.

(a) * * *

(1) *2010 fishing year target TAC for scallop fishery.* The 2010 fishing year TAC is 21,445 mt, 94.5 percent of which shall be allocated to the limited access fishery, 5 percent of which shall be allocated to IFQ scallop vessels, and 0.5 percent of which shall be issued to limited access vessels also issued IFQ scallop permits and that are fishing under general category regulations. These percentages reflect the TAC allocations prior to the deduction of set-asides for observer coverage and research.

* * * * *

(4) * * *

(i) *2010 fishing year.* The target TAC for limited access vessels fishing under the scallop DAS program specified in this section is 10,330 mt, including open area DAS for observer and research set-aside TACs.

* * * * *

(5) *TACs for IFQ scallop vessels.* The TACs specified in this paragraph (a)(5) have accounted for the access area set-asides specified in § 648.60(d) and (e).

(i) *IFQ vessels without a limited access scallop permit.* For the 2010 fishing year, such vessels are allocated 1,055 mt, which includes both the open area TAC (547 mt) and the access area TACs specified in § 648.59.

(ii) *IFQ scallop vessels with a limited access scallop permit.* Such vessels that are fishing under an IFQ scallop permit outside of the scallop DAS and Area Access programs as a limited access vessel shall be allocated 0.5 percent of the annual target TAC specified in accordance with this paragraph (a). For the 2010 fishing year, the IFQ TAC for IFQ vessels with a limited access scallop permit is 106 mt.

* * * * *

(9) *Scallop incidental catch target TAC.* The 2010 incidental catch target TAC for vessels with incidental catch scallop permits is 50,000 lb (22,680 kg).

(b) * * *

(1) Total DAS to be used in all areas other than those specified in § 648.59 shall be specified through the framework adjustment process, as specified in § 648.55, using the target TAC for open areas specified in paragraph (a) of this section and estimated catch per unit effort. The total DAS for 2010 are 13,324. After accounting for applicable set-asides, the total DAS allocated the limited access fishery are 12,920.

* * * * *

(4) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(4) (Full-time, Part-time, or Occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category. A vessel whose owner/operator has declared out of the scallop fishery, pursuant to the provisions of § 648.10, or that has used up its maximum allocated DAS, may leave port without being assessed a DAS, as long as it has made an appropriate VMS declaration, as specified in § 648.10(f), does not fish for or land per trip, or possess at any time, more than 400 lb (181.4 kg) of shucked or 50 bu (17.6 hL) of in-shell scallops, and complies with all other requirements of this part. The annual open area DAS allocations for each category of vessel for the fishing years indicated, after deducting DAS for observer and research DAS set-asides, are as follows:

DAS category	2010
Full-time	38
Part-time	15
Occasional	3

(i) A limited access vessel that lawfully uses more open area DAS in the 2010 fishing year than specified in this section shall have the DAS used in excess of the 2010 allocation specified in this paragraph (b)(4) deducted from its 2011 open area DAS allocation.

(ii) [Reserved]

(5) * * *

(i) When the Nantucket Lightship Access Area closes due to the yellowtail flounder bycatch TAC, for each remaining complete trip in the Nantucket Lightship Access Area, a full-time vessel may fish an additional 5.8 DAS in open areas, a part-time vessel may fish an additional 4.6 DAS in open areas, and an occasional vessel may fish an additional 1.9 DAS during the same fishing year. A complete trip is deemed to be a trip that is not subject to a reduced possession limit under the broken trip provision in § 648.60(c). If a vessel has unused broken trip compensation trip(s), as specified in § 648.60(c), when the Nantucket Lightship Access Area closes due to the yellowtail flounder bycatch TAC, it will be issued additional DAS in proportion to the unharvested possession limit. For example, if a full-time vessel had an unused 9,000-lb (4,082-kg) Nantucket Lightship Access Area compensation trip (half of the possession limit) at the time of a Nantucket Lightship Access Area yellowtail flounder bycatch TAC closure, the vessel would be allocated 2.9 DAS (half of 5.8 DAS).

* * * * *

(g) * * *

(1) *DAS set-aside for observer coverage.* As specified in paragraph (b)(2) of this section, to help defray the cost of carrying an observer, 1 percent of the total DAS specified in paragraph (b)(1) of this section shall be set aside from the total DAS available for allocation, to be used by vessels that are assigned to take an at-sea observer on a trip other than an Area Access Program trip. The DAS set-aside for observer coverage is 135 DAS for the 2010 fishing year. Vessels carrying an observer shall be compensated with reduced DAS accrual rates for each trip on which the vessel carries an observer. For each DAS that a vessel fishes for scallops with an observer on board, the DAS shall be charged at a reduced rate, based on an adjustment factor determined by the Regional Administrator on an annual basis, dependent on the cost of observers, catch rates, and amount of available DAS set-aside. The Regional Administrator shall notify vessel owners of the cost of observers and the DAS adjustment factor through a permit holder letter issued prior to the start of each fishing year. This DAS adjustment factor may also be changed during the fishing year if fishery conditions warrant such a change. The number of DAS that are deducted from each trip based on the adjustment factor shall be deducted from the observer DAS set-aside amount in the applicable fishing year. Utilization of the DAS set-aside shall be on a first-come, first-served basis. When the DAS set-aside for observer coverage has been utilized, vessel owners shall be notified that no additional DAS remain available to offset the cost of carrying observers. The obligation to carry and pay for an observer shall not be waived due to the absence of set-aside DAS allocations.

(2) *DAS set-aside for research.* As specified in paragraph (b)(2) of this section, to help support the activities of vessels participating in certain research,

as specified in § 648.56, the DAS set-aside for research is 269 DAS for the 2010 fishing year.

(h) * * *

(2) *Calculation of IFQ.* The total allowable catch allocated to IFQ scallop vessels, and the TAC allocated to limited access scallop vessels issued IFQ scallop permits, as specified in paragraphs (a)(5)(i) and (ii) of this section, shall be used to determine the IFQ of each vessel issued an IFQ scallop permit. Each fishing year, the Regional Administrator shall provide the owner of a vessel issued an IFQ scallop permit issued pursuant to § 648.4(a)(2)(ii) with the scallop IFQ for the vessel for the upcoming fishing year.

* * * * *

(5) * * *

(i) *Temporary IFQ transfers.* Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel not issued a limited access scallop permit may temporarily transfer its entire IFQ allocation, or a portion of its IFQ allocation, to another IFQ scallop vessel. Temporary IFQ transfers shall be effective only for the fishing year in which the temporary transfer is requested and processed. IFQ can be transferred only once during a given fishing year. Temporary IFQ transfers must be in the amount of at least 100 lb (45 kg), or the entire allocation may be transferred to another vessel. If a vessel has previously transferred a portion of its IFQ and the remaining allocation is less than 100 lb (45 kg), the remaining IFQ may be transferred in full to another vessel. The Regional Administrator has final approval authority for all temporary IFQ transfer requests.

* * * * *

(iii) *IFQ transfer restrictions.* The owner of an IFQ scallop vessel not issued a limited access scallop permit that has fished under its IFQ in a fishing year may not transfer that vessel's IFQ to another IFQ scallop vessel in the same fishing year. IFQ can be transferred only once during a given fishing year. A transfer of an IFQ may not result in the sum of the IFQs on the receiving vessel exceeding 2 percent of the TAC allocated to IFQ scallop vessels. A transfer of an IFQ, whether temporary or permanent, may not result in the transferee having a total ownership of or interest in general category scallop allocation that exceeds 5 percent of the TAC allocated to IFQ scallop vessels. Limited access scallop vessels that are also issued an IFQ scallop permit may not transfer or receive IFQ from another IFQ scallop vessel.

(iv) * * *

(A) *Application information requirements.* An application to transfer IFQ must contain at least the following information: Transferor's name, vessel name, permit number, and official number or State registration number; transferee's name, vessel name, permit number, and official number or State registration number; total price paid for purchased IFQ; signatures of transferor and transferee; and date the form was completed. In addition, applications to temporarily transfer IFQ must indicate the amount, in pounds, of the IFQ allocation transfer, which may not be in increments of less than 100 lb (45 kg) unless that value reflects the total IFQ allocation remaining on the transferor's vessel, or the entire allocation. Information obtained from the transfer application will be held confidential, and will be used only in summarized form for management of the fishery. If applicable, an application for a permanent IFQ transfer must be accompanied by verification, in writing, that the transferor either has requested cancellation of all other limited access Federal fishing permits, or has applied for a transfer of all of its limited access permits in accordance with the vessel replacement restrictions under § 648.4.

(B) *Approval of IFQ transfer applications.* Unless an application to transfer IFQ is denied according to paragraph (h)(5)(iii)(C) of this section, the Regional Administrator shall issue confirmation of application approval to both parties involved in the transfer within 30 days of receipt of an application.

(C) *Denial of transfer application.* The Regional Administrator may reject an application to transfer IFQ for the following reasons: The application is incomplete; the transferor or transferee does not possess a valid limited access general category permit; the transferor's vessel has fished under its IFQ prior to the completion of the transfer request; the transferor's or transferee's vessel or IFQ scallop permit has been sanctioned, pursuant to a final administrative decision or settlement of an enforcement proceeding; the transfer will result in the transferee's vessel having an allocation that exceeds 2 percent of the TAC allocated to IFQ scallop vessels; the transfer will result in the transferee having a total ownership of or interest in general category scallop allocation that exceeds 5 percent of the TAC allocated to IFQ scallop vessels; or any other failure to meet the requirements of this subpart. Upon denial of an application to transfer IFQ, the Regional Administrator shall send a letter to the applicants describing the reason(s) for the rejection. The decision, by the Regional Administrator is the final agency decision and there is no opportunity to appeal the Regional Administrator's decision.

§ 648.58 [Amended]

■ 7. In § 648.58, paragraph (b) is removed and reserved.

■ 8. In § 648.59:

■ a. Paragraphs (a)(4), (b)(5)(ii)(D), (c)(5)(ii)(D), and (d)(5)(ii)(D) are added; and

■ b. Paragraphs (a)(1), (a)(3), (b)(1), (b)(2), (b)(5)(i), (b)(5)(ii)(A), (b)(5)(ii)(B), (c)(1), (c)(2), (c)(5)(i), (c)(5)(ii)(A), (c)(5)(ii)(B), (d)(1), (d)(2), (d)(5)(i), (d)(5)(ii)(A), (d)(5)(ii)(B), and (e)(4) are revised.

The additions and revisions read as follows.

§ 648.59 Sea Scallop Access Areas.

(a) * * *

(1) From March 1, 2010, through February 28, 2011, and subject to the seasonal restriction specified in paragraph (a)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from the area known as the Delmarva Sea Scallop Access Area, described in paragraph (a)(2) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

* * * * *

(3) *Number of trips*—(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Delmarva Access Area as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Delmarva Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Delmarva Access Area trip that was terminated early, as specified in § 648.60(c). Additionally, limited access full-time scallop vessels are restricted in the number of trips that may be taken from June 15 through August 31, as specified in § 648.60(a)(3)(i)(B)(*1*). The number of trips allocated to limited access vessels in the Delmarva Access Area shall be based on the TAC for the access area, which shall be determined through the annual framework process and specified in paragraph (a)(5)(i) of this section. The 2010 Delmarva Access Area scallop TAC for limited access scallop vessels is 5,394,485 lb (2,447

mt), after accounting for applicable set-asides and LAGC IFQ TAC.

(ii) *LAGC IFQ scallop vessels*—(A) The percentage of the Delmarva Access Area TAC to be allocated to LAGC IFQ scallop vessels shall be specified in this paragraph (a)(3)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC IFQ scallop vessels as specified in paragraph (a)(3)(ii)(B) of this section. LAGC IFQ vessels will be allocated 285,423 lb (129 mt) in fishing year 2010, which is 5 percent of the 2010 Delmarva Access Area TAC, after set-asides have been deducted. This TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit.

(B) Based on the TAC specified in paragraph (a)(4)(ii)(A) of this section, LAGC scallop vessels are allocated 714 trips to the Delmarva Access Area in fishing year 2010. This fleet-wide trip allocation applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. The Regional Administrator shall notify all LAGC IFQ scallop vessels of the date when 714 trips have been, or are projected to be, taken by providing notification in the **Federal Register**, in accordance with § 648.60(g)(4). An LAGC IFQ scallop vessel may not fish for, possess, or land sea scallops in or from the Delmarva Access Area, or enter the Delmarva Access Area on a declared LAGC IFQ scallop trip after the effective date published in the **Federal Register**, unless transiting pursuant to paragraph (f) of this section.

(C) Scallops landed by each LAGC IFQ vessel on a Delmarva Access Area trip shall count against that vessel's IFQ.

(4) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Delmarva Sea Scallop Access Area, described in paragraph (a)(2) of this section, from September 1 through October 31 of each year the Delmarva Access Area is open to scallop fishing as a Sea Scallop Access Area, except that a vessel may possess scallops while transiting pursuant to paragraph (f) of this section.

(b) * * *

(1) From March 1, 2010, through February 28, 2011, and every third fishing year thereafter (*i.e.,* March 1, 2013, through February 28, 2014) vessels issued scallop permits may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, unless transiting pursuant to paragraph (f) of this section. Vessels issued both a NE Multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85, and under multispecies DAS in the scallop access area, provided they comply with restrictions in paragraph (b)(5)(ii)(C) of this section.

(2) From March 1, 2011, through February 28, 2013, and for every 2-yr period, based on the fishing year, after the closure described in paragraph (b)(1) of this section (*i.e.,* March 1, 2014, through February 29, 2016), and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, a vessel issued a scallop permit may fish for, possess, and land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

* * * * *

(5) * * *

(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area I Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area I Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area I Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area I Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (b)(5)(i). Closed Area I Access Area is closed to limited access vessels for the 2010 fishing year.

(ii) * * *

(A) The percentage of the Closed Area I Access Area TAC to be allocated to LAGC scallop vessels shall be specified in this paragraph (b)(5)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC scallop vessels as specified in paragraph (b)(5)(ii)(B) of this section. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. The Closed Area I Access Area shall be closed to LAGC IFQ vessels in the 2010 fishing year.

(B) The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips for the applicable fishing year have been, or are projected to be, taken by providing notification in the **Federal Register**, in accordance with § 648.60(g)(4). Except as provided in paragraph (b)(5)(ii)(C) of this section, and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Closed Area I Access Area, or enter the Closed Area I Access Area on a declared LAGC scallop trip after the effective date published in the **Federal Register**, unless transiting pursuant to paragraph (f) of this section.

* * * * *

(D) Scallops landed by each LAGC IFQ vessel on a Closed Area I Access Area trip shall count against that vessel's IFQ.

(c) * * *

(1) From March 1, 2010, through February 28, 2011, and every third fishing year thereafter, (*i.e.,* March 1, 2013, through February 28, 2014) vessels issued scallop permits may not fish for, possess, or land scallops in or from, the area known as the Closed Area II Access Area, described in paragraph (c)(3) of this section, unless transiting pursuant to paragraph (f) of this section. Vessels issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, provided they comply with restrictions in paragraph (c)(5)(ii)(C) of this section.

(2) From March 1, 2011, through February 28, 2013, and for every 2-yr period, based on the fishing year, after the year-long closure described in paragraph (c)(1) of this section (*i.e.,* March 1, 2014, through February 29, 2016), and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from, the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

* * * * *

(5) * * *

(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area II Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area II Access Area trip and gives up a trip into another Sea Scallop Access Area, as

specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area II Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area II Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (c)(5)(i). Closed Area II Access Area is closed to limited access vessels for the 2010 fishing year.

(ii) * * *

(A) The percentage of the total Closed Area II Access Area TAC specified to be allocated to LAGC IFQ scallop vessels shall be specified in this paragraph (c)(5)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to IFQ LAGC scallop vessels as specified in paragraph (c)(5)(ii)(B) of this section. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits. The Closed Area II Access Area is closed to LAGC IFQ vessels in the 2010 fishing year.

(B) The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips for the applicable fishing year have been, or are projected to be, taken by providing notification in the **Federal Register**, in accordance with § 648.60(g)(4). Except as provided in paragraph (c)(5)(ii)(C) of this section, and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Closed Area II Access Area, or enter the Closed Area II Access Area on a declared LAGC scallop trip after the effective date published in the **Federal Register**, unless transiting pursuant to paragraph (f) of this section.

* * * * *

(D) Scallops landed by each LAGC IFQ vessel on a Closed Area II Access Area trip shall count against that vessel's IFQ.

* * * * *

(d) * * *

(1) From March 1, 2012, through February 28, 2013, and every third fishing year thereafter (*i.e.,* March 1, 2015, through February 29, 2016) vessels issued scallop permits may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Access Area, described in paragraph (d)(3) of this section, unless transiting pursuant to paragraph (f) of this section. Vessels issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85, and under multispecies DAS in the scallop access area, provided they comply with restrictions in paragraph (d)(5)(ii)(C) of this section.

(2) From March 1, 2010, through February 29, 2012, and for every 2-yr period after the year-long closure described in paragraph (d)(1) of this section (*i.e.,* March 1, 2013, through February 28, 2015), and subject to the seasonal restrictions specified in paragraph (d)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Sea Scallop Access Area, described in paragraph (d)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

* * * * *

(5) * * *

(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Nantucket Lightship Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Nantucket Lightship Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Nantucket Lightship Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Nantucket Lightship Access Area shall be based on the TAC for the access area. The 2010 Nantucket Lightship Access Area scallop TAC for limited access scallop vessels is 5,399,985 lb (2,449 mt), after accounting for set-asides applicable and LAGC IFQ TAC to the Nantucket Lightship Access Area.

(ii) * * *

(A) The percentage of the Nantucket Lightship Access Area TAC to be allocated to LAGC IFQ scallop vessels shall be specified in this paragraph (d)(5)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC IFQ scallop vessels as specified in paragraph (d)(5)(ii)(B) of this section. LAGC IFQ vessels are allocated 285,715 lb (130 mt) in fishing year 2010, which is 5 percent of the 2010 Nantucket Lightship Access Area TAC, after accounting for all applicable set-asides. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit.

(B) Based on the TAC specified in paragraph (d)(5)(ii)(A) of this section, LAGC scallop vessels are allocated 714 trips to the Nantucket Lightship Access Area in fishing year 2010. This fleet-wide trip allocation applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. The Regional Administrator shall notify all LAGC IFQ scallop vessels of the date when 714 trips have been, or are projected to be, taken by providing notification in the **Federal Register**, in accordance with § 648.60(g)(4). Except as provided in paragraph (d)(5)(ii)(C) of this section, an LAGC IFQ scallop vessel may not fish for, possess, or land sea scallops in or from the Nantucket Lightship Access Area, or enter the Nantucket Lightship Access Area on a declared LAGC IFQ scallop trip after the effective date published in the **Federal Register**, unless transiting pursuant to paragraph (f) of this section.

* * * * *

(D) Scallops landed by each LAGC IFQ vessel on a Nantucket Lightship Access Area trip shall count against that vessel's IFQ.

(e) * * *

(4) *Number of trips*—(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Elephant Trunk Sea Scallop Access Area between March 1, 2010, and February 28, 2011, as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains an Elephant Trunk Sea Scallop Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Elephant Trunk Access Area trip that was terminated early, as specified in § 648.60(c). Additionally, full-time scallop vessels are restricted in the number of trips that may be taken from June 15 through August 31, as specified in § 648.60(a)(3)(i)(B)(*1*). The 2010 Elephant Trunk Access Area scallop TAC for limited access scallop vessels is 10,406,727 lb (4,720 mt), after accounting for applicable set-asides and LAGC IFQ TAC.

(ii) *LAGC IFQ scallop vessels*—(A) The percentage of the Elephant Trunk Access Area TAC to be allocated to LAGC scallop vessels shall be specified in this paragraph (e)(4)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC IFQ scallop vessels as

specified in paragraph (e)(4)(ii)(B) of this section. LAGC IFQ vessels shall be allocated 550,621 lb (248 mt) in fishing year 2010, which is 5 percent of the 2010 Elephant Trunk Access Area TAC, after accounting for all applicable set-asides. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit.

(B) Based on the TACs specified in paragraph (e)(4)(ii)(A) of this section, LAGC IFQ vessels are allocated a total of 1,377 trips in the Elephant Trunk Access Area in fishing year 2010. This fleet-wide trip allocation applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. The Regional Administrator shall notify all LAGC IFQ scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be taken by providing notification in the **Federal Register**, in accordance with § 648.60(g)(4). An LAGC IFQ scallop vessel may not fish for, possess, or land sea scallops in or from the Elephant Trunk Access Area, or enter the Elephant Trunk Access Area on a declared LAGC IFQ scallop trip after the effective date published in the **Federal Register**, unless transiting pursuant to paragraph (f) of this section.

(C) Scallops landed by each LAGC IFQ vessel on an Elephant Trunk Access Area trip shall count against that vessel's IFQ.

* * * * *

■ 9. In § 648.60:

■ a. Paragraphs (a)(3)(iii), (a)(5)(iv), and (c)(5)(iv) are removed and reserved;

■ b. Paragraph (c)(5)(ii)(A) is added;

■ c. Paragraph (c)(5)(ii)(B) is added and reserved; and

■ d. Paragraphs (a)(3)(i), (a)(3)(ii), (a)(5)(i), (c)(5)(v), (d)(1), (e)(1), and (g) are revised.

The additions and revisions read as follows:

§ 648.60 Sea scallop area access program requirements.

(a) * * *

(3) * * *

(i) *Limited access vessel trips.* (A) Except as provided in paragraph (c) of this section, paragraphs (a)(3)(i)(B) through (E) of this section specify the total number of trips that a limited access scallop vessel may take into Sea Scallop Access Areas during applicable seasons specified in § 648.59. The number of trips per vessel in any one Sea Scallop Access Area may not exceed the maximum number of trips allocated for such Sea Scallop Access Area as specified in § 648.59, unless the vessel owner has exchanged a trip with another vessel owner for an additional Sea Scallop Access Area trip, as specified in paragraph (a)(3)(ii) of this section, or has been allocated a compensation trip pursuant to paragraph (c) of this section.

(B) *Full-time scallop vessels.* A full-time scallop vessel may take two trips in the Elephant Trunk Access Area, one trip in the Delmarva access area, and one trip in the Nantucket Lightship Access Area, subject to the following seasonal trip restrictions.

(*1*) A full-time scallop vessel may not take more than two of its three allocated scallop access area trips during the period June 15 through August 31, or may not fish for, possess, or retain more than a combined total of 36,000 lb (16,329 kg) of scallops, the equivalent of two full trip possession limits specified in § 648.60(a)(5)(i)(A), during this time period from the Delmarva and Elephant Trunk Access Areas specified in § 648.59(a) and (e). For example, a full-time vessel may declare up to two trips in the Elephant Trunk Access Area or up to one trip in the Elephant Trunk Access Area and one trip in Delmarva Access Area during June 15 through August 31. The remaining access area trips may be taken during the remainder of the fishing year, subject to the seasonal closures described under § 648.59(a)(3) and (e)(3). This restriction does not include the additional possession allowance to defray the cost of carrying an observer as specified in § 648.60(d) that occur during observed trips between June 15 through August 31.

(*2*) [Reserved]

(C) *Part-time scallop vessels.* A part-time scallop vessel is allocated two trips that may be distributed between access areas as follows: Two trips in the Elephant Trunk Access Area; one trip in the Elephant Trunk Access Area and one trip in the Nantucket Lightship Access Area; one trip in the Elephant Trunk Access Area and one trip in the Delmarva Access Area; or one trip in the Nantucket Lightship Access Area and one trip in the Delmarva Access Area.

(D) *Occasional scallop vessels.* An occasional scallop vessel may take one trip in the Elephant Trunk Access Area, or one trip in the Nantucket Lightship Access Area, or one trip in the Delmarva Access Area.

(E) [Reserved]

(ii) *One-for-one area access trip exchanges.* If the total number of trips allocated to a vessel into all Sea Scallop Access Areas combined is more than one, the owner of a vessel issued a limited access scallop permit may exchange, on a one-for-one basis, unutilized trips into one access area for another vessel's unutilized trips into another Sea Scallop Access Area. One-for-one exchanges may be made only between vessels with the same permit category. For example, a full-time vessel may not exchange trips with a part-time vessel, and vice versa. Vessel owners must request the exchange of trips by submitting a completed Trip Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Trip exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Trip Exchange Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has unutilized trips remaining to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the trip exchange has been made effective. A vessel owner may exchange trips between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange trips between another vessel and the vessel for which a Confirmation of Permit History has been issued.

* * * * *

(5) * * *

(i) *Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). A part-time or occassional limited access vessel that lawfully fishes for, possesses, and lands an amount of scallops greater than specified in this section in the 2010 fishing year shall have the excess pounds landed above the possession limit specified in this paragraph (a)(5) deducted from that vessel's 2011 possession limit. A full-time vessel shall not fish for, possess, or retain more than 36,000 lb (16,329 kg) of scallops from the Elephant Trunk and Delmarva Access Areas, combined, from trips taken between June 15 and August 31. This landing restriction does not include the additional possession allowance to defray the cost of carrying an observer as specified in § 648.60(d) that occur during observed trips between June 15 through August 31. No vessel declared into the Access Areas as

described in § 648.59(a) through (e) may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

Fishing year	Permit category possession limit		
	Full-time	Part-time	Occasional
2010	18,000 lb (8,165 kg)	14,400 lb (6,532 kg)	6,000 lb (2,722 kg).

* * * * *

(c) * * *

(5) * * *

(ii) * * *

(A) Pursuant to § 648.60(a)(3)(i)(B)(*1*), a full-time vessel may not take a compensation trip based on a single or multiple terminated trip(s) during the period June 15 through August 31 if the compensation trip would allow a vessel to land more than 36,000 lb (16,329 kg), the equivalent of two full access area trips, during the period June 15 through August 31, in the Elephant Trunk Access Area and Delmarva Access Area combined. For example, a vessel that terminated a trip in the Delmarva Access Area on June 1, 2010, and intends to declare two full trips in the Elephant Trunk Access Area access area from June 15 through August 31, must wait to fish its compensation trip in the Delmarva Access Area until November 1, 2010.

(B) [Reserved]

* * * * *

(v) *Additional compensation trip carryover.* If an Access Area trip conducted during the last 60 days of the open period or season for the Access Area is terminated before catching the allowed possession limit, and the requirements of paragraph (c) of this section are met, the vessel operator shall be authorized to fish an additional trip as compensation for the terminated trip in the following fishing year. The vessel owner/operator must take such additional compensation trips, complying with the trip notification procedures specified in paragraph (a)(2)(iii) of this section, within the first 60 days of that fishing year the Access Area first opens in the subsequent fishing year. For example, a vessel that terminates an Elephant Trunk Access Area trip on December 29, 2010, must declare that it is beginning its additional compensation trip during the first 60 days that the Elephant Trunk Access Area is open (March 1, 2011, through April 29, 2011). If an Access Area is not open in the subsequent fishing year, then the additional compensation trip authorization would expire at the end of the Access Area Season in which the trip was broken. For example, a vessel that terminates a Closed Area II trip on December 10, 2009, may not carry its additional compensation trip into the 2010 fishing year because Closed Area II is not open during the 2010 fishing year, and must complete any compensation trip by January 31, 2010.

(d) * * *

(1) *Observer set-aside limits by area*—(i) *Nantucket Lightship Access Area.* For the 2010 fishing year, the observer set-aside for the Nantucket Lightship Access Area is 58,910 lb (27 mt).

(ii) [Reserved]

(iii) *Elephant Trunk Access Area.* For the 2010 fishing year, the observer set-aside for the Elephant Trunk Access Area is 113,530 lb (52 mt).

(iv) *Delmarva Access Area.* For the 2010 fishing year, the observer set-aside for the Delmarva Access Area is 58,850 lb (27 mt).

* * * * *

(e) * * *

(1) *Research set-aside limits and number of trips by area*—(i) *Nantucket Lightship Access Area.* For the 2010 fishing year, the research set-aside for the Nantucket Lightship Access Area is 117,820 lb (53 mt).

(ii) [Reserved]

(iii) *Elephant Trunk Access Area.* For the 2010 fishing year, the research set-aside for the Elephant Trunk Access Area is 277,060 lb (126 mt).

(iv) *Delmarva Access Area.* For the 2010 fishing year, the research set-aside for the Delmarva Access Area is 117,700 lb (53 mt).

* * * * *

(g) *Limited Access General Category Vessels.* (1) An LAGC scallop vessel may only fish in the scallop access areas specified in § 648.59(a) through (e), subject to the seasonal restrictions specified in § 648.59(a)(4), (b)(4), (c)(4), (d)(4), and (e)(3), and subject to the possession limit specified in § 648.52(a), and provided the vessel complies with the requirements specified in paragraphs (a)(1), (a)(2), (a)(6) through (a)(9), (d), (e), (f), and (g) of this section, and § 648.85(c)(3)(ii). A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the Closed Area I, Closed Area II, and Nantucket Lightship Sea Scallop Access Areas specified in § 648.59(b) through (d), provided the vessel complies with the requirements specified in § 648.59(b)(5)(ii), (c)(5)(ii), and (d)(5)(ii), and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

(2) *Gear restrictions.* An LAGC IFQ scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) must fish with dredge gear only. The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in the Access Areas described in § 648.59(a) through (e) may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(3) *LAGC IFQ Access Area Trips.* An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) may land scallops, subject to the possession limit specified in § 648.52(a), unless the Regional Administrator has issued a notice that the number of LAGC IFQ access area trips specified in § 648.59(a)(3)(ii), (b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii) have been or are projected to be taken. Upon a determination from the Regional Administrator that the total number of LAGC IFQ trips in a specified Access Area have been or are projected to be taken, the Regional Administrator shall publish notification of this determination in the **Federal Register**, in accordance with the Administrative Procedure Act. Once this determination has been made, an LAGC IFQ scallop vessel may not fish for, possess, or land scallops in or from the specified Access Area after the effective date of the notification published in the **Federal Register**.

(4) *Possession Limits*—(i) *Scallops.* A vessel issued a NE multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS, and that has not enrolled in the LAGC Access Area fishery, is prohibited from possessing scallops. An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) may possess scallops up to the possession limit specified in § 648.52(a).

(ii) *Other species.* Unless issued an LAGC scallop permit and fishing under

an approved NE multispecies SAP under NE multispecies DAS, an LAGC IFQ vessel fishing in the Access Areas specified in § 648.59(a) through (e) is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8).

(5) *Number of trips.* An LAGC IFQ scallop vessel may not fish for, possess, or land scallops in or from the Access Areas specified in § 648.59(a) through (e) after the effective date of the notification published in the **Federal Register,** stating that the total number of trips specified in § 648.59(a)(3)(ii), (b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii) have been, or are projected to be, taken by LAGC IFQ scallop vessels.

■ 10. In § 648.62, paragraph (b)(1) is revised to read as follows.

§ 648.62 Northern Gulf of Maine (NGOM) scallop management area.

* * * * *

(b) * * *

(1) *NGOM TAC.* The TAC for the NGOM is 70,000 lb (31.8 mt) for the 2010 fishing year.

* * * * *

[FR Doc. 2010–15501 Filed 6–23–10; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 75, No. 123
Monday, June 28, 2010

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–2010–0554; Directorate Identifier 2010–NM–082–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model MD–90–30 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Model MD–90–30 airplanes. The existing AD currently requires modifying the auxiliary hydraulic power system (including doing all applicable related investigative and corrective actions). This proposed AD would require these same actions, using corrected service information. This proposed AD results from fuel system reviews conducted by the manufacturer, as well as reports of electrically shorted wires in the right wheel well and evidence of arcing on the auxiliary hydraulic pump power cables, which are routed within the tire burst area. We are proposing this AD to prevent electrically shorted wires or arcing at the auxiliary hydraulic pump power cables, which could result in a fire in the wheel well. We are also proposing this AD to reduce the potential of an ignition source adjacent to the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by August 12, 2010.

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.
- *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 proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ken Sujishi, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5353; fax (562) 627–5210.

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–2010–0554; Directorate Identifier 2010–NM–082–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 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 proposed AD.

Discussion

On March 18, 2009, we issued AD 2009–07–04, Amendment 39–15863 (74 FR 14460, March 31, 2009), for certain Model MD–90–30 airplanes. That AD requires modifying the auxiliary hydraulic power system (including doing all applicable related investigative and corrective actions). That AD resulted from fuel system reviews conducted by the manufacturer, as well as reports of shorted wires in the right wheel well and evidence of arcing on the power cables of the auxiliary hydraulic pump. Boeing analysis determined that the existing auxiliary hydraulic pump wire harness assembly is routed within the tire burst area and that installing and routing a new and longer auxiliary hydraulic pump wire harness assembly outside the tire burst area will minimize the possibility of chafing and electrical wire arcing damage. We issued that AD to prevent shorted wires or electrical arcing at the auxiliary hydraulic pump, which could result in a fire in the wheel well; and to reduce the potential of an ignition source adjacent to the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2009–07–04, we have been advised that the Work Instructions of Boeing Alert Service Bulletin MD90–29A021, Revision 1, dated August 29, 2008 (the service bulletin referenced in AD 2009–07–04), are inadequate in that some wire

support clamp orientations would present a riding condition with surrounding structure or existing hydraulic lines.

Relevant Service Information

Boeing has issued Alert Service Bulletin MD90–29A021, Revision 2, dated March 16, 2010, which includes additional work (*e.g.,* checking electrical resistance and doing a general visual inspection of the wire harness protective sleeving dimensions, which are related investigative actions; and installing new sleeving, adding tie tape, installing a new wire harness assembly, and installing new clamps, which are corrective actions).

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2009–07–04 but would not retain the requirements of the existing AD. This proposed AD would require accomplishing the actions specified in Boeing Alert Service Bulletin MD90–29A021, Revision 2, dated March 16, 2010, as described previously.

Costs of Compliance

There are about 109 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Modification	Between 4 and 11 ...	$85	Up to $4,870	Between $5,210 and $5,805.	21	Between $109,410 and $121,905.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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 that the 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); and

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

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 removing Amendment 39–15863 (74 FR 14460, March 31, 2009) and adding the following new AD:

McDonnell Douglas Corporation: Docket No. FAA–2010–0554; Directorate Identifier 2010–NM–082–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by August 12, 2010.

Affected ADs

(b) This AD supersedes AD 2009–07–04, Amendment 39–15863.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model MD–90–30 airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin MD90–29A021, Revision 2, dated March 16, 2010.

Subject

(d) Air Transport Association (ATA) of America Code 29: Hydraulic Power.

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer, as well as reports of electrically shorted wires in the right wheel well and evidence of arcing on the auxiliary hydraulic pump power cables, which are routed within the tire burst area. The Federal Aviation Administration is proposing this AD to prevent electrically shorted wires or arcing at the auxiliary hydraulic pump power cables, which could result in a fire in the wheel well. We are also proposing this AD to reduce the potential of an ignition source adjacent to the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Replacement

(g) Within 18 months after the effective date of this AD, modify the auxiliary hydraulic power system, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90–29A021, Revision 2, dated March 16, 2010. Do all applicable

related investigative and corrective actions before further flight.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ken Sujishi, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5353; fax (562) 627–5210.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Issued in Renton, Washington, on June 17, 2010.

Robert D. Breneman,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–15652 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0553; Directorate Identifier 2010–NM–070–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, and MD–10–30F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Model DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC10–40F, and MD–10–30F airplanes. This proposed AD would require doing a one-time inspection of the wire bundles to determine if wires touch the upper surface of the center upper auxiliary fuel tank, and marking the location if necessary; a one-time inspection for splices and damage of all wire bundles routed above the center upper auxiliary fuel tank; a one-time inspection for damage to the fuel vapor barrier seal and upper surface of the center upper auxiliary fuel tank; and corrective actions, if necessary. This proposed AD would also require installing non-metallic barrier/shield sleeving to the wire harnesses, new clamps, new attaching hardware, and new extruded channels. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by August 12, 2010.

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.
- *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 proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

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–2010–0553; Directorate Identifier 2010–NM–070–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 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 proposed AD.

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It

requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Fuel system reviews conducted by the manufacturer have determined that wires routed above the center upper auxiliary fuel tank are in close proximity to the upper surface of the tank. In addition, some wire harness mounts may have loosened, allowing the wires to contact the tank. This condition can cause wire damage or chafing that could lead to possible arcing and sparking on the fuel tank upper surface. If not corrected, wires in contact with the fuel tank could become damaged, and the possible resulting arcing and sparking could lead to burn-through of the upper surface of the fuel tank.

Relevant Service Information

We have reviewed Boeing Service Bulletin DC10–28–244, dated February 25, 2010. The service bulletin describes procedures for the following actions.

- Doing a one-time general visual inspection of the wire bundles to determine if wires touch the upper surface of the center upper auxiliary fuel tank, and marking the location(s) where the wire bundle(s) contacts the upper surface of the center upper auxiliary fuel tank.
- Doing a one-time detailed inspection of all wire bundles routed above the center upper auxiliary fuel tank for splices and damage (such as wire chafing, arcing, or broken insulation or burn marks), and corrective actions, which include repairing or replacing damaged wires, and relocating any splice; and repairing or replacing wires causing damage.
- Doing a one-time detailed inspection for damage (burn marks) on the upper surface of the center upper auxiliary fuel tank and fuel vapor barrier seal, and doing corrective actions, which include repairing the vapor barrier seal, and contacting Boeing for repair instructions and doing the repair.
- Installing non-metallic barrier/shield sleeving to the wire harnesses, new clamps, new attaching hardware, and new extruded channels to raise the wire harnesses off the upper surface of the center upper auxiliary fuel tank.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs. This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 166 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

Inspection and installation	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Group 1 Inspection	16	$85	$0	$1,360	75	$102,000
Group 1 Installation	200	85	13,309	30,309	75	2,273,175
Group 2 Inspection	16	85	0	1,360	58	78,880
Group 2 Installation	232	85	16,660	36,380	58	2,110,040
Group 3 Inspection	16	85	0	1,360	18	24,480
Group 3 Installation	200	85	12,258	29,258	18	526,644
Group 4 Inspection	16	85	0	1,360	15	20,400
Group 4 Installation	200	85	12,372	29,372	15	440,580

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), and

3. 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

McDonnell Douglas Corporation: Docket No. FAA–2010–0553; Directorate Identifier 2010–NM–070–AD.

Comments Due Date

(a) We must receive comments by August 12, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC10–40F, and MD–10–30F airplanes, certificated in any category; as specified in Boeing Service Bulletin DC10–28–244, dated February 25, 2010.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Actions

(g) Within 60 months after the effective date of this AD do the actions specified in paragraphs (g)(1), (g)(2), (g)(3), and (g)(4) of this AD, as applicable, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–28–244, dated February 25, 2010, except as required by paragraph (h) of this AD. Do all applicable corrective actions before further flight.

(1) Do a one-time general visual inspection of the wire bundles to determine if wires touch the upper surface of the center upper auxiliary fuel tank, and mark the location as applicable.

(2) Do a one-time detailed inspection for splices and damage of all wire bundles between Stations Y=1219.000 and Y=1381.000 between X= − 40 to X= − 90 (right side) and X=15 to X=85 (left side) above the center upper auxiliary fuel tank.

(3) Do a one-time detailed inspection for damage (burn marks) on the upper surface of the center upper auxiliary fuel tank and to the fuel vapor barrier seal.

(4) Install non-metallic barrier/shield sleeving to the wire harnesses, new clamps, new attaching hardware, and new extruded channels.

(h) Where Boeing Service Bulletin DC10–28–244, dated February 25, 2010, specifies to contact Boeing for repair instructions: Before further flight, repair the center upper auxiliary fuel tank using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

Issued in Renton, Washington, on June 16, 2010.

Robert D. Breneman,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–15653 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0610; Directorate Identifier 2009–SW–47–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC 155B, EC155B1, SA–360C, SA–365C, SA–365C1, SA–365C2, SA–365N, SA–365N1, AS–365N2, AS 365 N3, and SA–366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) helicopters. That AD requires repetitively inspecting the main gearbox (MGB) planet gear carrier for a crack and replacing any MGB that has a cracked planet gear carrier before further flight. This action would require the same inspections required by the existing AD but would shorten the initial inspection interval. This proposal is prompted by the discovery of another crack in a MGB planet gear carrier and additional analysis that indicates that the initial inspection interval must be shortened. The actions specified by the proposed AD are intended to detect a crack in the web of the planet gear carrier, which could lead to a MGB seizure and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before August 27, 2010.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- *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.
- You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–

4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com.*

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5130, fax (817) 222–5961.

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 caption **ADDRESSES**. Include "Docket No. FAA–2010–0610; Directorate Identifier 2009–SW–47–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD because of those comments.

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

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section of this AD. Comments will be available in the AD docket shortly after receipt.

Discussion

On February 1, 2005, we issued AD 2005–03–09, Amendment 39–13965 (70 FR 7382, February 14, 2005), to require the following:

• For a MGB that has less than 250 hours time-in-service (TIS) since new or last overhaul, borescope inspecting or visually inspecting the web of the planet gear carrier for a crack. The inspections must be done on or before the MGB reaches 265 hours TIS and then at intervals not to exceed 50 hours TIS.

• For a MGB that has 250 or more hours TIS since new or since last overhaul, borescope inspecting or visually inspecting the web of the planet gear carrier for a crack. The inspections must be done within 15 hours TIS and then at intervals not to exceed 50 hours TIS.

• For any MGB that has a cracked planet gear carrier, replacing the MGB with an airworthy MGB before further flight.

That action was prompted by the discovery of cracks in the main gearbox during overhaul. The requirements of that AD are intended to detect a crack in the web of the planet gear carrier, which could lead to a MGB seizure and subsequent loss of control of the helicopter.

Since the issuance of AD 2005–03–09, an additional crack has been found in the MGB planet gear carrier of a Eurocopter Model EC 155 helicopter. That crack was caused by a progressive fatigue failure caused by scoring in the blend radius between the pin and the web. An additional analysis indicates that the initial inspection must be shortened. Therefore, this proposed AD would shorten the initial inspection from 265 hours TIS to 35 hours TIS. The recurring 50 hour-TIS inspections would remain the same.

The European Aviation Safety Agency (EASA), which is the Technical Agent for France, has issued EASA Emergency Airworthiness Directive No. 2007–0288–E, dated November 15, 2007. EASA states that cracks were discovered in the web of the MGB planet gear carrier. The two affected MGB units had been removed for overhaul/repair, subsequent to the detection of metal chips at the magnetic plugs. Investigation of the first case showed a failure of the head of a screw that secures the sun gear bearing. The screw head was caught by the planet gear/fixed ring gear/sun gear drive train. The second case was discovered by the manufacturer and did not seem to be associated with any other failure. You may obtain further information by examining the MCAI and any related service information in the AD docket.

Related Service Information

Eurocopter France has issued the following Emergency Alert Service Bulletins:

• No. 05A007, Revision 2, for the Model EC155 helicopters;

• No. 05.00.48, Revision 3, for the Model AS365 helicopters;

• No. 05.26, Revision 2, for the Model SA360 and SA365 helicopters; and

• No. 05.33, Revision 2, for the SA366 helicopters.

Each Emergency Alert Service Bulletin (EASB) at the stated revision level is dated November 16, 2009 and describes the discovery of a progressive fatigue failure of the planet gear carrier. The EASBs specify inspecting the MGB planet gear carrier for a crack and removing the MGB and contacting the manufacturer before the next flight if a crack is found.

FAA's Evaluation and Unsafe Condition Determination

These products have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, their technical representative, has notified us of the unsafe condition described in the MCAI AD. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs. This proposed AD would require inspecting the MGB planet gear carrier for a crack and replacing the MGB before further flight if a crack is found. The actions would be required to be accomplished by following specified portions of the EASBs described previously.

Differences Between This Proposed AD and the EASA AD

The MCAI references the service information rather than stating compliance times as we have done in this proposed AD. Unlike the EASBs, we have structured our compliance times based on a 250-hour TIS threshold. Also, the proposed AD does not require you to report cracks in the planet gear carrier to the manufacturer.

Costs of Compliance

We estimate that this AD will affect 145 helicopters of U.S. registry. We also estimate that it would take about 1 work-hour per helicopter for each borescope inspection and 12 work-hours for each visual inspection. Replacing the MGB, if necessary, would take about 16 work-hours. The average labor rate is $85 per work-hour. Required parts would cost about $66,780 per MGB. Based on these figures, we estimate the cost of this AD on U.S. operators would be $3,486,760, assuming that a borescope inspection would be done on the entire fleet 12 times a year, that no

visual inspections would be done, and that 49 MGBs would be replaced.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, 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 that the 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); and

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

We prepared an economic evaluation of the estimated costs to comply with this proposed AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

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. Section 39.13 is amended by removing Amendment 39–13965 (70 FR 7382, February 14, 2005), and adding the following new AD:

Eurocopter France: Docket No. FAA–2010–0610; Directorate Identifier 2009–SW–47–AD. Supersedes AD 2005–03–09; Docket No. FAA–2005–20294; Directorate Identifier 2004–SW–39–AD.

Applicability

Model EC 155B, EC155B1, SA–360C, SA–365C, SA–365C1, SA–365C2, SA–365N, SA–365N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters, certificated in any category.

Compliance

Required as indicated.

For a main gearbox (MGB) that has:	Inspect:
(1) Less than 250 hours time-in-service (TIS) since new or last overhaul.	On or before the MGB reaches 35 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 50 hours TIS.
(2) 250 or more hours TIS since new or last overhaul	Within 15 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 50 hours TIS.

To detect a crack in the web of the planet gear carrier, which could lead to a MGB seizure and subsequent loss of control of the helicopter, accomplish the following:

(a) Either borescope inspect the web of the MGB planet gear carrier for a crack in accordance with the Operational Procedure, paragraphs 2.B.2. through 2.B.2.a.1, of Eurocopter Emergency Alert Service Bulletin (EASB) No. 05A007, Revision 2; No. 05.00.48, Revision 3; No. 05.26, Revision 2; or No. 05.33, Revision 2; as applicable to your model helicopter, or visually inspect the MGB planet gear carrier in accordance with the Operational Procedure, paragraphs 2.B.3. through paragraph 2.B.3.a.1, of the EASB applicable to your model helicopter. Each EASB at the stated revision level is dated November 16, 2009.

(b) If a crack is found in the planet gear carrier, replace the MGB with an airworthy MGB before further flight.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, FAA, ATTN: Gary Roach, Aviation Safety Engineer, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5130, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(d) The Joint Aircraft System/Component (JASC) Code is 6320: Main Rotor Gearbox.

Note: The subject of this AD is addressed in European Aviation Safety Agency AD No. 2007–0288–E, dated November 15, 2007.

Issued in Fort Worth, Texas, on June 16, 2010.

Gwendolynne O'Connell,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–15370 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0267; Airspace Docket No. 10–AGL–5]

Proposed Amendment of Class E Airspace; Youngstown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Youngstown, OH, adding additional controlled airspace necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Youngstown Elser Metro Airport, Youngstown, OH. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 12, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–0267/Airspace Docket No. 10–AGL–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; *telephone:* 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0267/Airspace Docket No. 10–AGL–5." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* "**ADDRESSES**" section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding additional Class E airspace extending upward from 700 feet above the surface for SIAPs at Youngstown Elser Metro Airport, Youngstown, OH. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9T, dated August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add additional controlled airspace at Youngstown Elser Metro Airport, Youngstown, OH.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Youngstown Elser Metro Airport, OH [Amended]

Youngstown Elser Metro Airport, OH
(Lat. 40°57′42″ N., long. 80°40′38″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Youngstown Elser Metro Airport, and within 4 miles each side of the 108° bearing from the airport extending from the 6.4-mile radius to 8.8 miles east of the airport, and within 4 miles each side of the 091° bearing from the airport extending from the 6.4-mile radius to 9.5 miles east of the airport, and within 4 miles each side of the 270° bearing from the airport extending from the 6.4-mile radius to 10.9 miles west of the airport.

Issued in Fort Worth, TX, on June 16, 2010.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2010–15647 Filed 6–25–10; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0529; Airspace Docket No. 10–ANM–3]

Proposed Establishment of Class E Airspace; Panguitch, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Panguitch Municipal Airport, Panguitch UT. Controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Panguitch Municipal Airport. The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 12, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2010–0529; Airspace Docket No. 10–ANM–3, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0529 and Airspace Docket No. 10–ANM–3) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2010–0529 and Airspace Docket No. 10–ANM–3". The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Panguitch Municipal Airport, Panguitch UT. Controlled airspace extending upward from 700 feet above the surface is necessary to accommodate aircraft using the new RNAV (GPS) SIAPs at Panguitch Municipal Airport. This action would enhance the safety and management of aircraft operations at the airport.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.

This regulation is within the scope of that authority as it would establish controlled airspace at Panguitch Municipal Airport, Panguitch UT.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM UT E5 Panguitch, UT [New]

Panguitch Municipal Airport, UT
(Lat. 37°50′43″ N., long. 112°23′31″ W.)

That airspace extending from 700 feet above the surface within an 11.7-mile radius of the Panguitch Municipal Airport.

Issued in Seattle, Washington, on June 14, 2010.

Kevin Nolan,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010–15532 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0603; Airspace Docket No. 10–ASW–9]

Proposed Revocation of Class E Airspace; Franklin, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E airspace at Franklin, TX. Abandonment of the former Rocking 7 Ranch Airport and cancellation of all Standard Instrument Approach Procedures (SIAPs) has eliminated the need for controlled airspace in the Franklin, TX, area. The FAA is taking this action to ensure the efficient use of airspace within the National Airspace System.

DATES: Comments must be received on or before August 12, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–0603/Airspace Docket No. 10–ASW–9, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0603/Airspace Docket No. 10–ASW–9." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend title 14, Code of Federal Regulations (14 CFR), part 71 by removing the Class E airspace extending upward from 700 feet above the surface at the former Rocking 7 Ranch Airport, Franklin, TX. The airport has been abandoned and all SIAPs have been cancelled, therefore, controlled airspace is no longer needed for the safety and management of IFR operations.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9T, dated August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing

regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove controlled airspace at the former Rocking 7 Ranch Airport, Franklin, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6005 Class E Airspace extending upward from 700 feet above the surface.

* * * * *

ASW TX E5 Franklin, TX [Removed]

* * * * *

Issued in Fort Worth, TX on June 16, 2010.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2010–15678 Filed 6–25–10; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0268; Airspace Docket No. 10–ACE–2]

Proposed Revocation of Class E Airspace; Chillicotte, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E airspace at Chillicotte, MO. Airport management and air traffic control facility managers have determined that the Class E surface area at Chillicotte Municipal Airport is no longer necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 12, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–0268/Airspace Docket No. 10–ACE–2, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; *telephone:* (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0268/Airspace Docket No. 10–ACE–2." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by removing the Class E airspace designated as a surface area at Chillicotte Municipal Airport, Chillicotte, MO. Airport and air traffic control facility management have determined that this airspace is no longer needed and would not compromise the safety and management of IFR operations at the airport, and that airport users would receive greater benefit from its removal.

Class E airspace areas are published in Paragraph 6002 of FAA Order 7400.9T, dated August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove controlled airspace at Chillicotte Municipal Airport, Chillicotte, MO.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6002 Class E Airspace designated as surface areas.

* * * * *

ACE MO E2 Chillicotte, MO [Removed]

Issued in Fort Worth, TX, on June 16, 2010.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2010–15680 Filed 6–25–10; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 514, and 558

[Docket No. FDA–2010–N–0155]

Veterinary Feed Directive; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to August 27, 2010, the comment period for the advance notice of proposed rulemaking (ANPRM) that appeared in the **Federal Register** of March 29, 2010 (75 FR 15387). In the ANPRM, FDA requested comments on the need for improvements to the veterinary feed directive (VFD) regulation. The agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: Submit either electronic or written comments by August 27, 2010.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2010–N–0155, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Neal Bataller, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–9201, e-mail: *Neal.Bataller@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 29, 2010 (75 FR 15387), FDA published an ANPRM with a 90-day comment period to request comments on the need for improvements to the VFD regulation.

The agency has received requests for a 60-day extension of the comment period for the ANPRM. The requests conveyed concern that the current 90-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the ANPRM.

FDA has considered the requests and is extending the comment period for the ANPRM for 60 days, until August 27, 2010. The agency believes that a 60-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

II. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed 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.

Dated: June 22, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–15561 Filed 6–25–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AB07

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: FinCEN is proposing to revise the Bank Secrecy Act ("BSA") regulations applicable to Money Services Businesses with regard to stored value or prepaid access. More specifically, the proposed changes include the following: renaming "stored value" as "prepaid access" and defining that term; deleting the terms "issuer and redeemer" of stored value; imposing suspicious activity reporting, customer information and transaction information recordkeeping requirements on both providers and sellers of prepaid access and, additionally, imposing a registration requirement on providers only; and exempting certain categories of prepaid access products and services posing lower risks of money laundering and terrorist financing from certain requirements.

The proposed changes are intended to address regulatory gaps that have resulted from the proliferation of prepaid innovations over the last ten years and their increasing use as an accepted payment method. If these gaps are not addressed, there is increased potential for the use of prepaid access as a means for furthering money laundering, terrorist financing, and other illicit transactions through the financial system. This would significantly undermine many of the efforts previously taken by government and industry to safeguard the financial system through the application of BSA requirements to other areas of the financial sector. In this proposed rulemaking, we are reviewing the stored value/prepaid access regulatory framework with a focus on developing appropriate BSA regulatory oversight without impeding continued development of the industry, as well as improving the ability of FinCEN, other regulators and law enforcement to safeguard the U.S. financial system from the abuses of terrorist financing, money laundering, and other financial crime. In the course of our regulatory research into the operation of the prepaid industry, we have encountered a number of distinct issues, such as the appropriate obligations of payment networks and financial transparency at the borders, and we anticipate future rulemakings in these areas. We will seek to phase in any additional requirements, however, as the most prudent course of action for an evolving segment of the money services business ("MSB") community.

DATES: Written comments on the notice of proposed rulemaking must be submitted on or before July 28, 2010.

ADDRESSES: You may submit comments, identified by RIN 1506–AB07, by any of the following methods:

- *Federal e-rulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Refer to Docket number TREAS–FinCEN–2009–0007.
- *Mail:* FinCEN, P.O. Box 39, Vienna, VA 22183. Include RIN 1506–AB07 in the body of the text.

Inspection of comments: Public comments received electronically or through the U.S. Postal Service sent in response to a "Notice and Request for Comment" will be made available for public review as soon as possible on *http://www.regulations.gov.* Comments received may be physically inspected in the FinCEN reading room located in Vienna, Virginia. Reading room appointments are available weekdays (excluding holidays) between 10 a.m. and 3 p.m., by calling the Disclosure Officer at (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division, FinCEN (800) 949–2732 and select option 1.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Development of the Prepaid Industry

Prepaid products, also variously known as stored value, stored value cards, or prepaid cards, have emerged in recent years into the mainstream of the U.S. financial system. As consumers have embraced the convenience and security of being able to transact many daily commercial activities electronically, more and more areas of American commerce explore ways to reap the advantages of electronic payment delivery.

This migration to electronic delivery has escalated greatly in recent years, most especially over the last 3–5 years.[1] As consumer comfort levels rise and technology costs fall, continued growth in all types of electronic payment options appears likely. As the Federal Reserve Board noted in its 2007 Payments Study, electronic payments comprised over two-thirds of all non-cash payments.[2]

By certain accounts,[3] the launch of the first stored value/prepaid product traces to the magnetic stripe-bearing gift cards introduced by Blockbuster Video in 1995 to replace the company's former paper gift certificates. The change allowed the merchant to offer the purchaser a more attractive product that, unlike its paper-based predecessor, could be issued in any denomination. The gift cards also allowed the balance to be monitored and offered security features against alteration or fraud. The Blockbuster Gift Card began the rapid migration by most gift card sellers to plastic from paper.

Beginning in the year 2000, VISA, Inc. moved into the prepaid space by introducing its Buxx card, targeted at the teen/young adult market as a money management tool and a more secure way for parents to provide college students with funds for living expenses. MasterCard launched a competitor card (iGen) in 2001, and American Express began marketing its prepaid card in October 2002 as a general purpose gift card that was good anywhere that American Express was accepted. The convergence of the initial retailer-exclusive gift cards[4] such as Blockbuster, Sears or Amazon.com with these "branded" cards, bearing a Visa, MasterCard, American Express or Discover logo, meant that consumers could easily find a gift card for any purpose and in virtually any amount.

A simultaneous market development involved in-store gift card kiosks, such as Gift Card Mall, launched in 2001 by Blackhawk Network, a subsidiary of Safeway Stores, Inc. Blackhawk Network pioneered the establishment of

[1] "Study findings suggest * * * the market for open-loop gift/prepaid cards is increasing * * * more than twice as many gift card purchasers/receivers bought or were given a general purpose gift card in 2008 as were in 2005." Hitachi Consulting "Payments Study Highlights Continued Growth in Credit, Debit Cards," February 2009.

[2] Of electronic payments, "[c]ard payments alone comprised over half of non-cash payments." The 2007 Federal Reserve Payments Study—Non-cash Payment Trends in the United States: 2003–2006, pg. 5.

[3] CardTrak News, Blockbuster Giftcard press release, January 15, 1996.

[4] Retailer-specific prepaid products are generally characterized as "closed loop," meaning that there are a finite number of locations at which the devices can be used. Closed loop programs involve a known provider of goods or service at the time of sale. Conversely, "open loop" refers to a type of prepaid access device that can be used at any accepting retail location. Generally, open loop cards are branded network cards, such as: VISA, MasterCard, American Express and Discover. *See* also Footnote 34 in this NPRM for a discussion of FinCEN's previous proposal of a regulatory definition relating to closed loop stored value.

in-store gift card retail centers, located in supermarkets and convenience stores, which meant that the purchaser no longer had to visit a particular retailer, restaurant, or entertainment center to buy gift cards for department and discount stores, movie theaters, theme parks, and on-line vendors such as iTunes. Although initial marketing strategies for these "malls" targeted a specific consumer niche, the varied vendors represented and the convenience appealed to a broader-than-expected audience. A 2006 study [5] undertaken by the American Bankers Association ("ABA") and Dove Consulting revealed strong consumer preference for both giving and receiving retailer-specific gift cards, deemed both more personal than cash and more valued by the recipient.

Within the context of the above-referenced developments, there are a myriad of factors that have spurred the growth of the prepaid industry including: (1) The effort to market cost-effective financial products to individuals who are either unbanked or underbanked; [6] (2) the effort by governmental entities, at Federal and State and local levels, to deliver an increasing number of benefits through prepaid cards, which can be used at ATMs as withdrawal devices or used at points of sale ("POS") to purchase goods and services; and (3) the move by many employers to pay some workers, such as construction workers, day laborers, and others, through cards, which they regularly reload [7] with scheduled earnings for as long as the individual remains an employee. Generally, these cards can also be used at ATMs and at retail POS.

With respect to the first factor, concerning the needs of the unbanked and underbanked, the use of prepaid cards has been promoted by various advocacy groups [8] as an effective, lower-cost method to deliver necessary financial services. For a variety of cultural or educational reasons, or due to language barriers, some individuals have found the traditional banking environment overly intimidating or unsuited to their financial services needs. Many have never established banking relationships, or have found them cost-prohibitive for their limited needs, and have turned to the "alternative financial service provider" marketplace,[9] accessing businesses such as payday lenders, pawnshops, and check cashing facilities. Often, the fees associated with these alternatives may be high in relation to the dollar value of the transaction.[10] The development and promotion of prepaid cards introduced a new non-traditional banking alternative for these individuals. Many of the major industry members engaged in prepaid access are aggressively courting this unbanked market segment by increasing marketing efforts and by also lowering fees.[11]

With respect to the latter two factors, concerning government and employer payments, the use of a prepaid card replaces the issuance of paper checks, offering benefits to the government entity or employer such as lower transaction costs, accounting efficiencies, safeguards against alteration or loss, and others. For the recipient, many of the same security concerns are addressed, as well as the immediacy and reliability of the payment, which no longer has to be sent by mail and can be used without the need for negotiation at a bank or check cashing facility.

As the general public has become more attuned to seeing plastic where paper formerly dominated, it has been willing, and sometimes eager, to accept transition to a card or similar convenient device, such as a key fob.[12] The advantages to the consumer include eliminating the need to carry cash, security against loss/theft and the ability to track and limit spending, among others. For the financial services industry, it offers a profitable retail payment product whose acceptance by the general public and the vast majority of the American and global marketplace is attractive.

B. The Need for Rulemaking

Notwithstanding the benefits of prepaid access, based on discussions with the law enforcement community, FinCEN believes that it may be vulnerable to money laundering. Many of the same factors that make prepaid access attractive to consumers make it vulnerable to illicit activity. For example, the ease with which prepaid access can be obtained combined with the potential for relatively high velocity of money through accounts involving prepaid access and anonymous use, may make it particularly attractive to illicit actors. These individuals value the ability to receive and distribute a significant amount of funds without being subject to many of the reporting requirements that would apply to comparable transactions using cash or involving an ordinary demand deposit account at a bank. FinCEN solicits comment on the money laundering and terrorist financing vulnerabilities that prepaid access products or services may pose. Depending on the sensitivity of such information, this information may be maintained in a confidential docket.

The purpose of this rulemaking is to establish clear requirements under the BSA with respect to certain non-bank actors involved in the provision of prepaid access. In doing so, FinCEN intends to bring an appropriate degree of transparency to the sector; facilitate the provision of valuable information to regulatory and law enforcement agencies; and enhance the resilience of the prepaid industry against illicit activity. While a limited degree of regulatory oversight over the prepaid industry exists at present, we believe that it is now time to bring this industry within the full ambit of the BSA. We believe that our endeavors in this regard will be assisted by the fact that many in industry already use automated fraud monitoring systems that evaluate data points similar to those relevant to detect suspicious transactions and other information relevant to the BSA.

In proposing this rule, FinCEN is also reiterating a clear distinction that already exists in our regulations between money services businesses and depository institutions, both of which play roles in prepaid access transaction chains. Depository institutions are already held responsible for a full slate of anti-money laundering ("AML") obligations, and those responsibilities will not change as a result of this rulemaking. Further, these depository institutions are subject to regular examinations by their Federal regulators where they are assessed for compliance. Consequently, with this rulemaking, we intend to bring non-bank entities in the prepaid sector under regulatory treatment that is more consistent with other financial institutions, such as depository institutions, subject to the BSA.

[5] 2005/2006 Study of Consumer Payment Preferences, published October 2005.

[6] "A Tool for Getting By or Getting Ahead? Consumers' Views on Prepaid Cards," by Center for Financial Services Innovation; authors Gordon, Romich and Waithaka (2009), pg. 7. *See* also, FDIC Survey of Unbanked and Underbanked Households (December 2009), available at *http://www.fdic.gov/householdsurvey/full_report.pdf.*

[7] "Load" and "reload," as used in the prepaid access context, refer to the initial provision of value and all subsequent provisions of value to a prepaid access program.

[8] *See* "A Tool for Getting By or Ahead * * *," referenced in footnote 6.

[9] "Alternative Financial Services: A Primer," FDIC Quarterly, 2009, Vol. 3, No. 1.

[10] *See* materials referenced in footnote 6.

[11] *American Banker,* June 4, 2009, p. 1.

[12] As used in this discussion, "key fob" refers to a type of contactless payment device, typically attached to a key chain, which might resemble a disc-shaped ornament or token. It contains an electronic chip from which a compatible mechanism is able to communicate payment instructions to the holder of the corresponding account.

In this proposed rulemaking, we will attempt to address vulnerabilities in the types of prepaid programs that present potential for abuse, and to impose requirements on those within the transaction chain that possess the greatest ability to control the program's operations, either directly or through an oversight role, and those who may have relevant consumer information. At the same time, we do not want to stifle growth or innovation within the payments industry. Finally, we recognize that, while we will frequently refer to the "card" in describing this payment method, it is becoming increasingly apparent that the plastic card entails only one possible method of enabling prepaid access. Accordingly, we intend for this rulemaking to be as forward-looking and as technologically neutral as possible; today prepaid access can be provided through a card, a mobile phone, a key fob or any other object to which relevant electronic information can be affixed. In some contexts, there may even be no physical object, as access to prepaid value can be enabled through the provision of information over the telephone or the Internet. We intend for our rule to be applicable to whatever tomorrow's payment environment offers as well. However, we seek comment on whether the rulemaking is sufficiently technologically neutral, and if not, in what areas it can be improved for these considerations.

FinCEN does not intend for this rule to have an impact on two other payment methods that bear some outward similarities to prepaid access, namely the use of credit cards or debit cards. The proposed terminology in this rulemaking is meant to establish a clear difference between those systems and prepaid access. FinCEN anticipates obtaining further insight from the rulemaking and public comment process to ensure that we employ the most accurate and precise terminology possible.

II. Background of This Rulemaking

A. Statutory and Regulatory Background

The BSA, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b and 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5332, authorizes the Secretary of the Treasury (the "Secretary") to issue regulations requiring financial institutions to keep records and file reports that the Secretary determines "have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence matters, including analysis to protect against international terrorism." [13] The Secretary's authority to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.[14] FinCEN has interpreted the BSA through implementing regulations ("BSA regulations" or "BSA rules") that appear at 31 CFR part 103.

FinCEN has defined the BSA term "financial institution" to include "money services businesses," [15] a category that includes: A currency dealer or exchanger; a check casher; an issuer, seller, or redeemer of traveler's checks, money orders, or stored value; and money transmitter.[16] FinCEN is authorized to deem any business engaged in an activity determined by regulation to be an activity similar to, related to, or a substitute for these activities a "financial institution." [17]

The Director of FinCEN, through delegated authority, has issued regulations under the BSA implementing the recordkeeping, reporting, and other requirements of the BSA. Like other financial institutions under the BSA, MSBs must implement AML programs, make certain reports to FinCEN, and maintain certain records to facilitate financial transparency. MSBs are required with some exceptions to: (1) Establish written AML programs that are reasonably designed to prevent the MSB from being used to facilitate money laundering and the financing of terrorist activities; [18] (2) file Currency Transaction Reports ("CTRs") [19] and Suspicious Activity Reports ("SARs"); [20] and (3) maintain certain records, including records relating to the purchase of certain monetary instruments with currency,[21] relating to transactions by currency dealers or exchangers, and relating to certain transmittals of funds.[22] Most types of MSBs are required to register with FinCEN [23] and all are subject to examination for BSA compliance by the Internal Revenue Service ("IRS").[24]

[13] 31 U.S.C. 5311.

[14] *See* Treasury Order 180–01 (Sept. 26, 2002).

[15] "MSB" is a term FinCEN created that refers to certain non-bank financial institutions that offer specific services (often in combination) and are without a Federal functional regulator.

[16] 31 CFR 103.11(uu) implementing 31 U.S.C. 5312(a)(2)(J), (K), (R) and (V).

[17] 31 U.S.C. 5312(a)(2)(Y).

[18] *See* 31 CFR 103.125.

[19] *See* 31 CFR 103.22.

[20] *See* 31 CFR 103.20. Check cashers and transactions solely involving the issuance, sale or redemption of stored value are not covered by the SAR requirement. *See* 31 CFR 103.20(a)(1) and (a)(5).

[21] *See* 31 CFR 103.29.

[22] *See* 31 CFR 103.33(f)–(g).

[23] *See* 31 CFR 103.41.

[24] *See* 31 CFR 103.56(b)(8).

B. Past Public Meetings With the MSB Industry

In 1997, FinCEN held public meetings at various locations throughout the country to give members of the financial services industry an opportunity to discuss the proposed MSB regulations and any impact they might have on operations. In drafting the final rules defining the MSB categories, FinCEN relied on the contributions from these public forums.

The proceedings of those meetings, with respect to stored value and money transmission, reveal a shared acknowledgement by FinCEN and industry that the prepaid business existed only in an early developmental stage at that time, and that it was important not to stifle innovation. Although the industry was in its infancy, many issues surrounding prepaid products today were discussed and debated then, such as establishing appropriate audit trails and the need for information gathering on certain customers. Among other conclusions, these meetings resulted in the following pronouncements:

- The money transmission definition should be sufficiently flexible to encompass the traditional concept of wiring funds, while also capturing alternative types of payments, both electronic and manual.[25]
- FinCEN officials acknowledged that the use of the term "stored value" might be somewhat imprecise, and lead to the conclusion that *only* "value or representation of value that is stored either on a chip or on a hard drive somewhere" was correctly labeled stored value. Despite these misgivings, the term stored value was chosen as the best available at the time.[26]

We find the proceedings of these meetings informative and persuasive in guiding the current rulemaking. Not only did these forums occur at various

[25] Transcript of FinCEN meeting, held in New York City, NY. A FinCEN official in attendance stated, "Just as a point of clarification, again, under our definitions, as proposed in our rules, and also our intent, is not to restrict money transmitters to those businesses that only provide currency, cash, to customers, and the notion of a money transmittal will take place regardless of whether the form is in checks or in money orders or in travelers checks, or the more traditional notion of wire transfer credits to an existing bank account."

[26] Transcript of FinCEN meeting, held in San Jose, CA. A FinCEN official in attendance stated, " * * * the concept is that there is a new something which we called fundamental monetary value represented in digital format and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically. We called that stored value, because frankly we couldn't think of anything else to call it * * *. We were kind of aware that when we used the term, people were going to think we were only talking about stored value cards. And we decided to take that risk."

locations around the country, but they also involved a number of different perspectives from throughout the financial services industry. Early entrants into the stored value marketplace, seasoned banking professionals, Federal and State regulators and service providers such as data processing representatives were all either in attendance or represented. There was considerable discussion among the participants that illustrated the struggle to define the shifting payments environment as it was only beginning to take full advantage of new technologies.[27]

C. The Terms "Stored Value" and "Prepaid Access"

A FinCEN official in attendance at the 1997 meetings observed that the term "stored value" was imprecise for the meaning being ascribed to it. The concept at issue, as he described it, involved monetary value represented in digital format that was stored or capable of being stored on electronic media in such a way as to be retrievable and transferable electronically.[28]

The key distinction to be drawn from his observation is that the "value" to which he refers is not "stored" on the card; rather, the value is stored in a location or a medium that can be accessed electronically through the card or an alternative device. Given the nascent nature of the stored value industry approximately ten years ago, the limitations of descriptive terms are easily understood. The term "stored value" gained a foothold following FinCEN's publication of the 1999 MSB regulation, which included issuers, sellers and redeemers of stored value in the definition of MSB.[29]

In this Notice of Proposed Rulemaking ("NPRM"), we intend to replace the terms "issuer" and "redeemer" of stored value. These terms are not useful as the primary focal point for our regulatory efforts with respect to this industry for the following reasons:

- "Issuers" are generally banks, which means that, by definition, they cannot be deemed MSBs under our rules.[30] Additionally, the activities of banks are covered under other BSA regulations.
- "Redeemers" is a term formerly used in the context of several MSB definitions that FinCEN is seeking to eliminate.

Instead, we propose to introduce the terms "prepaid access" and "provider of prepaid access," with the latter used to characterize a distinct category of MSB and a primary focus of our regulatory efforts.[31] We believe that these terms offer a more accurate characterization of the role and the payment product which we seek to bring more fully within the scope of the BSA.

Although considerable discussion occurred in 1997 regarding divergent strategies for chip-enabled cards vs. magnetic stripe-bearing cards, developments over the last twelve years reveal a far more harmonized evolution. The magnetic-stripe card continues to be the technology used most in the United States.[32] Even in situations where a card or other device is characterized as "chip-based," this chip principally transfers the magnetic stripe functionality to a smaller unit of information. The miniaturized size allows for installation in any number of various devices such as cell phone screens and key chain tokens. Whether magnetic stripe or chip-based, the value to which the payment device gives access remains in an account; not in any way "stored" on the card. Therefore, we find the purported dichotomy forecast in 1997 to be unpersuasive for purposes of this rulemaking. We consider this proposed rule to encompass cards and all other emerging payment devices, such as mobile phones, currently in the marketplace and on the horizon.

We seek public comment regarding the terms "prepaid access" and "provider of prepaid access," and whether they offer the best, most meaningful description of the product(s).

D. May 12, 2009 Money Services Business NPRM

On May 12, 2009, FinCEN published an NPRM entitled "Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Money Services Businesses" in the Federal Register.[33] Comments concerning the 2009 MSB NPRM from the industry and public were accepted through the close of the comment period on September 9, 2009.

In the 2009 MSB NPRM, FinCEN proposed to revise the MSB definition by describing with more clarity the types of financial activity that will subject a business to the BSA implementing rules. The proposal incorporated past FinCEN rulings and policy determinations into the regulatory text and sought to make it easier for MSBs to determine their responsibilities.

FinCEN also solicited comments on a number of stored value/prepaid questions in an effort to garner information regarding the accurate definition(s) or terminology for this payment device, to determine the appropriate treatment as an MSB component, and to identify the various participants comprising the numerous prepaid business models. Those comments have assisted FinCEN in drafting the current proposed rulemaking.

The comments covered a significant range of opinions. A consumer rights organization and an association of State regulatory agencies urged a more rigorous regulatory scheme, encompassing any and all types of prepaid business models. The comments received from business entities in the prepaid industry generally suggested that closed loop products[34] should not be encompassed within the proposed rulemaking because they posed very minimal money laundering risk. They asserted that stored value/prepaid products are often wrongly categorized as monetary instruments and, while more closely allied with money transmission, they most accurately deserve a separate category as a form of money transmission.

E. Credit CARD Act of 2009

On May 22, 2009, the President signed Public Law 111–24, the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 (CARD Act). Section 503 of the CARD Act requires the following:

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[27] Transcript of FinCEN meeting, held in San Jose, CA. An industry member in attendance stated, "* * * these products are all * * * evolving * * *. The ACH system is old * * * batch processing, it's clunky * * *. We are working very hard to develop new systems that work better, that are more efficient, that are faster * * * "

[28] *See* supra note 26.

[29] 31 CFR 103.11(uu)(3), (4).

[30] 31 CFR 103.11(uu).

[31] For the remainder of this document, and in the accompanying rule text, we will use the terms "prepaid access" and "provider of prepaid access." However, as noted in the final paragraph of this section, we solicit public comment for the best term for the payment mechanism at issue.

[32] A repeated question raised with respect to chip-based cards concerns those in use in Europe and Asia, and whether that variety will migrate to use in the United States. At present, there appears to be little appetite for installing the necessary payments infrastructure to enable such use at the point of transaction. In the event that such developments occur in the future, we believe that our rule text employs the necessary flexibility to encompass any such new payment devices.

[33] 74 FR 22129 (May 12, 2009) (hereinafter 2009 MSB NPRM).

[34] In its 2009 MSB NPRM, FinCEN proposed a definition for closed loop stored value as "Stored value that is limited to a defined merchant or location (or a set of locations) such as a specific retailer or retail chain, a college campus, or a subway system." 74 FR 22129, 22141 (May 12, 2009). In the present rulemaking, FinCEN is proposing a similar definition for closed loop prepaid access.

1. No later than 270 days from the date of enactment, the Treasury Secretary, in consultation with the Secretary of the Department of Homeland Security ("DHS"), must issue final regulations regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

2. The regulations regarding international transport may include reporting requirements pursuant to § 5316 of title 31, United States Code.

3. The regulations shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

III. Current Regulatory Scheme

Under the current rules, FinCEN addresses traveler's checks, money orders, and stored value under two separate definitions: "issuers" under 31 CFR 103.11(uu)(3) and "sellers or redeemers" of those products under 31 CFR 103.11(uu)(4). The regulations currently include an activity threshold of $1,000 for any person in any one day, which applies to all MSB categories except money transmitters.[35] Money transmitters are not subject to any dollar level threshold at all. Accordingly, an issuer, seller or redeemer of stored value, as defined by our regulations, is required to file CTRs [36] and to establish a written AML program, including policies, procedures, and internal controls commensurate with its activities and reasonably designed to prevent it from being used to facilitate money laundering and the financing of terrorist activities.

In 1999, when FinCEN issued its final MSB rule,[37] it deferred certain requirements for the prepaid or stored value arena based on its complexity and the desire to avoid unintended consequences with respect to an industry then in its infancy. Therefore, unlike most other categories of MSB, an issuer, seller, or redeemer of stored value is not required to register as an MSB with FinCEN or to file SARs. Consistent with a regulatory delegation of examination authority [38] the IRS currently examines money services businesses, including those falling within the scope of FinCEN's regulations with respect to stored value, for compliance with the BSA, as these entities are not otherwise subject to more general supervision by a Federal functional regulator.

In the 2009 MSB NPRM, we proposed folding all of stored value into one category so that issuers of stored value and sellers or redeemers of stored value would be in the same category. In the 2009 MSB NPRM, FinCEN did not propose making any substantive changes to the definition of this category. After further consideration of the issue, however, we now offer a substantive change to the definition of the category, and thus to the overall regulatory scheme, by shifting our focus from issuers and redeemers to "providers" of prepaid access, while retaining regulatory focus on retail "sellers" in this arena.[39]

IV. Prepaid Access as a Distinct Form of Money Transmission

Prepaid access involves the transmission from one point to another of funds that have been paid in advance. It is empirically similar to activity engaged in by persons defined as "money transmitters," but the mechanisms for directing that the money be transmitted are different. Based on this understanding, as well as on some of the concepts brought forward in the responses to our 2009 MSB NPRM, FinCEN is proposing to treat providers of prepaid access as a distinct category of MSB, keeping it separate from the category established for money transmitters, while at the same time acknowledging prepaid access should be regulated in a similar fashion.[40] While distinct, many responsibilities imposed on money transmitters and other MSB categories generally would be imposed on prepaid access providers: there would be a requirement to file SARs and to register with FinCEN as an MSB. Separate requirements would be imposed with respect to sellers of prepaid access.

V. Reporting on International Transportation of Prepaid Access

As noted previously, Section 503 of the CARD Act authorizes Treasury to establish reporting requirements with respect to stored value pursuant to 31 U.S.C. 5316 [41] and requires the consideration of current and future needs and methodologies for transmitting and storing value in electronic form. 31 U.S.C. 5316 and corresponding FinCEN regulations require persons transporting or shipping currency and monetary instruments across the U.S. border in an aggregate amount over $10,000 to provide a report of such transportation or shipment.[42] We have consulted extensively with our law enforcement colleagues and are seeking information, including but not limited to, risk assessments evaluating the likelihood of illegal action. Depending on the sensitivity of such information, this information may be provided in a confidential docket.

Presently, there is no similar requirement to report the transportation of prepaid access products across the border. FinCEN recognizes the value of collecting information on international transactions and payment flows, and is engaging with the Department of Homeland Security and other members of the law enforcement community in an attempt to identify appropriate solutions. We invite comment on any aspect of the international transport issue as part of this effort. We seek comment from the law enforcement officials and the greater public on the risks prepaid access transactions pose and the types of transactions that are particularly vulnerable to money laundering, terrorist financing, and other illicit transactions through the financial system. We also seek comment on the activity threshold for prepaid access transactions.

VI. A Shift in Regulatory Obligations

A difficulty in regulating prepaid access is determining which entity or entities involved should be responsible for compliance with BSA requirements. The prepaid landscape includes a number of different types of actors with different roles. These actors and roles are not consistent throughout the

[35] 31 CFR 103.11(uu). This activity based threshold of $1,000 has remained the same since 1999. *See* Definitions Relating to and Registration of, Money Services Businesses, 64 FR 45438 (Aug. 20, 1999).

[36] *See* 31 CFR 103.22; reporting of cash transactions exceeding $10,000.

[37] Definitions Relating to, and Registration of, Money Services Businesses, 64 FR 45438 (Aug. 20, 1999).

[38] 31 CFR 103.56(b)(8).

[39] Please refer to regulatory text for 103.11(uu)(4), wherein we propose further amendments to the revisions proposed in the May 2009 MSB NPRM.

[40] Though the regulatory requirements may be similar, or even identical, the effects of those requirements on the two types of MSBs may differ, depending on their different prevailing business models. For example, the business models of most providers of prepaid access currently appear to involve the use of electronic funds transfers subject to the Electronic Funds Transfer Act ("EFTA"), 15 U.S.C. 1693 et seq. So long as that is the case, the Funds Transfer Rule, 31 CFR 103.33(f), and the Travel Rule, 31 CFR 103.11(jj), should not impose specific recordkeeping requirements on providers of prepaid access, because electronic funds transfers subject to the EFTA are exempt from the Funds Transfer Rule and the Travel Rule.

[41] Section 503 of the CARD Act requires Treasury to issue regulations "regarding the sale, issuance, redemption, or international transport of stored value," which FinCEN in this NPRM interprets to be essentially synonymous with "prepaid access." Section 503 also provides that regulations regarding international transportation "may include reporting requirements pursuant to [31 U.S.C. 5316]." The implementing regulation for 31 U.S.C. 5316 is 31 CFR 103.23.

[42] 31 CFR 103.23.

industry and some entities perform multiple roles. Given the difficulty in identifying the provider and the changing nature of the industry, it is vital that a provider of prepaid access be defined on the basis of its activities.

FinCEN is proposing removing "issuers" and "redeemers" from the definition of money services business and imposing AML program, reporting, and recordkeeping obligations on the business entity that engages in activity that demonstrates the most control and oversight of transactions—what FinCEN proposes to define as the "provider of prepaid access."

The provider is the entity that FinCEN believes is in the best position to file CTRs and SARs, maintain or have access to transaction records, and establish and maintain AML programs because it is likely to have business relationships with most or all of the other participants in the transaction chain. Accordingly, it has the relevant information or access to the information to make and file relevant and meaningful BSA reports and records. Centralizing primary BSA obligations in the prepaid provider will unify an otherwise fragmented transaction chain where it is likely that no single player has the necessary financial transparency to comply adequately with BSA requirements. Shifting the requirements to one player may enrich the information available, provide greater financial transparency for appropriate regulators and administrators, and allow law enforcement to obtain relevant information with respect to various aspects of a prepaid access transaction chain without having to seek it from multiple sources.

Providers of prepaid access should anticipate developing AML programs that relate to their role as the centralized point in the chain for relevant information. These programs should include elements such as (a) internal policies and procedures that contemplate the collection and processing of information to be used for the evaluation, completion, and submission of SARs and CTRs; and (b) training programs for other industry members with whom it contracts for prepaid support services to be able to identify suspicious activity to inform the program provider. FinCEN seeks comment on the costs that may be associated with developing these policies, procedures, and training programs. FinCEN also seeks comment on the costs that may be associated with developing information technology systems and anti-money laundering programs.

VII. Participants in the Prepaid Environment

As discussed previously in this NPRM, the historical background surrounding the early regulation of the MSB industry involved the effort to identify the many participants who collectively comprised the non-bank financial services universe. A shift that occurred with the issuance of the 1999 regulation was to focus more intensively on the *activity* being performed in the movement of funds, or the execution of a transaction. Where previous statutory and regulatory anti-money laundering efforts generally targeted the *entity,* commonly banks, thrifts, credit unions, et al., the new policy direction required an understanding that, in many cases, the delivery of a financial service was only a single component of many different lines of business for a particular business entity.

For example, a convenience store might offer retail grocery products, gasoline, an on-premises fast food establishment, a car wash, and the sale of money orders. Similarly, a travel agency might offer extensive consumer and business booking services, guided tours, trip planning and, for customer convenience, also deal in foreign exchange and the sale of traveler's checks. In these and similar situations, it is the particular financial services activity that is intended to be captured by regulation, not the universe of convenience stores or travel agencies.

As we seek to more precisely define the duties and the responsible party among the parties in the prepaid operating environment, we are again focused specifically on the activities executed. We appreciate that executing a prepaid transaction almost necessarily involves greater technological complexity and the involvement of more participants in a transaction chain than would check cashing or the sale of money orders. Despite the multiple parties involved, however, we consider it imperative to center our primary regulatory responsibilities on the party exercising the principal degree of oversight and control that we believe exists in any prepaid program. We are also mindful that, among all the typical parties, a very important role is that of the seller. The seller alone has face-to-face dealings with the purchaser and is privy to information unavailable elsewhere in the transaction chain. For that reason, we believe the seller to be secondarily important among all the entities involved in the program.

The prepaid marketplace has evolved over time without developing a universally-accepted set of labels or categories to describe its participants. In some cases, this may be attributable to individuals or companies operating in multiple capacities, thus blurring conceptually what parameters may or may not exist for a particular role. For other reasons, such as multiple points of entry to this line of business or widely disparate purposes for initiating a prepaid program, the participants may choose no actual titles or labels for the functions they perform. The roles are defined and executed strictly according to the contractual terms established.

While our proposed rule text will confer responsibilities on the "provider of prepaid access," using no current industry term of art, we believe it is important to provide context to understand how we came to choose this term, and to describe how we see the comprehensive prepaid industry landscape. In the Section-by-Section analysis, following the discussion of the role of the "provider of prepaid access," we also describe the various industry members that we understand to be standard participants in a prepaid program.

VIII. Alternative Regulatory Approaches To Consider

We believe that our approach for imposing regulatory obligations on the central player in the prepaid program offers the advantages of simplicity and efficiency for regulatory and law enforcement purposes. Centralizing BSA duties and recordkeeping in a particular party would enable law enforcement officials acting in time-critical situations to direct requests to a single party.

We also look to the seller as an important link in the transaction chain. The seller is uniquely situated to see the first step in the establishment of a prepaid relationship, and to interact directly with the purchaser who may, or may not, be the ultimate end-user of the card. The requirements of this party to maintain records over a five-year time period and to report suspicious activity, also serve law enforcement's needs.

We have reviewed the viability of requiring each participant along the prepaid access chain to be subject to the BSA recordkeeping and reporting requirements. In balancing the burdens verses the benefits of this approach, we believe that providing central points along the transaction chain, *i.e.,* the provider and seller of prepaid access, offers the most utility to law enforcement and the least burden to the industry.

We appreciate, however, that such an approach is not the only approach and we request comments on alternative methods to achieve the same ends. The

many participants in the transaction chain likely bring specialized knowledge to the program. By imposing a separate, stand-alone obligation on each party along the transaction chain, we may facilitate the collection of more detailed information, not filtered through any secondary perspective. As FinCEN may consider such an alternate approach, we seek comment on which prepaid program participants offer the most meaningful information, such as transaction information, purchaser information, or card holder information.

In determining whether an entity offering money services is an MSB for purposes of the BSA implementing regulations, entities are not required to aggregate transactions across distinct money service categories to any person on any day (in one or more transactions) in determining whether thresholds apply. In its 2009 MSB NPRM, FinCEN sought comment on whether it should reconsider its previous position with respect to transactions involving multiple MSB services, and require that such multiple services be aggregated for purposes of determining whether definitional thresholds have been met. We received industry comments on this issue generally opposed to such a development. FinCEN is still considering the matter and welcomes any further comments on this issue, particularly with respect to the inclusion of the sale of prepaid access in connection with other money service business products.

IX. Parameters of This Rulemaking

This NPRM pertains only to non-banks. As noted earlier, this rulemaking does not establish new requirements and does not change existing requirements for banks. Banks may participate in the provision of prepaid access in a variety of ways and may enlist the services of a variety of agents acting on their behalf. As also stated earlier, banks are subject to the full panoply of BSA/AML program, recordkeeping and reporting requirements. Similarly, as discussed in more detail herein, this rulemaking neither establishes new requirements nor changes existing requirements for persons registered with, and regulated or examined by, the Securities and Exchange Commission ("SEC") or the Commodity Futures Trading Commission ("CFTC").

This rulemaking establishes the categories of MSBs that will be regulated in the prepaid arena. It also identifies which actors will not be regulated where their activities are confined to those that present less opportunity for misuse by illicit actors seeking to launder money or finance illicit activities. As discussed further herein, such categories of actors may include those dealing solely in the provision of payroll or job and health benefits through prepaid access.

This rulemaking departs from FinCEN's previous stance on closed-loop prepaid access in one respect. Historically, FinCEN's regulatory interpretations [43] have held that the traditional "gift cards" that are redeemable only by a single retailer pose limited risk for money laundering or evading financial transparency. In this rulemaking, FinCEN proposes subjecting providers and sellers of closed loop prepaid access to BSA requirements in such circumstances that involve international use or person to person payments. Because financial transparency can be obscured, if the prepaid access product can be used internationally and other persons or non-depository sources can add or deplete the funds associated with it, FinCEN is proposing a regulatory construct under which certain providers and sellers of closed loop prepaid access would be subject to the BSA implementing rules.[44]

We believe that this treatment is warranted given information provided by our law enforcement colleagues, maintained in a confidential docket, that closed loop gift cards have a strong appeal for criminal enterprises to launder cash proceeds in trade (merchandise). The criminals focus particularly on merchants who maintain retail locations both within and outside of the United States. The ability to redeem the value placed on the card on either side of the border is a convenient, anonymous method to move and masquerade illicit funds freely. The proposed rule would clarify that providers of prepaid closed loop access that can be used within and outside our borders are within the scope of BSA regulatory requirements.

We question whether it might now be appropriate to revisit the rationale that we have previously applied to closed loop prepaid access even when such prepaid access is limited solely to domestic use. Are there inherent vulnerabilities in closed loop prepaid access that require our consideration? Is closed loop prepaid access that allows use at more than a single retail facility (for example, to a shopping mall) more vulnerable to abuse than a traditional closed loop product? FinCEN solicits comment on whether and how it should reconsider its existing interpretation with respect to closed loop gift cards.

X. Consideration of Examination Authority

As noted earlier, the IRS has been delegated the authority to examine money services businesses for compliance with the BSA, given that there is not a Federal functional regulator with broad supervision over money services businesses. With respect to providers of prepaid access, FinCEN seeks comment on any particular aspects of the prepaid access sector that should be considered when making a decision about whether and how to delegate examination authority.

XI. Future Rulemakings Contemplated

We acknowledge that the proposed revisions to the regulatory text do not address the full array of regulatory considerations raised by the marketing and use of prepaid access. FinCEN recognizes that despite its many positive aspects, as with any innovation in the delivery of monetary value, prepaid access can be misused. Our goal is to recognize these vulnerabilities and to assist law enforcement in promoting transparency throughout the financial system. Our further goal is to undertake this effort while mindful of the many legitimate, beneficial uses of these payment products.

The prepaid environment is no longer limited to simply commercial business uses; increasingly, the Federal government is making widespread use of prepaid access in delivering benefits to individuals such as certain Social Security payments and disaster relief assistance. By no means do we intend to curtail the growth or migration to prepaid access where there are regulatory controls in place. Where all of the parties and transactions can reveal a legitimate audit trail, FinCEN and its law enforcement colleagues raise no objection.

We believe that there may be other areas and aspects concerning the

[43] FinCEN Ruling 2003–4 (Definition of Money Transmitter/Stored Value—Gift Certificates/Gift Cards) (Aug. 15, 2003).

[44] In several contexts, FinCEN has articulated the heightened money laundering and terrorist financing vulnerabilities associated with international transactions. The concern about international use is consistent with FinCEN's frequently repeated position that the specific geographic locations at which a financial product or service is offered must be taken into account in assessing the risks associated with that product or service. *See, e.g.,* Bank Secrecy Act/Anti-Money Laundering Act Examination Manual for Money Services Businesses (December 2008), p. 21. The concern about person-to-person transfers is consistent with guidance that FinCEN has issued with respect to intra-institutional transfers of value from one subaccount to another by other types of financial institutions. *See, e.g.,* FIN–2008–G008 (September 10, 2008), Application of the Definition of Money Transmitter to Brokers and Dealers in Currency and Other Commodities.

prepaid business environment that warrant future regulatory scrutiny. As noted earlier, we intend to engage in a rulemaking on instituting reporting requirements on the international transport of prepaid access. If there are other areas in need of consideration for future rulemaking, we ask for the public to offer comment.

XII. Section-by-Section Analysis

Pursuant to FinCEN's authority to interpret the provisions of 31 U.S.C. 5312, this document proposes to amend 31 CFR part 103, primarily by revising the definition of "stored value" as stated below. These proposed changes include the following: (1) Renaming "stored value" as "prepaid access" and defining that term; (2) deleting the terms "issuer and redeemer" of stored value; (3) imposing suspicious activity reporting, customer information and transaction information recordkeeping requirements on both providers and sellers of prepaid access and, additionally, imposing a registration requirement on providers only; and (4) exempting certain categories of prepaid access products and services posing lower risks of money laundering and terrorist financing from certain requirements.

A. Meaning of the Term "Closed Loop Prepaid Access"

The proposed term "closed loop prepaid access" is defined as prepaid access to funds or the value of funds that is limited to a defined merchant or location (or a set of locations) such as a specific retailer or retail chain, a college campus, or a subway system. This proposed definition supersedes the definition proposed in FinCEN's 2009 MSB NPRM.[45] It is similar to the previous proposed definition, but it replaces the term "stored value" with "prepaid access" and uses more precise language.

B. Meaning of the Term "Provider of Prepaid Access"

1. In General

In general, this term will apply to any person that serves in the capacity of oversight and control for a prepaid program. The determination of the applicability of this term to any given player in the program's transaction chain will be a matter of facts and circumstances; we do not "assign" this term to any particular role. We recognize that there may be situations in which no single party alone exercises exclusive control. However, we do believe that there will always be a party in the transaction chain with the predominant degree of decision-making ability; that person plays the lead role among all the others, and is in the best position to serve as a conduit for information for regulatory and law enforcement purposes.

We wish to state clearly and emphatically that identifying the provider of prepaid access is not simply an arbitrary decision by the program participants. As with other MSBs, the role of the provider of prepaid access is determined through the facts and circumstances surrounding the activity; no single act or duty alone will be determinative. While not exhaustive, we consider the following activities to be strong indicators of what entity acts in a principal role:

- The party in whose name the prepaid program is marketed to the purchasing public. For example, whose press release trumpets the launch of a new product? Whose name is used in print, on-line advertisements, and on the face of the card/device itself? In legal parlance, the individual or entity who "holds himself out" as the lead player will be a very important determining characteristic.
- The party who a "reasonable person" would identify as the principal entity in a transaction chain—the principal decision-maker.
- The party to whom the issuing bank looks as its principal representative in protecting its network relationship and its brand integrity.
- The party who determines distribution methods and sales strategies.
- The party whose expertise in the prepaid environment is recognized by the others, particularly by the issuing bank, as instrumental in bringing together the most appropriate parties for the delivery of a successful program.

We intend for these enumerated characteristics to illustrate that there is no one single determinant; the provider of prepaid access need not do, or refrain from doing, any single activity. The totality of the facts and circumstances will identify the provider of prepaid access.

(a) Organizing the Prepaid Program

A logical first step in the determination of the party to be deemed the provider of prepaid access is to look to the initiation and establishment of the program itself. This may involve actions or activities as diverse as identifying the need for a prepaid program, developing a business plan, or obtaining financing and contracting with other principals. This step alone, however, is not dispositive in determining that a party is appropriately deemed a provider of prepaid access.

We can easily foresee situations where the initiator of a prepaid program recognizes early in the process that unique skills and industry expertise are necessary to carry the program through to fulfillment; for example, when a corporation's human resources department decides to transfer its payroll distribution from paper checks to reloadable prepaid cards. In that case, although the human resources department may well have identified the need for a prepaid program, and may have established some threshold parameters, it may choose to cede the program to an expert in the industry by contracting with an outside third party. Most likely, under these circumstances, the party assuming these duties from the corporation's human resources officials will step into the role of the provider of prepaid access. The totality of the circumstances remains the basis for this determination.

(b) Setting the Terms and Conditions and Determining That the Terms Have Not Been Exceeded

Principally, this element in the determination of the status of a provider will concern the technical specifications involved in establishing and operating the prepaid program. For example, the terms and conditions may encompass a range of decisions ranging from sales locations for prepaid access, fees assessed for activation and reloading, and avenues to access customer service assistance and myriad others.

While there may be many considerations that factor into establishing the terms and conditions, such as cost considerations, marketing partnerships and demographic targets, the provider of prepaid access will be the party best situated to understand the entire prepaid landscape. The provider of prepaid access brings its industry understanding to the program, and should be in a position to convey the pros and cons of varying business decisions to the other parties in the program.

(c) Determining the Other Businesses That Will Participate in the Transaction Chain, Which May Include the Issuing Bank, the Payment Processor, or the Distributor

As discussed in (b) above, the provider of prepaid access possesses the inside industry understanding, and presumably the industry contacts and relationships as well, to identify the other parties necessary for a prepaid program. Our understanding of the industry is that some issuing banks and

[45] 74 FR 22129, 22141 (May 12, 2009).

processors are particularly well-known as market leaders in the prepaid environment. Given this specialization, it may be that a provider of prepaid access will be more likely to seek out and to strike agreements with such specialty organizations. Or, a provider of prepaid access may choose its operating partners with an eye toward geographic proximity, or specialized expertise in a particular line of prepaid access, such as payroll programs. As with the four other factors enumerated herein, this element should not be considered in isolation but as one determinant when identifying a provider.

(d) Controlling or Directing the Appropriate Party To Initiate, Freeze, or Terminate Prepaid Access

As one of the five criteria enumerated in determining the provider of prepaid access in a prepaid operating environment, the ability to affect the movement of funds between parties and/or entities is very important. We understand that the provider of prepaid access may exercise this authority alone, in tandem with other principals or at the direction of law enforcement or judicial authority. It is a key ability that demonstrates an element of oversight and decision-making power that is less apparent, and much less discretionary, among the other program participants.

We believe that there will be situations, in the operation of any prepaid program, that require a central decision-maker to determine whether a particular transaction should be disallowed or, in the alternative, to approve an otherwise irregular transaction due to mitigating circumstances. The provider of prepaid access will be the logical decision-maker in these situations, given its primacy in the prepaid program. The contractual agreements among the parties may even require the sharing of information with a central point of contact for this specific purpose. While the processor may flag the transaction and/or deactivate the card, and the issuing bank and the network may confer about authorization, it is generally at the direction of the provider of prepaid access that these decisions are made and these actions are taken, absent some other compelling reason for the processor, issuing bank or network to act unilaterally.

Additionally, if a SAR filing is warranted, it is the provider of prepaid access who possesses the most comprehensive "big picture" perspective and is in the best position to provide the most meaningful information. It is precisely the provider's relationship to *all* of the parties in the transaction chain which is of great value to law enforcement.

We acknowledge that the above may be a very basic illustration of a far more complex series of communications and actions. But, we believe that, ultimately, there is a party who must be in the dominant position to harmonize the duties and responsibilities of the other participants. The determination of the identity of the provider of prepaid access will be influenced considerably by the element of oversight and control it can freely exercise.

(e) Engaging in Activity That Demonstrates Control and Oversight of Transactions

This criterion among the five is intended to capture situations where the party exercising control and oversight may be evidenced by activities that do not fit squarely within items a through d, preceding. To the extent that both the prepaid industry and our understanding of it continue to evolve, this criterion provides the flexibility needed to ensure reasonable longevity for the rule.

2. Distinguishing the Role of Banks and Certain Non-MSB Financial Institutions Under This Rulemaking

By definition under FinCEN's regulations, MSBs exclude banks and entities registered with, and regulated or examined by the SEC or the CFTC.[46] Accordingly, while banks in particular often play a critical role with respect to prepaid access, banks (and persons registered with and regulated or examined by the SEC or the CFTC) cannot be providers of prepaid access under the rule proposed in this NPRM.

The record collection processes proposed in this MSB rulemaking do not apply to banks. In situations where a bank functions like a provider of prepaid access as defined under this proposed rulemaking, FinCEN expects that the bank's compliance with its pre-existing regulatory obligations[47] under the BSA, including responsibility for understanding thoroughly the nature and activities of, and the information collected by, the various other actors in the bank's program, satisfies the policy goals that underlie this NPRM. FinCEN also expects that, in such situations, the bank is responsible for providing timely, comprehensive information to requests posed by law enforcement.

Generally, FinCEN believes that such bank-driven prepaid programs are not prevalent within the payments industry. Most often, the bank's role appears limited to providing the link to the network brand as the issuing bank, holding funds that will be accessed through a prepaid program, and supporting the decisions made by its partners for the establishment and operation of the prepaid program. Moreover, FinCEN is not aware of any entities registered with and regulated or examined by the SEC or CFTC that are actively engaged in the prepaid access industry in such a way as to approach the equivalent of a provider or seller of prepaid access, and solicits comment on the extent to which such entities are engaged in the prepaid access industry. We reiterate, however, that even if situations existed in which any such entity functioned like a provider or seller of prepaid access, this entity would not be a provider or seller of prepaid access under the rule proposed in this NPRM, because of the general exclusion of such entities from the definition of MSB under FinCEN's regulations.[48]

As described earlier in this NPRM, in beginning this rulemaking process we sought to understand the prepaid industry comprehensively, including its many participants along the transaction chain. To provide the reader with context, in the following, we attempt to identify the component parties and to briefly describe their role. To the degree that our sketch of the landscape is inaccurate or incomplete, we seek guidance and clarification from the commenting public:

Program Sponsor: The entity that establishes the program relationship(s), identifies and procures the necessary parties and sets contractual terms and conditions. FinCEN expects that in many instances the program sponsor will be the provider of prepaid access, but given that this term is currently not employed in a uniform fashion across industry, there are also situations in which a program sponsor may not meet the description of the provider of prepaid access.

Program Manager: A common term of art used in the prepaid industry. We characterize the Program Manager as the entity that functions as an operations "control center" for the program. This function ensures that the program's day-

[46] 31 CFR 103.11(uu).

[47] The Federal banking agencies have addressed banks' responsibilities when involved in prepaid programs in a number of different circulars and guidance pieces, *e.g.* OTS Memo to CEOs #254 "Guidance on Gift Card Programs" (February 28, 2007); OCC Advisory Letter AL 2004–5, Payroll Card Systems (May 6, 2004), and the FFIEC Examination Manual, "Expanded Examination Overview and Procedures for Products and Services; Electronic Cash, Overview; subsection *Prepaid Cards/Stored Value Cards*" (April 2010 update).

[48] *Id.*

to-day operations flow smoothly, and will troubleshoot problems as they arise (*e.g.,* computer outages, card functionality problems, network authorization issues), either firsthand or by delegating to the appropriate party within the prepaid program.

Network: Any of the payment networks, including MasterCard, VISA, Discover and American Express.

Distributor: The entity, as distinct from the network, that "brands" the card with its business identity. It may also play a central role in marketing the card through its regular communications with customers.

Processor: The entity that conducts the transaction processing and facilitates funds management and tracking. As defined by an industry trade group,[49] the "core processing functions" consist of:

i. Card account set-up and card activation;

ii. Provision of authorizations for card transactions;

iii. Value load and reload processing; and

iv. Security/fraud control and reporting.

The processor's role in loading and reloading value is largely ministerial, executed pursuant to instructions from the card network, the ACH or the reload facility handling a cash transaction. For the other enumerated duties, the processor receives operating instructions from the program manager or other program authority.

Issuer, Issuing Bank: The depository institution whose contractual involvement is required in order to invoke the network brand (Visa, MasterCard, Discover, American Express) and which also may serve as the holder of funds that have been prepaid and are awaiting instructions to be disbursed.

Retailer and/or Reload Facility: The various retail locations, including, among many others, convenience stores, drugstores, and supermarkets where an individual consumer can purchase a prepaid card. Typically, the cards are maintained on a retail "j-hook" display fixture, from which the consumer can select the product of his choice and purchase onsite. The card's value may be inaccessible until the purchaser subsequently activates the card through a prescribed verification system, often a toll-free phone call; or, a very low dollar amount may be accessible to the card purchaser prior to verification.

The Reload function varies, but the evolving model appears to be a self-operated kiosk at locations such as Western Union offices and Wal-Mart MoneyCenters.

C. Meaning of the Term "Prepaid Program"

There may be circumstances where prepaid access products or services, or even the entire prepaid program(s) of a specific provider of prepaid access, are organized in such a way, or are of such minimal risk, that those products, services or provider need not fall within the regulatory strictures of the BSA. A prepaid access program whose operations fall squarely within one or more of the limitations described below in (1)–(5) will not bear characteristics conducive to money laundering or illicit behavior under the BSA. A provider of a range of products and services, only some of which fall within the exemptions, will be subject to regulation as a provider of prepaid access and as an MSB, but the exempt products and services will not be subject to certain BSA requirements. The types of prepaid programs considered outside the parameters of this rulemaking are:

1. The Payment of Benefits, Incentives, Wages, or Salaries Through Payroll Cards or Other Such Electronic Devices for Similar Purposes

We believe that in most employer—employee relationships, the necessary personal details regarding the employee (such as full name, address, date of birth and a government identification number) are known to the employer. In those situations, where the individual employees paid under the program are identified by the employer, and where this information is shared with (or made available to) the provider of prepaid access, there are sufficient checks on possible money laundering abuse to warrant exclusion for this type of program. These payroll programs, in addition to regularly scheduled wage and benefits payments, may also include bonus or incentive payments paid at intervals outside the norm. This limitation applies only when the employer (or appropriately designated third parties), and not the employee, can add to the funds to which the payroll card or other such electronic device provides access. The payment of employees generally does not represent an opportunity for the placement of ill-gotten funds into the financial system. This exemption does not contemplate scenarios in which an employer does not have a direct relationship with an employee and works through a third party to pay the employee, such as in certain instances with a freelance employee.

We understand that some members of law enforcement would prefer to subject all prepaid payroll programs to the full range of BSA obligations. They assert that criminals often establish shell companies and use these fictitious entities and non-existent employees as conduits to launder illicit funds. They believe that the potential for abuse of prepaid payroll cards is considerable and have voiced their concerns to us.

We therefore seek public comment regarding the need to institute additional safeguards and/or conditions prior to excluding prepaid access to payroll funds from the full extent of BSA responsibilities. What qualifications must a payroll program establish to ensure that the employer obtains all the necessary information regarding each employee participant, and that the information is kept current? Are there methods to ensure that the company and employees are legitimate, and that the program is valid?

2. Payment of Government Benefits Such as Unemployment, Child Support, and Disaster Assistance Through Electronic Devices

These types of benefits, payable at the State and Federal level, currently range across a great many areas including unemployment, child support, disability, Social Security, veterans' benefits and disaster relief assistance. Additionally, this category of prepaid program may include provision of public transit benefits. Given governmental oversight over these programs and the source of the funds, we see minimal opportunity for the placement or layering of illicit funds into the financial system.

Our research into Federal benefit payments reveal that there are some unique programs currently employing branded prepaid access as the delivery mechanism for the payment of benefits. Upon verification of the individual's eligibility for a benefit payment, the Federal agency refers the individual to an issuing bank for account establishment and program enrollment. To date, the programs have operated very successfully, and the members of the public receiving such benefits report a high degree of satisfaction based on the superior physical security of prepaid access as compared to paper checks, the reliability of periodic payment delivery and the broad commercial acceptance of prepaid access. FinCEN solicits comment on whether such Federal government prepaid programs are of such a low risk for money laundering abuses that even if the prepaid product

[49] The Network Branded Prepaid Card Association (NBPCA) "Recommended Practices for Anti-Money Laundering Compliance for U.S.-Based Prepaid Card Programs," (2008) pg. 7.

or service can be used internationally, or meets other criterion which invalidates an exemption, the programs should continue to be exempt.

3. Disbursement of Reimbursement Funds From Pre-Tax Flexible Spending Accounts for Health Care and Dependent Care Expenses

Generally administered by a central payor, these programs are pre-funded by employee and/or employer contributions to an account maintained by the payor. Any monies not reimbursed to the employee by the end of the calendar year (or allowed grace period) are forfeited to the Internal Revenue Service.[50] There are maximum annual dollar limits established for these accounts, and the funds can only be accessed as reimbursement for defined, qualifying expenses. We believe that these types of highly-controlled, low risk accounts are of minimal value to potential money launderers as a means of placing or layering funds. For this reason, we do not include these prepaid programs within the scope of the current rulemaking.

4. Providing Prepaid Access to Funds Subject to Limits That Include a Maximum Value as Indicated Below, Where Such Maximum Value Is Clearly Visible on the Prepaid Access Product: (a) At the Point of Initial Load, the Load Limit Cannot Exceed $1,000; (b) At Any Point in the Lifecycle of the Prepaid Access, No More Than $1,000 in Total Maximum Value May Be Accessed; and (c) On Any Given Day, No More Than $1,000 Can Be Withdrawn With the Use of the Prepaid Access

The foregoing dollar maximums associated with this particular limitation are intended to distinguish the many situations where prepaid products are purchased solely as a one-time gift or convenience choice. In these situations, the purchaser wants simply to substitute prepaid access for currency, generally in modest amounts. As long as the dollar maximum accessible by the prepaid access is clearly visible, and no subsequent loading or reloading can increase the funds beyond the stated maximum, we believe that the potential for misuse is slight. Under these circumstances, the prepaid program would not fall within the scope of this regulation. FinCEN wishes to emphasize that tying the threshold to the requirement of having the maximum amount clearly indicated on the product is a departure from the current regulations, and that it is meant to encourage industry to take steps towards greater transparency in this arena.

We have chosen a $1,000 maximum for this provision for a number of reasons: (1) Industry research findings for average and maximum initial loads; (2) consistency with thresholds established for other MSB categories; and (3) dollar level yielding greatest utility of information for law enforcement, while posing minimal burden to consumers and the prepaid access industry.

We request public comment on the following considerations regarding this section of the proposed rule:

- We seek comments from the public on whether the $1,000 activity-based threshold is appropriate. Please provide us with comments regarding alternative dollar limits, higher or lower than this proposal, daily or otherwise, and tied to a clearly delineated dollar amount or not. What merits are derived and what vulnerabilities are created by increasing or decreasing the threshold? Would an additional activity limit threshold, such as annual multi-thousand thresholds that exist in some European countries, have benefits over our use of a daily dollar level?
- What is the technological feasibility of these requirements? What cost implications and practical burdens are raised by these requirements for the provider of prepaid access, the processor, or any other parties in the transaction chain to enable the application of the exemption?
- What practical implications and what technological challenges arise if different limits are established for transfers, aggregate value, withdrawals, and velocity?

5. Providing Closed-Loop Prepaid Access

We believe that closed-loop prepaid access, whose use is limited to a small range of acceptance, for a very specific type of good or service, also appropriately falls outside the parameters of this rulemaking. Closed-loop providers, who are explicitly known to the purchaser at the point of sale, generally operate with considerable oversight of the full extent of the transaction chain, with the generation of a substantial audit trail to validate such. The effort required to use closed-loop products for the placement, layering or integration of funds makes them unattractive and unlikely vehicles for moving large sums of money efficiently.

However, a closed-loop provider could be subject to the BSA implementing rules under this proposal if the prepaid access is no longer limited in range. A departure from current regulatory policy, this NPRM would subject a closed-loop provider to the BSA rules if the prepaid access product could be used internationally or if other persons and non-depository sources had access and could transfer the value of the funds. The exceptions to the limitations are more fully discussed below.

The explanations provided in the preceding sections for allowing certain prepaid access programs to fall outside of the requirements of proposed 31 CFR part 103.11(uu)(4)(iii) can also serve to bring otherwise excluded programs under the BSA rules if the risk factors change. Specifically, in situations where the provider administers a prepaid program with features that introduce an increased level of risk and serve to diminish financial transparency, that program may be subject to the full extent of obligations under proposed 31 CFR 103.11(uu)(4)(iii), even if the other program characteristics fall squarely within 1 through 5, above. The determination of whether the provider must comply with all BSA requirements must be analyzed for all of the program's attendant facts and circumstances.

We believe that the characteristics cited under proposed 31 CFR 103.11(uu)(4)(ii)(B)(1)–(3),

- Funds or value transmitted internationally;
- Internal transfers within a program between individual cardholders; or
- For anything that does not qualify as closed-loop prepaid access, the ability to load funds or the value of funds from non-depository sources allows for an element of anonymity that obscures the financial transparency necessary to ameliorate regulatory and law enforcement concerns. While not inherently suspect, the risks associated with these types of transactions diminish the clarity and audit trail that is generally found in payroll, flexible spending accounts, government benefits and closed loop systems.

Additionally, inherent risk is associated with any international prepaid transaction simply because it invokes governmental authority outside our domestic boundaries. The phrase "international prepaid transaction" is intended to capture a domestic-issued prepaid product used outside of the United States. "International prepaid transaction" could also include a foreign-issued prepaid product that is marketed or used in the United States.

[50] Any flexible spending programs, or other similar health expense-related programs, must receive the same tax treatment by the IRS, or they will not be considered to fall within this limitation.

In such an instance, the provider of prepaid access could be a foreign-located MSB subject to the BSA implementing rules.[51]

Our law enforcement stakeholders have warned of the potential use in an underregulated environment of prepaid access products transported across our borders to effect high volume, high velocity movement of funds in a manner that may be extremely attractive to those engaged in criminal activity. Although not all international transactions involve criminal behavior, we believe that these transactions impose a level of risk that requires full BSA compliance, regardless of the type of prepaid program in which the provider is engaged.

We have identified the above five types of prepaid programs as being of less risk based on our current understanding of comparative vulnerabilities. FinCEN seeks comment from law enforcement, industry, and the general public concerning their own assessment for money laundering and terrorist financing risks posed by these prepaid programs or prepaid programs in general.

D. Meaning of the Term "Seller of Prepaid Access"

The seller of prepaid access is the party with the most face-to-face purchaser contact and thus becomes a valuable resource for capturing information at the point of sale, unlike any other party in the transaction chain. Typically, the seller is a general purpose retailer, engaged in a full spectrum product line through a business entity such as a pharmacy, convenience store, supermarket, discount store or any of a number of others. Precisely because this party deals face-to-face with the purchaser, and has the ability to capture unique information in the course of completing the transaction, we believe the seller should fall within the regulation's direct reach.

Because the seller's role is complementary with, but not equal to, the authority and primacy of the provider of prepaid access, we choose not to require registration with FinCEN.[52] The seller, we believe, is generally acting as an agent on behalf of the provider and this treatment is consistent with other agents under the MSB rules. However, the seller's agency does not excuse compliance with the other responsibilities assigned under this proposed rule: (1) The maintenance of an effective AML program, (2) SAR reporting, and (3) recordkeeping of customer identifying information and transactional data.

Coverage of sellers under this definition does not include situations where applicable exemptions to the scope of covered prepaid programs apply. Thus, a retailer who sells only those prepaid access products that fall within the scope of the exemptions to the definition of prepaid programs will have no BSA responsibilities under this rulemaking. Such retailers will, however, still have responsibilities under the BSA with respect to filing reports on the receipt of currency in excess of $10,000 in the course of engaging in a trade or business.[53] While this reporting requirement will ensure some transparency within the context of the sale of prepaid access that otherwise falls outside the scope of BSA regulations, FinCEN is actively considering whether this level of reporting is enough to detect and deter abuse of prepaid access by illicit actors that might seek to launder funds through the bulk purchase of such prepaid access products.

FinCEN is considering whether to include as an addition to the proposed definition of seller of prepaid access, an activity-based threshold, similar to such thresholds that we have used in other contexts. Consistent with these other approaches, FinCEN is considering whether to include within the definition of sellers of prepaid access those entities that sell any form of prepaid access, regardless of its inclusion in a BSA covered prepaid program, in an amount over $1,000 to any person on any day in one or more transactions. FinCEN believes there may be merit in having greater transparency for all high-value prepaid access above $1,000. Such a threshold would trigger suspicious activity reporting and other obligations on covered sellers to enhance transparency and deter illicit use. Imposing reporting requirements on such sellers would also lead to the ability of the law enforcement community to pursue persons deemed to have structured transactions to avoid a report required of a financial institution.

E. Meaning of the Term "Prepaid Access"

The current regulations use the term "stored value." 31 CFR 103.11(vv) defines the term as funds or the value of funds represented in digital electronic format (whether or not specially encrypted) and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically. The use of the term "stored value," as discussed previously in section II–B of the Preamble, was known from its inception to be a less-than-perfect label for this payment mechanism, given that no value is actually "stored" on the card. Very shortly after the publication of the MSB final rule in 1999, the term "prepaid" emerged as the more common industry term. We now revise our term to correspond to the more accurate and the more prevalent term in the marketplace.

This proposal is an opportunity to employ more precise terminology while still striving for regulatory flexibility so that the rule will not become obsolete with the next innovative product. We believe the proposed language has the necessary regulatory elasticity to survive future technological advancements. Specifically, we propose defining "prepaid access" as an "electronic device or vehicle, such as a card, plate, code, number, electronic serial number, mobile identification number, personal identification number, or other instrument that provides a portal to funds or the value of funds that have been paid in advance and can be retrievable and transferable at some point in the future."

1. Removal of Exemption of Stored Value Transactions From Suspicious Activity Reporting

FinCEN proposes to revise the regulation implementing 31 U.S.C. 5318(g) which requires MSBs to report certain suspicious activity. In particular, FinCEN proposes to remove the exemption that previously accorded issuers, sellers and redeemers of stored value a lighter BSA regime by not requiring them to report suspicious activity under 31 CFR 103.20. The implementing regulation currently states:

[e]very money services business described in § 103.11(uu)(1), (3), (4), (5), or (6), shall file with the Treasury Department * * * a report of any suspicious transaction relevant to a possible violation of law or regulation. * * * Notwithstanding the provisions of this

[51] 2009 MSB NPRM, 74 FR 22129, 22133 (May 12, 2009).

[52] With respect to certain business models, FinCEN expects that a provider of prepaid access may also be a seller of prepaid access. In such contexts, as in other areas where regulatory overlap exists, the more expansive of the two competing applicable regulations will apply. For example, a provider of prepaid access will not be absolved from a registration requirement simply because it is also a seller of prepaid access. In noting that a provider of prepaid access may also be a seller, FinCEN is not implying that all providers of prepaid access will also be sellers. FinCEN notes that with respect to some prepaid programs, such as those pertaining to government benefits, and payroll, there may be no seller or retail outlet associated with the program.

[53] These reports, filed on FinCEN Form 8300, are required under 31 CFR 103.30.

section, a transaction that involves solely the issuance, or facilitation of the transfer of stored value, or the issuance, sale, or redemption of stored value, shall not be subject to a reporting under this paragraph (a), until the promulgation of rules specifically relating to such reporting.

The proposed definition will remove the stored value exemption from paragraph (a)(5) of 31 CFR 103.20. When the current regulation was implemented, it contemplated that issuers, sellers, and redeemers of stored value were among the institutions that could provide valuable information concerning suspicious transactions.[54] However, FinCEN determined that it was not appropriate to specifically require issuers, sellers, and redeemers of stored value to file SARs because of the infancy of the use of stored value products in the United States.[55]

The reasons for exempting transactions solely involving stored value from SAR reporting are no longer applicable. Moreover, the reasons for requiring the reporting of these transactions have increased. Since the implementation of the SAR rule for MSBs, the growth of the industry has made it an attractive medium through which money launderers can conduct illicit transactions. Prepaid access is easily transportable and, in some cases, can be loaded from a number of different locations.

In developing their programs, providers of prepaid access have often implemented technological solutions to combat fraud and to increase transaction efficiencies. These same technology solutions can logically provide additional information that may prove useful in identifying suspicious activity that will have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. Therefore, the proposed regulation will remove the exemption for providers from filing SARs.

We believe that prepaid access sellers also serve a potentially valuable role in reporting suspicious activity through SAR filings. Although they may not employ the same sophisticated technology solutions as many providers, their position as the uniquely-situated customer contact point offers information at least as important. These sellers represent the first step in the transaction chain. Such a direct, hands-on role is unique and potentially highly valuable to the law enforcement community.

[54] 62 FR 27900, 27904 (May 21, 1997).

[55] *Id.*

2. Requirement That Prepaid Access Providers Retain Transaction Information

Our discussions with the law enforcement community have revealed the utility of detailed records and recordkeeping on the part of regulated financial institutions, over a substantial period of time, generally five years. This facilitates investigations in which law enforcement is attempting to reconstruct a pattern, or a history of transaction activity, that substantiates criminal behavior involving prepaid products or services. In § 103.125, we discuss recordkeeping related to the customer involved in the initial purchase of the prepaid access product. Under § 103.40, we seek recordkeeping related to the actual usage, the transaction history, surrounding a prepaid product over a five year time period.

We emphasize, however, that records to be retained under this section are only those *generated in the ordinary course of business* by a business entity involved in transaction processing. We believe that these records would routinely reflect (1) type of transaction (ATM withdrawals, POS purchase, etc.), (2) amount and location of transaction, (3) date and time of transaction, and (4) any other unique identifiers related to transactions. These records need not be kept in any particular format, or by any particular entity in the transaction chain. The provider of prepaid access bears the responsibility, however, to establish these recordkeeping requirements either internally or on the part of a third party entity. Additionally, the records must be easily accessible and retrievable upon the appropriate request of law enforcement or judicial order. Although we are currently proposing that records of relevant transactions may be kept in various locations at the direction of the provider of prepaid access, FinCEN is also considering whether there should be a requirement that the provider of prepaid access maintain all such records in a central location. FinCEN seeks comment on the costs and benefits of such a requirement to maintain transaction records more centrally.

3. Removal of Registration Exemption for Issuers, Sellers and Redeemers of Stored Value

FinCEN proposes to revise the regulation implementing 31 U.S.C. 5330 that requires MSBs to register with FinCEN. Specifically, FinCEN proposes to amend 31 CFR 103.41 by removing the exemption from registration accorded to issuers, sellers, and redeemers of stored value. The implementing regulation currently states, "* * * each money services business * * * must register with the Department of the Treasury* * *" It states further, "[t]his section does not apply to * * * a person to the extent that the person is an issuer, seller, or redeemer of stored value."

FinCEN is proposing to revoke the exemption from registration previously accorded to issuers, sellers, and redeemers of stored value. Since the initial exemption, the stored value industry has experienced rapid growth and market maturity; FinCEN no longer feels that regulation will inhibit the successful development of the industry. Additionally, the lack of a registration requirement may result in a market imbalance between providers of prepaid access and other MSBs that offer competing services. By removing the exemption, providers of prepaid access will now be required to register as MSBs with FinCEN. The rule makes it clear that for every prepaid program there must be a non-bank provider of prepaid access registered with FinCEN.[56] We wish to emphasize, however, that like all other MSB agents, sellers of prepaid access are *not* required to register.

FinCEN anticipates that identifying information about the component entities involved in a prepaid program will be fundamentally important to the law enforcement community. We believe that the most efficient way to obtain this information and make it available for law enforcement use is via the registration process, and FinCEN will be considering ways in which the MSB Registration form, FinCEN Form 107, can be updated to accommodate such information. We solicit comments on the use of the form to collect this information.

4. Requirement That Providers and Sellers of Prepaid Access Retain Customer Information

FinCEN proposes to revise the regulation implementing 31 U.S.C. 5318(h) that requires MSBs to maintain an adequate anti-money laundering program. Specifically, FinCEN proposes to amend 31 CFR part 103.125(d)(1) by prescribing that, as a minimum standard of their anti-money laundering program, providers of prepaid access and sellers of prepaid access must have policies

[56] By virtue of the regulatory definition of a money services business, neither a bank nor any other participants in the bank-centered prepaid program would be required to register with FinCEN. In addition, if applicable, entities registered with, and regulated by or examined by the SEC or the CFTC would not be required to register with FinCEN.

and procedures for the retention of customer identifying information.

In implementing 31 CFR 103.125, FinCEN stated that the uniqueness of each financial institution required the adaptation of policies, procedures, and internal controls to a level commensurate to the risks in its business model, including geography and customer base. Therefore, it was not intended that the standards established in 31 CFR 103.125 would create specific identical requirements for all MSBs. Based on inherent risks, some businesses would be required to implement more policies, procedures, and internal controls than others.

The proposed regulation will add paragraph (d)(1)(iv) stating "[a] money services business that is a provider or seller of prepaid access must establish procedures to verify the identity of a customer of a prepaid program and must retain such customer identifying information, including name, date of birth, address, and identification number, for five years." FinCEN believes that such customer information capture and retention is necessary for greater financial transparency of the purchasers of the prepaid products or services. We anticipate that retaining such records will not only assist the providers and sellers, but may be of great value to law enforcement. FinCEN seeks comment on the value of retaining such records.

For providers and sellers of prepaid access, this proposed customer identification requirement is linked to and narrowed by the proposed definition of "prepaid program." Accordingly, providers and sellers of prepaid access involved in the delivery and sale of a form of prepaid arrangement not deemed a prepaid program under 31 CFR 103.11(uu)(4)(ii), would not be required to obtain customer information under this part.

As we have discussed this matter with our law enforcement colleagues throughout the rulemaking process, we have often heard that a standard "data set" of information, typically including name, address, date of birth and a form of government-issued identification containing a unique identifying number should be required at a minimum. FinCEN also believes that the information proposed to be retained will be highly useful in the investigation and prosecution of criminal, tax, and regulatory investigations and proceedings. Without the requirement that this information be retained, law enforcement may likely be missing valuable information.

FinCEN recognizes, however, that verifying and retaining information on every applicable transaction could be time consuming and expensive. Such costs might be alleviated if the precise type of information that an institution had to collect was left to the determination of the provider or seller of prepaid access based on an assessment of their risks, in a manner consistent with other FinCEN regulations. We seek public comment as to the merits of incorporating a risk-based standard into the rule, instead of the proposed combination of a risk-based approach with a mandatory set of minimum information collection standards.

The provider and seller are reminded that the AML program developed for their prepaid program or prepaid services should accurately reflect their business operations. The program must be sufficiently detailed with standards and criteria specified for how the information is to be collected, verified, and retained. There should also be provisions addressing its communication throughout the employee ranks and for the training of any individuals/entities acting on its behalf.

XIII. Questions for Public Comment

FinCEN invites comments on all aspects of the proposal to regulate prepaid access. The following represents a compilation of all of the questions presented earlier in the preamble text. They have been aggregated here for the convenience of the commenting public.

1. Proposed Terminology for This Rulemaking

We seek public comment regarding the terms "prepaid access" and "provider of prepaid access," and whether they offer the best, most meaningful description of the product(s).

2. International Transport To Be Addressed in a Subsequent Rulemaking

FinCEN intends to undertake a subsequent rulemaking proposal on the international transport of prepaid access. In the interim, we invite comment on any aspect of the international transport issue that we should consider in the context of a future reporting requirement directed at this type of payment mechanism.

3. Alternate Approach to Designation of a Single, Central "Provider"

The many parties in the transaction chain each bring specialized knowledge to the program. By imposing a separate, stand-alone obligation on each party along the transaction chain, we may facilitate the collection of more detailed information not filtered through any secondary perspective. As FinCEN considers such an alternate approach, we seek comment on which prepaid program participants offer the most meaningful information, such as transaction information, purchaser information, or card holder information.

4. $1,000 Threshold Aggregation

In its 2009 MSB NPRM, FinCEN sought comment on whether transactions involving multiple MSB services should require aggregation for purposes of determining whether definitional thresholds had been met. We received industry comments on this issue generally opposed to such a development.

FinCEN is still considering the matter and welcomes any further comments on this issue, particularly with respect to the inclusion of the sale of prepaid access in connection with other money services business products.

5. Closed Loop Prepaid Access, Generally

We question whether it might now be appropriate to revisit the rationale that we have previously applied to closed loop prepaid access even if such prepaid access is limited solely to domestic use. Are there inherent vulnerabilities in closed loop prepaid access that require our consideration? Is closed loop prepaid access that allows use at more than a single retail facility (for example, at a shopping mall) more vulnerable to abuse than a traditional closed loop product? FinCEN solicits comment on whether and how it should reconsider its existing interpretation with respect to closed loop gift cards.

6. Consideration of Examination Authority

With respect to providers of prepaid access, FinCEN seeks comment on any particular aspects of the prepaid access sector that should be considered when making a decision about whether and how to delegate examination authority.

7. Future Rulemakings Contemplated

As noted earlier, we intend to engage in a rulemaking on instituting reporting requirements on the international transport of prepaid access. If there are other areas in need of consideration for future rulemaking, we ask for the public to offer comment.

8. SEC and CFTC-Regulated Entities; Involvement in Prepaid Access Sector

FinCEN is not aware of entities registered with, and regulated or examined by the SEC or CFTC that are actively engaged in the prepaid access

industry in such a way as to approach the equivalent of a provider or seller of prepaid access, and solicits comment on the extent to which such entities are engaged in the prepaid access industry.

9. Description of Participants in the Prepaid Access Transaction Chain

To the degree that our sketch of the landscape is inaccurate or incomplete, we seek guidance and clarification from the commenting public.

10. Employer Use of Prepaid Access Program for Payroll Purposes

We understand that some members of the law enforcement community would prefer to subject all prepaid payroll programs to the full range of BSA obligations. They assert that criminals often establish shell companies and use these fictitious entities and non-existent employees as conduits to launder illicit funds. They believe that the potential for abuse of prepaid payroll cards is considerable and have voiced their concerns to us. We therefore seek public comment regarding the need to institute additional safeguards and/or conditions prior to excluding prepaid access to payroll funds from the full extent of BSA responsibilities. Are there methods to ensure that the company and employees are legitimate, and that the program is valid?

11. Requirements Placed on Limited Value Prepaid Access To Enable Exclusion From Regulation

We request public comment on the following considerations regarding this section of the proposed rule:

- Please provide us with comments regarding alternative dollar limits, higher or lower than this proposal, daily or otherwise, and tied to a clearly delineated dollar amount or not. What merits are derived and what vulnerabilities are created by increasing or decreasing the threshold? Would an additional activity limit threshold, such as annual multi-thousand thresholds that exist in some European countries, have benefits over our use of a daily dollar level?
- What is the technological feasibility of these requirements? What cost implications and practical burdens are raised by these requirements for the provider of prepaid access, the processor, or any other parties in the transaction chain to enable the application of the exemption?
- What practical implications and what technological challenges arise if different limits are established for transfers, aggregate value, withdrawals, and velocity?

12. Information Regarding the Prepaid Access Program To Be Derived Through Registration Process

FinCEN anticipates that identifying information about the component entities involved in a prepaid program will be fundamentally important to the law enforcement community. We believe that the most efficient way to obtain this information and make it available for law enforcement use is via the registration process, and FinCEN will be considering ways in which the MSB Registration form, FinCEN Form 107, can be updated to accommodate such information. We solicit comments on the use of the form to collect this information.

13. Capture and Retention of Customer Information

FinCEN believes that such customer information capture and retention is necessary for greater financial transparency of the purchasers of the prepaid products or services. We anticipate that retaining such records will assist not only the providers and sellers but may be of great value to law enforcement. FinCEN seeks comment on the value of retaining such records.

14. Mandatory Data Set of Customer Information vs. Risk-Based Assessment of Necessary Information Variables

FinCEN recognizes that verifying and retaining information on every applicable transaction could be time consuming and expensive. Such costs might be alleviated if the precise type of information that an institution had to collect was left to the determination of the provider or seller of prepaid access based on an assessment of their risks, in a manner consistent with other FinCEN regulations. We seek public comment as to the merits of incorporating a risk-based standard into the rule instead of the proposed combination of a risk-based approach with a mandatory set of minimum standards.

15. Certification of Regulatory Burden

- FinCEN's research has revealed that AML and customer identification requirements are currently imposed on providers of prepaid access (and through them, to sellers of prepaid access) by the partner bank that is authorized to issue the prepaid access by the payment network. FinCEN solicits confirmation of this fact, and any substantial divergence between the current contractual obligations of a provider or seller, and the requirements specified by the proposed rule.
- Please provide comment on any or all of the provisions in the proposed rule with regard to (a) the impact of the provision(s) (including any benefits and costs), if any, in carrying out responsibilities under the proposed rule and (b) what alternatives, if any, FinCEN should consider.

XIV. Proposed Location in Chapter X

As discussed in a previous Federal Register Notice, 73 FR 66414, Nov. 7, 2008, FinCEN is separately proposing to remove Part 103 of Chapter I of Title 31, Code of Federal Regulations, and add Parts 1000 to 1099 ("Chapter X"). If the notice of proposed rulemaking for Chapter X is finalized, the changes in the present proposed rule would be reorganized according to the proposed Chapter X. The planned reorganization will have no substantive effect on the regulatory changes herein. The regulatory changes of this specific rulemaking would be renumbered according to the proposed Chapter X as follows:

(a) 103.11 would be moved to 1010.100;

(b) 103.20 would be moved to 1022.320;

(c) 103.33 would be moved to 1010.410;

(d) 103.40 would be moved to 1020.420;

(e) 103.41 would be moved to 1022.380; and

(f) 103.125 would be moved to 1022.210.

XV. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" which will "describe the impact of the proposed rule on small entities." (5 U.S.C. § 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Estimate of the number of small entities to which the proposed rule will apply:

For the purpose of arriving at an estimated number of providers of prepaid access, FinCEN is relying on information regarding the industries as identified by their North American Industry Classification System ("NAICS") [57] codes. In particular,

[57] NAICS was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S. NAICS was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997.

FinCEN finds that prepaid providers will be listed as NAICS code 522320 (Financial transaction processing, reserve and clearinghouse activities). The United States Census Bureau estimates there are about 3000 entities in this classification. However, this classification includes services that are outside of those provided by prepaid providers (*i.e.* check validation services, bank clearinghouse associations, and credit card processing services). Because prepaid providers utilize electronic funds transfers systems to conduct business, FinCEN narrowed the estimated industry to those entities that are within NAICS code 522320 and perform either electronic funds transfers or electronic financial payment services. FinCEN was unable to obtain a number for these entities from the United States Census Bureau and therefore relies on commercial database information. Based on this information, FinCEN estimates that there are 700 entities that share this classification.[58] Within this classification those entities that have less than 7 million dollars in gross revenue are considered small. FinCEN estimates that 93% of the affected industry is considered a small business, and that the proposed regulation will affect all of them.

For the purpose of identifying sellers, FinCEN is unable to rely on NAICS codes because sellers, including grocery stores, convenience stores, and department stores, will be classified under the primary services that they provide. Therefore, to arrive at an estimated number of sellers of prepaid access, FinCEN is relying on information about distribution channels obtained through informal consultations with members of the prepaid industry. In addition, FinCEN is relying on prepaid access selling patterns identified through the 2005 Money Services Business Industry Survey Study conducted by KPMG.

FinCEN estimates that there are 70,000 sellers of prepaid access operating within prepaid card programs, as defined under our proposed rule. The inclusion of these sellers as small businesses for regulatory purposes would depend, in great part, on the corporate organization of each sales outlet.[59] In consideration of the discussions above, for the purposes of the Regulatory Flexibility Act, FinCEN stipulates that it is affecting a substantial number of small businesses.

Description of the projected reporting and recordkeeping requirements of the proposed rule:

The proposed rule will require prepaid providers and sellers to implement the same BSA requirements with which other MSBs are already complying. By requiring this, FinCEN is addressing vulnerabilities in the United States financial system and is leveling the playing field among MSBs. Currently, all MSBs are required to maintain AML programs, report certain currency transactions, and maintain certain records. Also, MSBs, except check cashers and issuers, sellers, and redeemers of stored value, are currently required to file reports on suspicious transactions. The proposed rule will require prepaid providers and sellers to comply with these same requirements. The proposed rule will require only prepaid providers, not sellers, to register with FinCEN. Additionally, prepaid providers and sellers will be required to maintain records about customer identification and transaction information. As discussed below, FinCEN does not foresee a significant impact on the regulated industry from these requirements.

AML Program Requirement in General

The proposed rule will require prepaid providers and sellers to maintain AML programs. Sellers that transact in amounts greater than $1000 per person per day are already required to maintain AML programs.

The majority of providers have not been previously required by regulation to maintain AML programs. However, through discussions with industry and representations from a prepaid card association, FinCEN has determined that prepaid providers are already maintaining AML programs, typically as part of their contractual obligations to their partner banks or credit card networks. When an issuing bank partners with a prepaid provider to reduce reputational and operational risk the bank will require that the provider maintain an AML program commensurate with the bank's risk tolerance. To assist these prepaid providers, prepaid card associations publish reports on AML best practices. Similarly, for those sellers that transact in ways that would subject them to the proposal, the proposed rule would require the maintenance of an AML program. Because these sellers are agents of either the provider or issuing bank or both, they have been contractually obligated to maintain AML programs to assure their principal that AML risks are mitigated. Therefore, since providers and sellers are already contractually obligated to fulfill the requirement of maintaining an AML program as proposed in this rule, FinCEN estimates that the impact of this requirement will be minimal.

Currency Transaction Reporting

The proposed rule will require prepaid providers and sellers to report transactions in currency in amounts greater than $10,000. As stated in FinCEN's 1999 MSB rulemaking, sellers that transact in amounts greater than $1,000 per person per day are already required to report these transactions.

Providers and sellers that transact in amounts of $1,000 or less per person per day have not been required to report transactions in currency in amounts greater than $10,000. However, because the average load amounts for prepaid cards are well below the $10,000 threshold and the majority of prepaid loads above $1,000 are deposited through direct deposit, FinCEN does not foresee a significant burden in this requirement. In support of this assertion, several prepaid providers have stated to FinCEN that they have rarely if ever encountered a transaction of over $10,000 in currency per person per day associated with their prepaid programs.

Suspicious Activity Reporting

The proposed rule will require prepaid providers and sellers to report on transactions of $2,000 or more which they determine to be suspicious. Prepaid providers and sellers have not been previously required to comply with such a requirement under regulation. It is important to highlight that these reports are not required to be filed unless a transaction is suspicious and is for an amount of $2,000 or more. The average transaction amount for a point-of-sale debit is about $40.[60] This is substantially less than the $2,000 threshold. Additionally, through an

[58] Dun and Bradstreet, D&B Duns Market Identifiers Plus (US) (Accessed on Nov 19, 2009) (Search of Codes NAICS 522320 with removal of outlying institutions).

[59] Nearly 70% of the individual sales outlets of prepaid access covered within the scope of this proposed regulation belong to a national or regional chain (such as a convenience store, drugstore, or supermarket chain). If the corporation bases its distribution strategy on a branch network, the single, unified nation- or region-wide corporation is considered the seller of prepaid access, the gross annual revenue would probably exceed the threshold for consideration as a small business, and the number of sellers of prepaid access decreases significantly. On the other hand, if the corporation bases its distribution strategy on franchises, then each individual franchisee becomes a seller of prepaid access, and its individual gross annual revenue might qualify it as a small business.

[60] Cheney, Julia "An Update on trends in the Debit Card Market," Payment Cards Center, June 2007, pg. 3 (citing The Nilson Report Issue 865); available at *http://www.phil.frb.org/payment-cards-center/publications/discussion-papers/2007/D2007JuneUpdateDebitCardMarketTrends.pdf.*

overview of currently operating programs, FinCEN has determined that few prepaid programs allow a customer to withdraw more than $1,000 from an automated teller machine in a day. Lastly, in discussions with the industry, prepaid providers indicated that they rarely encountered transactions for which they would file a SAR if required by regulation. Therefore, FinCEN estimates that the number of SARs that will be filed by prepaid providers and sellers will be low.

FinCEN understands that the costs in SAR reporting go beyond the actual cost in filing the report. These costs also include developing systems to monitor transactions for suspicious activity. Because of the inherent risk of fraud that exists in the prepaid industry or any payment industry for that matter, prepaid providers already utilize fraud monitoring systems. These systems monitor transactions of individual cards to detect patterns that would indicate suspicious behavior that could be fraud. To detect fraud these systems rely on various data points including transaction velocity, transaction volume, and transaction location which are compared to a customer profile. These same data points can be used to detect suspicious behavior beyond fraud.

Customer Identification Information

The proposed rule will require prepaid providers and sellers to implement procedures to collect and retain customer information relating to prepaid access within the proposed definition of a "prepaid program." As part of their current AML programs, sellers that transact in amounts greater than $1000 per person per day are already required to have policies and procedures to maintain customer information for certain transactions. Other prepaid sellers and providers have not been required to retain this information by regulation.

Similar to the discussion of AML programs above, prepaid providers are currently required to obtain and retain customer identification information through contractual obligations with the bank partners. Since the implementation of § 326 of the USA PATRIOT Act, banks have been required to obtain customer identification for each account they open. Through discussions with prepaid industry members and associations, FinCEN has determined that, to mitigate risks, banks have extended this requirement to their prepaid provider partners through contractual obligations. Therefore, prepaid providers are already obtaining and maintaining information on their customers to comply with contractual obligations. Beyond these obligations, prepaid providers are maintaining this information to assist in their fraud monitoring and targeted marketing programs. Sellers of prepaid access also obtain and maintain this information as agents of their principal banks and providers. Because it is the sellers that have direct communication with the customer, the obligation to collect customer identification information has been extended to them by their principals.

Transaction Records Generated in the Ordinary Course of Business

The proposed rule will require prepaid providers and sellers to retain transaction specific records generated in the ordinary course of business. Currently, providers and sellers are not required to maintain these records by regulation. However, because these records are necessary for data processing and transaction look-backs, these institutions already retain such records in the ordinary course of business.

Registration of Providers

The proposed rule will require prepaid providers to register with FinCEN. Sellers will not be required to register as they are agents of the providers. The FinCEN registration form is two pages and must be filed once every two years. Under OMB control number 1506–0013, FinCEN estimates that the annual burden from reporting and recordkeeping associated with this registration is 2.5 hours.[61]

Certification

Most of the requirements in the proposed rule reflect contractual obligations already imposed on both prepaid providers and sellers or the codification of a requirement to maintain records that are already maintained in the ordinary course of business. The additional burden proposed by the rule is a registration requirement and a SAR filing requirement. As discussed above, FinCEN estimates that the impact from these requirements will not be significant. Accordingly, FinCEN certifies that the proposed rule will not have a significant impact on a substantial number of small entities.

[61] The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 103.41 is 30 minutes per recordkeeper for the completion, filing, and recordkeeping of registration forms, and an additional 120 minutes for the completion, filing, and recordkeeping of the list of prepaid programs subject to the regulation.

Questions for Comment

1. FinCEN's research has revealed that AML and customer identification requirements are currently imposed on providers of prepaid access (and through them, to sellers of prepaid access) by the partner bank that is authorized to issue the prepaid access by the payment network. FinCEN solicits confirmation of this fact, and any substantial divergence between the current contractual obligations of a provider or seller, and the requirements specified by the proposed rule.

2. Please provide comment on any or all of the provisions in the proposed rule with regard to (a) the impact of the provision(s) (including any benefits and costs), if any, in carrying out responsibilities under the proposed rule and (b) what alternatives if any, FinCEN should consider.

XVI. Paperwork Reduction Act Notices

The collections of information contained in this proposed rule are being 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)). Comments on the collection of information should be sent to Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503, fax (202/395–6974), or by the Internet to *oira_submission@omb.eop.gov,* with a copy to the Financial Crimes Enforcement Network by mail. Comments on the collection of information should be received by August 27, 2010.

In accordance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR part 1320, the following information concerning the collection of information is presented to assist those persons wishing to comment on the information collection. The information collections in this proposal are contained in 31 CFR 103.20, 31 Part 103.40, 31 CFR 103.41, and 31 CFR 103.125.

AML Program for Providers and Sellers of Prepaid Access

Anti-money laundering programs for money services businesses (31 CFR 103.125). Office of Management and Budget Control Number: 1506–0020.

This information is required to be retained pursuant to 31 U.S.C. 5318(h) and 31 CFR 103.125. The collection of information is mandatory.

The information collected pursuant to 31 CFR 103.125(c) will be used by examiners to determine whether providers of prepaid access comply with the BSA. By defining providers and sellers of prepaid access as MSBs, the proposal will increase the estimated number of entities by 70,700. However, by removing issuers, sellers, and redeemers of stored value from the definition of MSB, the proposal will reduce the estimated number of entities by 10,000. Overall, the proposal will increase the number of entities that collect information under 31 CFR 103.125(c) by 60,700.

Description of Recordkeepers: MSBs as defined in 31 CFR 103.11(uu)(4).

Estimated Number of Recordkeepers: The proposal increases the number of recordkeepers to 60,700.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 103.125(c) is one hour.

Estimated Total Annual Recordkeeping Burden: The current burden will be reduced by 10,000 hours and increased by 70,700 hours, for a net increase to the current burden of 60,700 hours.

Customer Identification Requirement for Providers and Sellers of Prepaid Access

The information collected pursuant to 31 CFR 103.125(d) will be used by law enforcement agencies in the enforcement of criminal and regulatory laws. The proposal affects an estimated 70,700 providers and sellers of prepaid access. The proposal requires two minutes of collection burden per issuance of prepaid access product or service.

Description of Recordkeepers: MSBs as defined in 31 CFR 103.11(uu)(4).

Estimated Number of Recordkeepers: The proposal increases the number of recordkeepers to 70,700.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 103.125(d) is two minutes per issuance of a prepaid access device. At any given moment, there are an estimated 7.5 million network branded prepaid cards in the marketplace. FinCEN estimates that the average lifespan of a prepaid card is three years. Therefore, FinCEN estimates that there are 2.5 million new prepaid cards or products issued each year. However, we seek comment from the public on whether the three-year average lifespan of a prepaid card is a reasonable assumption.

Estimated Total Annual Recordkeeping Burden: The burden will be 83,300 hours.

SAR Filing for Providers and Sellers of Prepaid Access

Suspicious activity reports for money services businesses (31 CFR 103.20). Office of Management and Budget Control Number: 1506–0015.

This information is required to be provided pursuant to 31 U.S.C. 5318(g) and 31 CFR 103.20. This information will be used by law enforcement agencies in the enforcement of criminal and regulatory laws and to prevent money services businesses from engaging in illegal activities. The collection of information is mandatory. The proposal will increase the number of recordkeepers by 70,700.

Description of Recordkeepers: MSBs as defined in 31 CFR 103.11(uu)(4).

Estimated Number of Recordkeepers: On an annual basis there are approximately 700 Providers of prepaid access and 70,000 sellers of prepaid access. Therefore, the number of recordkeepers would be increased by 70,700.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 103.20 is 90 minutes per report.

Estimated Total Annual Recordkeeping Burden: The proposal should increase the estimated annual burden by 144,900 hours.

Registration of Providers of Prepaid Access

Registration for money services businesses (31 CFR 103.41). Office of Management and Budget Control Number: 1506–0013.

This information is required to be provided pursuant to 31 U.S.C. 5330 and 31 CFR 103.41. The information will be used by law enforcement and regulatory agencies in the enforcement of criminal, tax, and regulatory laws and to prevent money services businesses from engaging in illegal activities. The collection of information is mandatory. As only providers of prepaid access need register and list the prepaid programs subject to the proposed regulation, the number of recordkeepers will be increased by 700.

Description of Recordkeepers: Providers of prepaid access as defined in 31 CFR 103.11(uu)(4).

Estimated Number of Recordkeepers: The number of recordkeepers would be increased by 700 MSBs.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 103.41 is 60 minutes per recordkeeper for the completion, filing, and recordkeeping of registration forms, and an additional 90 minutes for the completion, filing, and recordkeeping of the list of prepaid programs subject to the regulation.

Estimated Total Annual Recordkeeping Burden: We will increase the number of burden hours under this collection by 1,750 hours.

Recordkeeping and Retrieval Requirement

Customer and Transactional Data Recordkeeping Requirements (31 CFR 103.33, 103.38, 103.40, and 103.125). Office of Management and Budget Control Number: 1506–0009.

This information is required to be provided pursuant to Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829) and 31 CFR 103.33, 103.38, 103.40, and 103.125. This information will be used by law enforcement agencies in the enforcement of criminal, tax, and regulatory laws and to prevent money services businesses from engaging in illegal activities. Prepaid providers would be required to retain information in a format that allows for its retrieval upon request. Both providers and sellers of prepaid access are responsible for the recordkeeping of customer and transactional data that would routinely be captured and maintained in the ordinary course of business under the proposed regulation, the number of recordkeepers will be increased by 70,700.

Description of Recordkeepers: MSBs as defined in 31 CFR 103.11(uu)(4).

Estimated Number of Recordkeepers: The number of recordkeepers would be increased by 70,700 MSBs.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 103.33, 103.38, 103.40, and 103.125 is 16 hours per recordkeeper for the maintenance of customer and transactional data that would routinely be captured and maintained in the ordinary course of business under prepaid programs subject to the proposed regulation.

Estimated Total Annual Recordkeeping Burden: We will increase the number of burden hours under this collection by 1,131,200 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under

the Bank Secrecy Act must be retained for five years.

Request for Comments: We specifically invite comments on: (a) whether the proposed recordkeeping requirements are necessary for the proper performance of the mission of the Financial Crimes Enforcement Network, and whether the information shall have practical utility; (b) the accuracy of our estimate of the burden of the proposed recordkeeping requirement; (c) ways to enhance the quality, utility, and clarity of the information required.

XVII. Executive Order 12866

This proposed rule is a significant regulatory action, and has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866 ("Regulatory Planning and Review"). Most of the entities that would be affected by this rulemaking are already contractually obliged to maintain AML programs, verify customer identification, and keep records of transaction information in order to fulfill their contractual obligations to banks and transaction processors. Additionally, FinCEN understands that many of these entities already use automated fraud monitoring systems that evaluate data points similar to those relevant to detect suspicious transactions. The imposition of apparently new compliance obligations under this proposed rule would therefore likely not impose significant new costs on regulated entities in this regard.

As discussed in the RFA certification, FinCEN estimates that because of the low transaction limits for prepaid access products and services neither SARs nor CTRs will be required to be filed often. Lastly, FinCEN estimates the registration requirement proposed by the rule will require 2.5 hours of employee time annually. FinCEN expects that the new reporting requirements imposed by this proposed rule would therefore likely have a modest overall operational and economic impact.

FinCEN solicits comment on the economic impact of this proposed rule. FinCEN will use this feedback to conduct additional analysis. Given the difficulty in quantifying or monetizing the important incremental benefits of a Regulation, FinCEN is considering OMB guidance and Circular A–4 with respect to conducting a threshold or "break-even" analysis. According to OMB Circular A–4 this analysis would answer, "How small the value of the non-quantified benefits could be (or how large would the value of the non-quantified costs need to be) before the rule will yield zero net benefits."[62]

XVIII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), Public Law 104–4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that may result in expenditure by the State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. Taking into account the factors noted above and using conservative estimates of average labor costs in evaluating the cost of the burden imposed by the proposed regulation, FinCEN has determined that it is not required to prepare a written statement under section 202.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

Proposed Amendments to the Regulations

Accordingly, 31 CFR part 103 is proposed to be amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FINANCIAL TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

2. Section 103.11, as proposed to be amended on May 12, 2009 (74 FR 22129), is proposed to be further amended as follows:

a. Revising paragraph (i);

b. Revising paragraph (uu)(4);

c. Adding paragraph (uu)(8); and

d. Revising paragraph (vv).

The revisions and addition read as follows:

§ 103.11 Meaning of terms.

* * * * *

(i) *Closed loop prepaid access.* Prepaid access to funds or the value of funds that can be used only in transactions involving a defined merchant or location (or a set of locations) such as a specific retailer or retail chain, a college campus, or a subway system.

* * * * *

(uu) * * *

(4) *Provider of prepaid access*—(i) *In general.* The term "provider of prepaid access" means the person with principal oversight and control over one or more prepaid programs. Which person exercises "principal oversight and control" is a matter of facts and circumstances. Activities that indicate "principal oversight and control" include:

(A) Organizing the prepaid program;

(B) Setting the terms and conditions and determining that the terms have not been exceeded;

(C) Determining the other businesses that will participate in the transaction chain underlying the prepaid access which may include the issuing bank, the payment processor, or the distributor;

(D) Controlling or directing the appropriate party to initiate, freeze, or terminate prepaid access; and

(E) Engaging in activity that demonstrates oversight and control of transactions.

(ii) *Prepaid program.* For the purposes of this section and subject to the limitations set forth in this paragraph (uu)(4)(ii), a prepaid program is an arrangement under which one or more persons acting together provide(s) a particular form of prepaid access. However, an arrangement is not a prepaid program if:

(A) The prepaid access provided is limited to one of the following:

(*1*) Payment of benefits, incentives, wage or salaries through payroll cards or other such electronic devices for similar purposes;

(*2*) Payment of government benefits such as unemployment, child support, and disaster assistance through electronic devices;

(*3*) Disbursement of reimbursement funds from pre-tax flexible spending accounts for health care and dependent care expenses;

(*4*) Providing prepaid access to funds subject to limits that include a maximum value as indicated in paragraphs(uu)(4)(ii)(A)(*4*)(*i*) through (*iii*) of this section, where such maximum value is clearly visible on the prepaid access product:

(*i*) Not to exceed $1,000 maximum value that can be initially loaded at the time of purchase of the prepaid access;

[62] *See* OMB Circular A–4 (September 17, 2003), p. 2.

(*ii*) Not to exceed $1,000 maximum aggregate value (such as through multiple transfers of value to a single prepaid access product) that can be associated with the prepaid access at any given time; and

(*iii*) Not to exceed $1,000 maximum value that can be withdrawn from the prepaid access device on a single day; or

(*5*) Providing closed-loop prepaid access; and

(B) It does not permit:

(*1*) Funds or value to be transmitted internationally;

(*2*) Transfers between or among users of prepaid access within a prepaid program such as person-to-person transfers; or

(*3*) Unless it qualifies as closed loop prepaid access, the ability to load monetary value from other non-depository sources onto prepaid access.

* * * * *

(8) *Seller of prepaid access.* The term "seller of prepaid access" means any person that receives funds or the value of funds in exchange for providing prepaid access as part of a prepaid program directly to the person that provided the funds or value, or to a third party as directed by that person.

(vv) *Prepaid access.* Electronic device or vehicle, such as a card, plate, code, number, electronic serial number, mobile identification number, personal identification number, or other instrument that provides a portal to funds or the value of funds that have been paid in advance and can be retrievable and transferable at some point in the future.

* * * * *

3. Amend § 103.20 by:

a. Revising the first sentence of paragraph (a)(1); and

b. Removing paragraph (a)(5).

The revision reads as follows:

§ 103.20 Reports by money services businesses of suspicious transactions.

(a) *General.* (1) Every money services business, described in § 103.11(uu), (1), (3), (4), (5), (6), or (8), shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. * * *

* * * * *

4. Add new § 103.40 to subpart C to read as follows:

§ 103.40 Additional records to be maintained by providers of prepaid access.

With respect to transactions relating to providers and sellers of prepaid access described in § 103.11(uu)(4) and (8) that are subject to the requirements of part 103, each provider of prepaid access shall maintain transactional records for a period of five years. The provider, as defined in § 103.11(uu)(4), shall maintain transactional records generated in the ordinary course of business by the payment processor or other party that facilitates prepaid access activation, loads, reloads, purchases, withdrawals, transfers, or other prepaid-related transactions.

5. Amend § 103.41 by revising paragraph (a)(1) to read as follows:

§ 103.41 Registration of money services businesses.

(a) *Registration requirement*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, relating to agents, and except for sellers as defined in § 103.11(uu), to the extent that they are not already agents, each money services business (whether or not licensed as a money services business by any State) must register with FinCEN and, in the case of a provider of prepaid access, identify each prepaid program for which it is the provider of prepaid access. Each money services business must, as part of its registration, maintain a list of its agents as required by 31 U.S.C. 5330 and this section. This section does not apply to the United States Postal Service, to agencies of the United States, of any State, or of any political subdivision of a State. With respect to prepaid programs, each prepaid program must have a provider of prepaid access registered with FinCEN.

* * * * *

6. Amend § 103.125 by:

a. Revising paragraph (d)(1)(i); and

b. Adding new paragraph (d)(1)(iv).

The revision and addition read as follows:

§ 103.125 Anti-money laundering programs for money services businesses.

* * * * *

(d) * * *

(1) * * *

(i) Policies, procedures, and internal controls developed and implemented under this section shall include provisions for complying with the requirements of this part including, to the extent applicable to the money services business, requirements for:

(A) Verifying customer identification, including as set forth in paragraph (d)(1)(iv) of this section.

(B) Filing Reports;

(C) Creating and retaining records;

(D) Responding to law enforcement requests.

* * * * *

(iv) A money services business that is a provider or seller of prepaid access must establish procedures to verify the identity of a person who obtains prepaid access under a prepaid program, obtain identifying information concerning such a person, including name, date of birth, address, and identification number, and retain such identifying information for five years after the termination of the relationship.

* * * * *

Dated: June 17, 2010.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2010–15194 Filed 6–25–10; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0051]

RIN 1625–AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, (AIWW) Scotts Hill, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking concerning the proposed change to the regulations that governed the operation of the Figure Eight Swing Bridge, at AIWW mile 278.1, at Scotts Hill, NC. The requested change would have allowed the drawbridge to open on signal every hour on the half hour for the passage of pleasure vessels.

DATES: The notice of proposed rulemaking is withdrawn on June 28, 2010.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG-2009-0051 in the "Keyword" box and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or e-mail Waverly W. Gregory, Jr., Fifth Coast Guard District; telephone (757) 398–6222, e-mail

Waverly.W.Gregory@uscg.mil. If you have questions on viewing material in the docket call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background

On February 20, 2009, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, (AIWW) Scotts Hill, NC" in the **Federal Register** (74 FR 7844–7847). The rulemaking would have allowed the drawbridge to open on signal every hour on the half hour for the passage of pleasure vessels. Our investigation along with comments received revealed that the proposed change would significantly increase delays to recreational boaters and would provide an unsafe environment for slow moving vessel traffic.

Withdrawal

The Figure Eight Homeowner Association Inc. (FEHAI), who owns and operates the Figure Eight Swing Bridge, had requested a change to the existing regulations in an effort to improve the schedule for both roadway and waterway users. The swing bridge provides the only route on and off Figure Eight Island. The proposal would not have changed the requirement for the bridge to open on signal at any time for commercial and government vessels. FEHAI believed that the proposal would facilitate pleasure craft in navigating the AIWW, and also help ease vehicular traffic congestion.

The Coast Guard received several comments opposing changes to the proposed rulemaking. We conducted a lengthy and thorough investigation that included a site visit.

Our investigation along with the majority of the comments revealed that the request to change the regulations for pleasure craft from half-hour openings to hourly openings would not affect power boats along the AIWW, but would significantly affect sailboats. Increasing travel time between drawbridge openings will increase the number of vessels waiting for an opening in a narrow and restricted channel, making safe navigation more difficult. In addition, no data was submitted to the docket to support concerns that vehicle traffic across the bridge had increased or was unreasonably impeded by the current operating schedule of the bridge. The proposed amendment to the operating schedule is withdrawn because this change would not improve drawbridge operations.

Authority

This action is taken under the authority of 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

Dated: June 9, 2010.

Wayne E. Justice,

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

[FR Doc. 2010–15560 Filed 6–25–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–RCRA–2009–0708; FRL–9162–1]

Arkansas: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: During a review of Arkansas' regulations, the EPA identified a variety of State-initiated changes to Arkansas' hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA), for which the State had not previously sought authorization. The EPA proposes to authorize the State for the program changes. In addition, the EPA proposes to codify in the regulations entitled "Approved State Hazardous Waste Management Programs", Arkansas' authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that EPA will enforce under RCRA.

DATES: Send written comments by July 28, 2010.

ADDRESSES: Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. You may also submit comments electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the direct final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, (214) 665–8533.

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of this **Federal Register**, the EPA is authorizing the changes to the Arkansas program, and codifying and incorporating by reference the State's hazardous waste program as a direct final rule. The EPA did not make a proposal prior to the direct final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this authorization and incorporation by reference in the preamble to the direct final rule. Unless we get written comments which oppose this authorization and incorporation by reference during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

For additional information, please see the direct final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: May 5, 2010.

Lawerence E. Starfield,

Regional Administrator, EPA Region 6.

[FR Doc. 2010–15333 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R06–RCRA–2009–0567; FRL–9162–6]

Oklahoma: Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to codify in the regulations entitled "Approved State Hazardous Waste Management Programs", Oklahoma's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under the Solid Waste Disposal Act, commonly referred to as the Resource Conversation and Recovery Act (RCRA). In the "Rules and Regulations" section of this **Federal Register**, the EPA is codifying and

incorporating by reference the State's hazardous waste program as an immediate final rule. The EPA did not make a proposal prior to the immediate final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this codification and incorporation by reference in the preamble to the immediate final rule. Unless we get written comments which oppose this incorporation by reference during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the immediate final rule and it will not take effect.

We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send written comments by July 28, 2010.

ADDRESSES: Send written comments to Alima Patterson, Region 6 Regional Authorization Coordinator, OR Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone numbers: (214) 665–8533 or (214) 665–8178. You may also submit comments electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the immediate final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, (214) 665–8533 or Julia Banks, (214) 665–8178.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: April 30, 2010.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 2010–15329 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 482 and 485

[CMS–3228–P]

RIN 0938–AQ06

Medicare and Medicaid Programs: Changes to the Hospital and Critical Access Hospital Conditions of Participation To Ensure Visitation Rights for All Patients

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Medicare conditions of participation for hospitals and critical access hospitals (CAHs) to ensure the visitation rights of all patients. Medicare- and Medicaid-participating hospitals and CAHs would be required to have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the hospital or CAH may need to place on such rights as well as the reasons for the clinical restriction or limitation.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on August 27, 2010.

ADDRESSES: In commenting, please refer to file code CMS–3228–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this proposed regulation 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–3228–P, 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: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3228–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: CDR Scott Cooper, USPHS, (410) 786–9465. Marcia Newton, (410) 786–5265. Jeannie Miller, (410) 786–3164.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid

Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

On April 15, 2010, the President issued a Presidential Memorandum on Hospital Visitation to the Secretary of Health and Human Services. (The memorandum may be viewed on the Web at: *http://www.whitehouse.gov/the-press-office/presidential-memorandum-hospital-visitation*.) As part of the directives of the memorandum, the Department, through the Office of the Secretary, tasked CMS with developing proposed requirements for hospitals (including Critical Access Hospitals (CAHs)), that would address the right of a patient to choose who may and may not visit him or her. In the memorandum, the President pointed out the plight of individuals who are denied the comfort of a loved one or a close friend at their side during a time of pain or anxiety after they are admitted to a hospital. The memorandum indicated that these individuals are often denied this most basic of human needs simply because the loved ones and close friends who provide them comfort and support do not fit into a traditional concept of "family."

While the existing hospital conditions of participation (CoPs) in our regulations at 42 CFR part 482 do not address patient visitation rights specifically, there is a specific CoP regarding the overall rights of hospital patients contained in § 482.13. We note that the existing CoPs for CAHs in our regulations do not address patient rights in any form. The hospital CoP for patient rights at § 482.13 specifically requires hospitals to: (1) Inform each patient or, when appropriate, the patient's representative (as allowed under State law) of the patient's rights; (2) ensure the patient's right to participate in the development and implementation of the plan of care; (3) ensure the patient's (or his or her representative's) right to make informed decisions about care; (4) ensure the patient's right to formulate advance directives and have hospital staff comply with these directives (in accordance with the provisions at 42 CFR 489.102); (5) ensure the patient's right to have a family member or representative of his or her choice and his or her own physician notified promptly of admission to the hospital; (6) inform each patient whom to contact at the hospital to file a grievance; and (7) ensure that the hospital's grievance process has a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Quality Improvement Organization (QIO). (Additional information regarding the Medicare beneficiary patient's right to file a grievance or a complaint with a QIO may be found at the HHS Centers for Medicare & Medicaid Web site: *http://www.cms.gov/QualityImprovementOrgs/*). The hospital patient rights CoP also guarantees a patient's right to: privacy; care in a safe setting; freedom from all forms of harassment and abuse; and confidentiality of patient records. In addition, this CoP contains detailed standards on the use of restraint and seclusion in the hospital, including provisions regarding the training of staff on appropriate restraint and seclusion of patients as well as a requirement for the hospital to report any and all deaths associated with the use of restraint or seclusion.

As the President noted in his memorandum to the Secretary, many States have already taken steps to ensure that a patient has the right to determine who may and may not visit him or her, regardless of whether the visitor is legally related to the patient. In addressing the President's request to propose patient visitation rights in regulations, we have focused on developing proposed requirements that would ensure that hospitals and CAHs protect and promote patient visitation rights in a manner consistent with that in which hospitals are currently required to protect and promote all patient rights under the current CoPs. Accordingly, the proposed visitation rights requirement, which would require hospital and CAH compliance as a condition of participation in the Medicare and Medicaid programs (*see* Section II below for further discussion of the regulatory requirements of participation in the Medicaid program), not only addresses the President's directives regarding this important proposed patient right, but also would ensure that all hospitals and CAHs fully inform patients (or their designated representatives) of this right and that all patients are guaranteed full participation in designating who may and who may not visit them.

We believe that such a requirement would need to be broad in scope (that is, would need to apply to all patients and all visitors as designated by the patient (or the patient's representative)). In addition, we believe that the requirement would need to be flexible enough in its application to permit the hospital or CAH to require written documentation of patient representation by legally valid advance directives, such as durable powers of attorney and healthcare proxies (as opposed to verbal designation of the representative by the patient), but only in rare cases. In such cases, the patient's documented representative could specify which visitors are and are not allowed to see the patient. We seek comment on how best to identify these rare cases. We believe that, at a minimum, a hospital or CAH may not require documentation where the patient has the capacity to speak or otherwise communicate for himself or herself; where patient representation automatically follows from a legal relationship recognized under State law (for example, a marriage, a civil union, a domestic partnership, or a parent-child relationship); or where requiring documentation would discriminate on an impermissible basis. We recognize that many States, such as Delaware, Minnesota, Nebraska, and North Carolina (as mentioned in the Presidential Memorandum), have already taken the lead in this area and adopted laws that directly address these types of issues. Finally, we believe that a patient visitation rights requirement also would need to accommodate medically appropriate visitation policies generally recognized by the Nation's hospitals and CAHs, *i.e.,* those that set forth any clinically necessary or reasonable restrictions or limitations on visitors (for example, when the patient is undergoing care interventions, when there may be infection control issues, or when visitation may interfere with the care of other patients).

In the April 15, 2010 Presidential Memorandum, the President also emphasized the consequences that restricted or limited visitation has for patients. When a patient does not have the right to designate who may visit him or her simply because there is not a legal relationship between the patient and the visitor, physicians, nurses, and other staff caring for the patient often miss an opportunity to gain valuable patient information from those who may know the patient best with respect to the patient's medical history, conditions, medications, and allergies, particularly if the patient has difficulties recalling, or is totally unable to recall or articulate, this vital personal information. Many times, these individuals who may know the patient best act as an intermediary for the patient, helping to communicate the patient's needs to hospital staff. We agree that restricted or limited hospital

and CAH visitation can effectively eliminate these advocates for many patients, potentially to the detriment of the patient's health and safety.

An article published in 2004 in the *Journal of the American Medical Association* (Berwick, D.M. and Kotagal, M.: "Restricted visiting hours in ICUs: time to change." *JAMA.* 2004; Vol. 292, pp. 736–737) discusses the health and safety benefits of open visitation for patients, families, and intensive care unit (ICU) staff and debunks some of the myths surrounding the issue (physiologic stress for the patient; barriers to provision of care; exhaustion of family and friends) through a review of the literature and through the authors' own experiences working with hospitals that were attempting a systematic approach to liberalizing ICU visitation as part of a collaborative with the Institute for Healthcare Improvement. The authors of the article ultimately concluded that "available evidence indicates that hazards and problems regarding open visitation are generally overstated and manageable," and that such visitation policies "do not harm patients but rather may help them by providing a support system and shaping a more familiar environment" as they "engender trust in families, creating a better working relationship between hospital staff and family members."

While the Presidential Memorandum specifically called for patient visitation rights in hospitals (and, by natural extension, CAHs since they are also hospitals, but with separate and distinct CoPs under the Medicare and Medicaid programs), there are other Medicare and Medicaid providers with respect to which the issue of patient visitation rights also may factor into the degree to which patients receive appropriate and compassionate care. Both the existing hospice CoPs and the nursing home requirements in the Medicare and Medicaid programs contain provisions that address visitors directly. The existing inpatient hospice CoP at 42 CFR 418.100(e) provides that "[p]atients must be permitted to receive visitors at any hour, including small children," and contains another provision that requires hospices to provide privacy for patients and their family members when they are residing in the inpatient setting. The existing resident rights provision within the nursing home requirements under 42 CFR 483.10(j) contains even more extensive provisions concerning the rights of residents to receive visitors, including the right at any time to withdraw or deny consent to immediate family members, other relatives, or other individuals who are visiting the resident. While neither the hospice CoPs nor the nursing home requirements contains regulatory language that expressly prohibits the denial of visitation privileges based on race, color, national origin, religion, sex, sexual orientation, gender identity, or disability, as contemplated by the April 15, 2010 Presidential Memorandum with respect to hospitals, we believe that these existing acknowledgements of the visitation rights of hospice patients and nursing home residents can operate to fulfill the spirit of the Presidential Memorandum; that is, to ensure the protection of all patients' right to designate who may and may not visit the patient. Through this notice of proposed rulemaking, we are soliciting comments on the issue of patient visitation requirements with regard to these and other Medicare and Medicaid providers and suppliers.

II. Provisions of the Proposed Regulation

The following provisions of this proposed rule would apply to all hospitals and CAHs participating in the Medicare and Medicaid programs. Section 1861(e)(1) through (9) of the Social Security Act: (1) Defines the term "hospital;" (2) lists the statutory requirements that a hospital must meet to be eligible for Medicare participation; and (3) specifies that a hospital must also meet other requirements as the Secretary finds necessary in the interest of the health and safety of the hospital's patients. Under this authority, the Secretary has established in the regulations at 42 CFR part 482 the requirements that a hospital must meet to participate in the Medicare program. This authority extends as well to the separate requirements that a CAH must also meet to participate in the Medicare program, established in the regulations at 42 CFR part 485. Additionally, § 1820 of the Act sets forth the conditions for designating certain hospitals as CAHs. Section 1905(a) of the Act provides that Medicaid payments may be applied to hospital services. Regulations at 42 CFR 440.10(a)(3)(iii) require hospitals to meet the Medicare CoPs to qualify for participation in Medicaid.

We are proposing to incorporate the proposed visitation rights requirement for hospitals as a new standard within the patient rights CoP at § 482.13. Hospitals would be required to have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the hospital may need to place on such rights as well as the reasons for the clinical restriction or limitation. As part of these proposed requirements, we are proposing to specify that the hospital must inform each patient, or his or her representative where appropriate, of the patient's visitation rights, including any clinical restriction or limitation on those rights, when the patient, or his or her representative where appropriate, is informed of the other rights specified in § 482.13. We are further proposing that, as part of his or her visitation rights, each patient (or representative where appropriate) must be informed of his or her right, subject to his or her consent, to receive the visitors whom he or she designates, whether a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and of the right to withdraw or deny such consent at any time. We are specifically seeking public comments on the style and form that patient notices or disclosures would need to follow so that patients would be best informed of these rights.

Consistent with the previously cited article's conclusions that a denial or restriction of visitation privileges can be inconsistent with the health and safety of patients where the denial is not justified by a medically appropriate reason, we are proposing that hospitals would not be permitted to restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, or disability. In addition, we are proposing to require hospitals to ensure that all visitors designated by the patient (or representative where appropriate) enjoy visitation privileges that are no more restrictive than those that immediate family members would enjoy.

We are proposing to apply these same requirements to CAHs by revising the CoPs for CAHs. Because the CoPs for CAHs do not currently contain any patient rights provisions, we are proposing to add a new standard on patient visitation rights at § 485.635(f) within the existing CoP on provision of services.

The President's Memorandum also directed the Secretary to ensure that patients' representatives have the right to make informed decisions regarding patients' care.

The hospital conditions of participation at 42 CFR 482.13(b)(2) state: "The patient or his or her representative (as allowed under State law) has the right to make informed decisions regarding his or her care. The patient's rights include being informed of his or her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be

construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate."

We believe that the ability of a patient to designate a representative who can act on behalf of the patient is critical to the assurance of the patient's health and safety. Regardless of whether a patient is incapacitated, the designation of a representative, who is likely to be especially familiar with the patient, including his or her medical history, conditions, medications, and allergies, can serve as an invaluable asset to the patient and caregivers during the development and revision of the course of treatment and associated decision making.

The requirement at § 482.13(b)(2) is intended to ensure the patient's right to designate a representative. We are taking this opportunity to solicit comment on whether, as a health and safety measure, this requirement effectively addresses any inappropriate barriers to a patient's ability to designate a representative, and consistently ensures the right to designate a representative for all patients in all Medicare- and Medicaid-participating hospitals. We intend to consider public comments received in response to this request as we consider any revision to the current regulation that would eliminate any inappropriate restriction or limitation on a patient's ability to designate a representative that may be permitted under the existing regulation.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

A. ICRs Regarding Condition of Participation: Patient's Rights (§ 482.13)

Proposed § 482.13(h) would require a hospital to have written policies and procedures regarding the visitation rights of patients, including any clinically necessary or reasonable restriction or limitation that the hospital may need to place on such rights and the reasons for the clinical restriction or limitation. Specifically, the written policies and procedures must contain the information listed in proposed § 482.13(h)(1) through (4). The burden associated with this requirement is the time and effort necessary for a hospital to develop written policies and procedures with respect to visitation rights of patients and to distribute that information to the patients.

We believe that most hospitals already have established policies and procedures regarding visitation rights of patients. Therefore, we will be adding only a minimal amount of additional burden hours to comply with this requirement. Additionally, we believe that most hospitals include the visitation policies and procedures as part of their standard notice of patient rights. The burden associated with the notice of patient rights is currently approved under OMB control number 0938–0328. We will be submitting a revision of the currently approved information collection request to account for the following burden.

We estimate that 4,860 hospitals must comply with the aforementioned information collection requirements. We further estimate that it will take each hospital 0.25 hours to comply with the requirement in proposed § 482.13(h). The total estimated annual burden associated with this requirement is 1,215 hours at a cost of $126,360.

B. ICRs Regarding Condition of Participation: Provision of Services (§ 485.635)

Proposed § 485.635(f) would require a CAH to have written policies and procedures regarding the visitation rights of patients, including any clinically necessary or reasonable restriction or limitation that the CAH may need to place on such rights and the reasons for the clinical restriction or limitation. Specifically, the written policies and procedures must contain the information listed in proposed § 485.635(f)(1) through (4). The burden associated with this requirement is the time and effort necessary for a CAH to develop written policies and procedures with respect to visitation rights of patients and to distribute the information to the patients.

We believe that most CAHs already have established policies and procedures regarding visitation rights of patients. These policies and procedures are most likely included as part of a CAH's patient care policies as required for CAHs under § 485.635. Therefore, we will be adding only a minimal amount of additional burden hours to comply with this requirement. We will be submitting a revision of the ICR currently approved under OMB control number 0938–1043 to account for the burden associated with the proposed requirements in § 485.635.

We estimate that 1,314 CAHs must comply with the aforementioned information collection requirements. We further estimate that it will take each CAH 0.25 hours to comply with the requirement in proposed § 482.13(h). The total estimated annual burden associated with this requirement is 329 hours at a cost of $34,216.

If you comment on these information collection and recordkeeping requirements, please do either of the following:

1. Submit your comments electronically as specified in the **ADDRESSES** section of this proposed rule; or

2. Submit your comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: CMS Desk Officer, [CMS–3228–P]; Fax: (202) 395–6974; or E-mail: *OIRA_submission@omb.eop.gov*.

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Statement

We have examined the impact of this proposed rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not reach the economic threshold and thus is not considered a major rule.

We believe that the benefits of the rule would amply justify its relatively small costs. Executive Order 12866 explicitly requires agencies to consider non-quantifiable benefits, including "distributive impacts" and "equity," and the benefits of the proposed rule, in these terms, would be significant. In the words of Executive Order 12866, these benefits are "difficult to quantify, but nevertheless essential to consider."

More specifically, the benefits of the proposed rule include: (1) Ensuring the protection of a patient's ability to designate who may and may not visit the patient; (2) broadening patient participation in the care received (a benefit that would have significant emotional benefits for many patients); and (3) creating a more patient-designated support system, with potentially large improvements in hospital and CAH experiences and health outcomes for patients.

The cost of implementing these proposed changes would largely be limited to the one-time cost related to the revisions of hospital and CAH policies and procedures as they relate to the proposed requirements for patient visitation rights. There would also be the one-time cost of producing a printed page detailing the patient visitation rights that would be provided to patients upon admission. We have estimated the total cost of revising the policies and procedures related to patient visitation rights as well as the total cost of producing a printed page detailing these rights that would be provided to hospital and CAH patients upon admission. No burden is being assessed on the communication of these revisions to hospital and CAH staff or on the distribution of the visitation rights to patients that would be required by this proposed rule, as these practices are usual and customary business practices.

CMS data, as of March 31, 2010, indicated that there were 4,860 hospitals and 1,314 CAHs (for a total of 6,174) in the United States. We prepared the cost estimates for hospitals and CAHs together since both types of providers would be required to perform the same functions. Regarding the costs of revising hospital and CAH policies and procedures as related to the proposed patient visitation rights requirements, this function would be performed by the hospital or CAH administrator at an hourly salary (including benefits) of $104 (our salary figures are from *http://www.salary.com/*) and that this function would require approximately 15 minutes of an administrator's time to accomplish. Therefore, the total one-time cost for all hospitals and CAHs would be $104 × .25 hours × 6,174 total hospitals/CAHs = $160,524.

The most recent CMS figures from 2008 also indicate that there were 37,529,270 total hospital (and CAH) patient admissions in that year. Using that as an estimate, we then calculated the total cost for hospitals and CAHs to produce a one-page printed disclosure form detailing the patient visitation rights that would be provided to all patients upon admission. We estimated the cost of production to be 2 cents per page. Therefore, the total estimated cost for all hospitals and CAHs to produce this one-page printed patient visitation rights disclosure form and provide it to all patients upon admission (based on the most recent hospital admission figures) would be 37,529,270 total hospital patient admissions × $0.02 = $750,585 for the first year. We would anticipate that this form would be incorporated into hospital and CAH admission materials for subsequent years; therefore, we have no way to estimate the future costs to provide this form, but we would expect the costs to be minimal once all hospitals and CAHs have incorporated this disclosure of patient visitation rights. In conclusion, the total first-year cost for all hospitals and CAHs to meet the requirements of the proposed patient visitation rights would be $0.9 million. We believe that the annual benefits of the rule, though not susceptible to quantification, far exceed that amount.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7.0 million to $34.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2010, that threshold is approximately $135 million. This proposed rule would have no consequential effect on State, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Because this proposed regulation would not impose any substantial costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this proposed regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 482

Grant programs—Health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 485

Grant programs—Health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

1. The authority citation for part 482 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)).

2. Section 482.13 is amended by adding a new paragraph (h) to read as follows:

§ 482.13 Condition of participation: Patient's rights.

* * * * *

(h) *Standard: Patient visitation rights.* A hospital must have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the hospital may need to place on such rights and the reasons for the clinical restriction or limitation. A hospital must—

(1) Inform each patient (or representative, where appropriate) of his or her visitation rights, including any clinical restriction or limitation on such rights, when he or she is informed of his or her other rights under this section.

(2) Inform each patient (or representative, where appropriate) of the right, subject to his or her consent, to receive the visitors whom he or she designates, including, but not limited to, a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and his or her right to withdraw or deny such consent at any time.

(3) Not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, or disability.

(4) Ensure that all visitors designated by the patient (or representative, where appropriate) enjoy visitation privileges that are no more restrictive than those that immediate family members would enjoy.

PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

3. The authority citation for Part 485 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)).

4. Section 485.635 is amended by adding a new paragraph (f) to read as follows:

§ 485.635 Condition of participation: Provision of services.

* * * * *

(f) *Standard: Patient visitation rights.* A CAH must have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the CAH may need to place on such rights and the reasons for the clinical restriction or limitation. A CAH must—

(1) Inform each patient (or representative, where appropriate) of his or her visitation rights, including any clinical restriction or limitation on such rights, when he or she is informed of his or her other rights under this section.

(2) Inform each patient (or representative, where appropriate) of the right, subject to his or her consent, to receive the visitors whom he or she designates, including, but not limited to, a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and his or her right to withdraw or deny such consent at any time.

(3) Not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, or disability.

(4) Ensure that all visitors designated by the patient (or representative, where appropriate) enjoy visitation privileges that are no more restrictive than those that immediate family members would enjoy.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program). (Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program).

Dated: June 18, 2010.

Marilyn Tavenner,

Acting Administrator and Chief Operating Officer, Centers for Medicare & Medicaid Services.

Approved: June 21, 2010.

Kathleen Sebelius,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–RSPA–2004–19854]

Pipeline Safety: Information Collection Gas Distribution Annual Report Form

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Request for public comments and OMB approval of modifications to an existing information collection.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice in the **Federal Register** on December 4, 2009, under Docket No. PHMSA–2004–19854 of its intent to revise the agency's Gas Distribution System Annual Report Form (PHMSA F 7100.1–1). PHMSA F 7100.1–1 is covered under the PHMSA information collection titled: "Incident and Annual Reports for Gas Pipeline Operators," with an OMB Control Number of 2137–0522. PHMSA is publishing this notice to respond to comments and announce that the revised information collection will be submitted to OMB for approval. This notice also informs operators of gas distribution systems that PHMSA is planning for the revised Annual Report Form, once approved, to be used for the 2010 calendar year and submitted to PHMSA by March 15, 2011. The portion of the annual report relative to mechanical fitting (compression couplings) failures will be delayed by one year and will take effect starting with the 2011 calendar year.

DATES: Submit comments to OMB on or before July 28, 2010.

ADDRESSES: You may submit comments identified by the docket number "PHMSA–2004–19854" and OMB Control Number "2137–0522" by any of the following methods:

- *Fax:* 1–202–395–6566, ATTN: Desk Officer for Department of Transportation (DOT)/PHMSA.
- *Mail:* Office of Information and Regulatory Affairs (OIRA), OMB, 726 Jackson Place, NW., Washington, DC 20503, ATTN: Desk Officer for DOT/PHMSA.
- *E-mail:* OIRA, Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov* (ATTN: Desk Officer for DOT/PHMSA).

Requests for a copy of the information collection should be directed to Cameron Satterthwaite, 202–366–1319 or by e-mail at *Cameron.Satterthwaite@dot.gov,* or by mail at DOT, PHMSA, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Mike Israni, 202–366–4571 or by e-mail at *Mike.Israni@dot.gov.*

Information Collection: Cameron Satterthwaite, 202–366–1319 or by e-mail at *Cameron.Satterthwaite@dot.gov.*

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a revised information collection request that PHMSA will be submitting to OMB for approval. This information collection is contained in the pipeline safety regulations at 49 CFR parts 190–199. PHMSA has revised burden estimates, where appropriate, to reflect the proposed adjustments to the Gas Distribution System Annual Report Form (PHMSA F 7100.1–1). The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) type of request; (4) abstract of the information collection activity; (5) description of affected public; (6) estimate of total annual reporting and recordkeeping burden; and (7) frequency of collection. PHMSA will request a three-year term of approval for the information collection activity. PHMSA is posting the revised Gas Distribution Annual Report Form and instructions to Docket No. PHMSA–2004–19854. Once approved, the revised Annual Report Form will be used to collect information for the 2010 calendar year and submitted to PHMSA by March 15, 2011. The portion of the annual report relative to mechanical fitting (compression couplings) failures will be delayed by one year and will take effect starting with the 2011 calendar year.

This notice includes the following:

I. Background
II. Summary of Comments
III. Proposed Information Collection Revisions and Request for Comments

I. Background

On December 4, 2009, (74 FR 34906), PHMSA published a final rule titled: "Pipeline Safety: Integrity Management Program for Gas Distribution Pipelines." The Distribution Integrity Management Program (DIMP) rulemaking established the requirements for integrity management programs for Gas Distribution systems. In the DIMP notice of proposed rulemaking, PHMSA proposed the reporting of all plastic pipe failures. In the final rule, PHMSA modified this proposal to limit the reporting of plastic pipe failures to those occurring on compression couplings but extended the collection to include couplings used in metal pipe. PHMSA initially provided an opportunity for comments on this proposal for 30 days and subsequently published another **Federal Register** notice (December 31, 2009; 74 FR 69286) to allow for a total comment period of 60 days. PHMSA is developing a final rule to address the comments received on this proposal and revise the pipeline safety regulations to clarify the extent of pipe fittings involved in the compression coupling (mechanical fitting) failure information collection, revise key dates for the collection and submission of mechanical fitting failure information, align threat categories in § 192.1007 with the "cause of leak" categories on the Annual Report Form and Instructions, and clarify the Excess Flow Valve (EFV) metric to be reported by operators of gas systems.

In addition to the comment period for the proposed regulatory requirements, PHMSA used the December 4, 2009, final rule to announce a 60-day comment period seeking public comments about the proposed modification of the information collection: OMB Control Number 2137–0522, with respect to the corresponding annual report form (Form PHMSA F 7100.1–1 Annual Report for Gas Distribution Systems). Section 191.11 requires each operator of a gas distribution pipeline system, except as provided in § 191.11(b), to submit report Form PHMSA F 7100.1–1 Annual Reports for Gas Distribution System. The proposed revisions to PHMSA F 7100.1–1 are needed for operators to submit information required by the DIMP final rule regarding compression coupling (mechanical fitting) failures, four program performance measures, and the number of EFVs in the system at the end of the year on single-family residential services. The purpose of this notice is to address comments received from the 60-day comment period and announce the changes to the annual report form that will be submitted to OMB for approval.

II. Summary of Comments

PHMSA received twenty-three letters commenting on the proposed compression coupling (now referred to as mechanical fittings) reporting requirements on the Distribution Annual Report Form. The comments were from twelve pipeline operators, two trade associations representing pipeline operators, NAPSR representing State pipeline safety regulators, one State pipeline regulatory agency, two manufacturers, and one industry consultant. Several commenters submitted multiple letters. In addition to comments about the specific information to be collected, commenters expressed concern that the reporting requirements will require operators to perform a "root cause" analysis of each failure. Based on discussion at the Technical Pipeline Safety Standards Committee (TPSSC) meeting and comments submitted to the docket, PHMSA has further modified the proposed Distribution Annual Report Form. A summary of comments about the proposed changes to the information collection, PHMSA's responses, and the date operators are to begin using the revised form are provided below.

The comments were grouped into the following topic summaries:

Comment Topic 1 PRA procedural requirements in making proposed changes to the Gas Distribution System Annual Report form; information being collected is not compatible with the purpose of the gas distribution system annual report.

Comment Topic 2 Delete, change and define data fields and align terms used in § 192.1009, and proposed Part F of the annual report and instructions.

Comment Topic 3 Proposals for other changes to the Gas Distribution System Annual Report Form and instructions.

A discussion of each comment topic and PHMSA's response to each follows:

Comment Topic 1: PRA procedural requirements in making proposed changes to the Gas Distribution System Annual Report form; information being collected is not compatible with the purpose of the gas distribution system annual report.

Several commenters maintained that PHMSA's proposal to modify the Gas Distribution Annual Report information collection did not meet the requirements of 44 U.S.C 3501 *et seq.* of the PRA of 1995. They indicated that PHMSA did not provide an adequate description of the need, a statement of purpose for the data collection, or an evaluation of the cost benefit of collecting this data. They claimed the proposed changes to the information collection were burdensome, substantive, and without benefit to public safety in near term. Additionally, one commenter stated that the intent of the information collection presented in the proposed rule differed from how the information collection was prescribed in the final rule in § 192.1009.

Southwest Gas maintained that some of the changes were inconsistent with the discussion held with TPSSC on December 12, 2008, and requested that the issue be brought back to the TPSSC for its review and approval.

Some commenters believed that there should be a separate information collection for mechanical fitting failure data. Commenters claimed that the mechanical fitting failure data was too detailed for reporting via the Annual

Report Form. A commenter stated that the purpose of the Annual Report Form is to summarize data about an operator's system for the prior year. One commenter suggested the information be collected using the Incident Report form. Another commenter suggested that information could be collected in a manner consistent with the Plastic Pipe Data Collection.

PHMSA Response: PHMSA is taking the necessary measures to comply with the PRA procedural requirements in amending PHMSA F 7100.1–1. The 60-day notice published in the December 4, 2009, DIMP final rule and this 30-day notice are part of those steps to comply with the PRA requirements. PHMSA will not implement the amendments to PHMSA F 7100.1–1 until PHMSA has received approval from OMB.

Mechanical fitting failure has been the cause of a number of incidents on distribution pipelines in recent years and the subject of two PHMSA advisories. PHMSA needs additional information concerning mechanical fitting failures to determine if there are any trends or concerns regarding mechanical fitting failures in the industry. To identify trends, there needs to be sufficient data to characterize the type of fittings which are more susceptible to failure. If too little information is collected about the attributes of the fitting, only broad generalizations could be developed. PHMSA seeks to identify the smallest subset of mechanical fittings which pose the highest risk. The information collection will assist PHMSA in identifying problems where additional targeted requirements may be needed to protect public safety and help prevent future incidents. While the majority of mechanical fittings currently being installed are plastic, problems have been identified with existing steel mechanical fittings. The quality of original pipeline installation, quality of the original material, changes in the environment, and the appropriateness of the original design application can manifest itself in problems over time. For this reason, in the DIMP final rule, PHMSA invited public comment on the extension of this requirement to include reporting of mechanical fittings failures on metal pipe. This information collection may assist operators in identifying specific mechanical fittings, including installation or design practices, which pose the greatest threat to the integrity of their pipeline system.

PHMSA provided the requirements for reporting the information collected in Parts D, E, and F on the Annual Report Form in the DIMP proposed rule and final rule. Additionally, PHMSA discussed the proposed changes with the TPSSC as detailed in the transcript to the meeting which may be reviewed in under Docket Number PHMSA–2009–0203 at www.Regulations.gov. In discussing the revised form with TPSSC, PHMSA conveyed that the purpose of the information to be collected is to determine the root cause of the fitting failures. PHMSA mentioned that even if the plastic pipe failures were removed from reporting, compression coupling (mechanical fitting) failure reporting would still be retained. The National Transportation Safety Board (NTSB) had informed PHMSA that a safety recommendation pertaining to the data collection of mechanical fitting failure information was imminent and recommended that PHMSA revise the DIMP final rule to address more explicitly the risks from compression coupling failures. Based on the discussion at the TPSSC meeting, PHMSA decided to reduce the frequency of the reporting from within 90 days of failure to annually.

Operators conveyed that they need six to twelve months to modify their Information Technology systems, internally generated forms, and data collection procedures to accommodate DIMP-related information collection requirements. In direct response to that concern, PHMSA has revised the Annual Report form and instructions to specify the delayed collection of mechanical fitting failure information in Part F. PHMSA is planning for operators to begin the collection of mechanical fitting failure information on January 1, 2011, for the 2011 Calendar Year with final submission by March 15, 2012. PHMSA supports the involvement of all stakeholders during the review process for future amendments to the Annual Report form based on the data collected. PHMSA is revising the level of effort to complete this information collection as detailed in section III: Proposed Information Collection Revisions and Request for Comments.

PHMSA uses the information operators report on the Annual Report as one method to evaluate operator performance and identify national trends. PHMSA strives to enhance safety in a risk-based, systematic approach to developing and refining pipeline safety programs. The collection of mechanical fitting failure information supports these objectives. While the information could be collected through a separate information collection, the Annual Report Form is an established channel and not incongruous with its purpose. Information operators submit about their transmission integrity management programs was recently integrated into the Transmission Annual Report Form. It was logical to have distribution integrity management information be reported on the Distribution Annual Report Form. PHMSA is pursuing electronic reporting for the Annual Report Form which will reduce the reporting burden on operators. The electronic submission of data will increase the accuracy and quality of data collected which, in turn, will improve PHMSA's data integration efforts. Information about electronic filing can be found in the Updates to Pipeline and Liquefied Natural Gas Reporting Requirements notice of proposed rulemaking published on July 2, 2009 (74 FR 31675).

Comment Topic 2: Delete, change and define data fields. Align terms used in § 192.1009, the Annual Report Form and Instructions, and the Incident Report Form and Instructions

Commenters noted that some of the information requested in the form regarding mechanical fitting failures may not be available and if it is available, would require a significant effort to locate. The information cited on the proposed form included "lot number", "coupling manufacturer", and "decade of manufacture". Commenters claimed that external coatings may obscure the manufacturer's markings. Operators were concerned about potential consequences of leaving fields empty on the Annual Report if they could not locate the information. They requested that these fields be deleted and if they were not deleted, that PHMSA provide operators relief when the information is not readily available or apparent.

Comments were submitted regarding each mechanical fitting failure data field on the proposed Annual Report form. These comments are summarized in the table below.

PHMSA Response: Locating data requires a reasonable effort on the part of operators. Nonetheless, PHMSA recognizes that operators may not be able to locate some of the data requested. While operators may not always be able to identify some of the data, the data they can identify will assist in determining the extent of a mechanical fitting failure issue. More granular data such as "lot number" and "manufacturer" may assist in narrowing an issue to a smaller group of fittings. The Annual Report form and instructions provide for the operator to record "UNAVAILABLE" if the operator cannot locate the "lot number", "manufacturer", or the "part or model Number" data. Accordingly, PHMSA retains the reporting requirements

included in the DIMP final rule for each mechanical fitting failure data field.

We have changed the title for Part F on the Annual Report Form from "compression coupling" to "mechanical fitting".

The comments and related PHMSA response pertaining to the data fields are summarized in the following table:

Annual report	Public comments
Coupling Manufacturer	• The Incident Report form cautions that the industry jargon concerning compression fittings can be misleading. Manufacturers have utilized each other's components and sell "private labeled" fittings under their own name. Manufacturer's names change.
PHMSA Response	*The instructions from the Incident Report Form are repeated in the Annual Report Form instructions for this field. The instructions address the commenters' concerns about identifying the manufacturer who produced the fitting.*
Model No.	• The model number is usually not available. Consider deleting the field.
PHMSA Response	*Field retained. Operators are to record "UNAVAILABLE" when they cannot locate the information with reasonable effort.*
Lot Number	• The lot number is usually not available. Consider deleting the field.
PHMSA Response	*Field retained. Operators are to record "UNAVAILABLE" when they cannot locate the information with reasonable effort.*
Decade of Manufacture	• Operators generally know when a fitting was installed but not necessarily when the fitting was manufactured. The fitting may have been in stock for years prior to installation. The information is not readily available. • Change to "Decade of Installation". • The decade a fitting is manufactured may not be accurate because the information would have to be inferred from pipe installation records
PHMSA Response	*The field "Decade of Manufacture" was split into two fields for the operator to provide the best information the operator has available; "Year Installed" and "Year Manufactured". The year of installation is generally shown on the as-built drawing and/or on a map. If neither the year installed nor the year manufactured is known but the decade manufactured is known, the field "Decade Manufactured" is to be used.*
Location in System	• Use radio buttons similar to those in the Incident Report. • "Meter set" and "Riser joint" are confusing. A failure on a flexible field assembled riser could be reported as located either at the meter set or in a riser joint.
PHMSA Response	*The field "Location in the System" was split into two fields, "Location of System" and "Type of Mechanical Fitting", to better identify and reduce confusion as to where the failed fitting was located. The "Location in the System" will identify if the fitting is above or below ground, inside or outside, and if it connects a main-to-main, a main-to-service, or a service-to-main. The type of mechanical fittings include: service/main tee, tapping tee, transition fitting, coupling, riser, adapter, valve, sleeve, or other fitting. Radio buttons are provided.*
Nominal Pipe Size	• Change the instructions for "Nominal pipe size" and "Material Type" to "Enter the piping material to which the leaking/pulled-out compression fitting was connected." and "Enter the nominal piping size".
PHMSA Response	*Radio buttons for most common nominal pipe sizes were added to the form along with a selection of the dimension type of IPS, CTS, or NPS.*
Material Type (Body)	• Segregate the data sets for plastic fittings from metal fittings to avoid confusion in the data. • Add type of materials being joined by the compression couplings.
PHMSA Response	*The "Material Type (Body)" field was split into three fields to identify the fitting material and the material of the two pipes connected to the fitting.*
Nature of Failure	• Consider deleting the field. • Change to "Cause of Release" or "Cause of Leak". • Change to "Apparent Root Cause". • Determining the "nature of failure" goes beyond reporting to performing a "root cause" analysis. Operators would need to develop new practices and procedures to determine root cause. • PHMSA should develop procedures for how to perform a root cause analysis. • Select the "nature of failure" from the following choices: "leak through seal", "leak through body" or "pull-out". • Select the "nature of failure" from the existing eight causes from Part C of the Annual Report Form. • Compressive forces during installation may be fixed by design or they may be influenced by human factors. External forces or environmental changes may also affect them. • Performance of compression couplings are dependent upon design, fabrication, installation, application, and external factors. • Need to further delineate between types of couplings. Request industry stakeholder group create standard for performing a root cause analysis and for reporting of data. • Gather factual data regarding the largest problems: installation and application practices. Operators should report data, not the failure cause. Reporting of cause requires expert forensic analysis. Remove "manufacturing defect" as operators cannot determine. • Analysis is best performed at the operator level.
PHMSA Response	*Field retained. Operators are to record "UNAVAILABLE" when they cannot locate the information with reasonable effort. Operators are required to investigate failures per section 192.617. The investigation of a hazardous leak on a mechanical fitting would follow the operator's established procedure for determining the cause of the failure. The field "Nature of Failure" was changed to "Apparent cause of leak" and provided the same choices as on the Annual Report Form in Part C- Total Leaks and Hazardous leaks eliminated/repaired During Year. Additionally, the field was split into two additional fields for operators to select the type of defect (construction, material, design, previous damage, thermal expansion/contraction) and the location of the leak (leak through seal, leak through body, pull-out).*
Number of Similar Failures	• Term "Number of Similar Failures" was not mentioned in 192.1009. • Determining the number of similar failures requires judgment. • Consider deleting the field. Nature of the information requested, such as lot number/part number makes it impractical to have similar failures. • Confusing and inappropriate—Consider deleting the field.

Annual report	Public comments
PHMSA Response	*This field was intended to reduce the number of failures an operator would report if they were similar in nature. Due to the confusion, PHMSA eliminates this field.*

Comment Topic 3 Proposals for Other Changes to the Gas Distribution System Annual Report Form and Instructions.

Some of the other comments proposed changes to other parts of the Annual Report Form. A commenter requested that one of the columns titled: "Other" in Part B.1 be amended to "Other Plastic" to be consistent with Part B.2 and B.3. Another commenter maintained that based on *The Integrity Management for Gas Distribution Report of Phase 1 Investigations (December 2005),* the "PERCENT OF UNACCOUNTED FOR GAS" in Part H is not a valid national level performance measure and should be removed from the Annual Report Form.

NAPSR suggested that PHMSA modify the form instructions to align with the changes recently made to the incident report form and instructions. NAPSR also proposed a revision of the definition of "excavation damage" to include "damaged tracer wire" and the use of the term "enclosure" as opposed to the "housing" for the line device.

Commenters also requested a "save" feature for electronic reporting so that the report can be printed out and circulated for review prior to electronic submittal. Additionally, they noted the importance of the use of pick lists when possible instead of free form data collection.

PHMSA Response: PHMSA appreciates the input commenters provided to improve the Annual Report Form. PHMSA made an editorial correction to the column titles for "Other" in Part B.1 and B.2 on the proposed Annual Report form. A "save" feature will be available for electronic data submission for the revised annual report. The paper submission includes pick lists as will future electronic submission. Under this information collection notice, PHMSA limits changes to and addresses comments about the Annual Report form and instructions to those proposed in the DIMP final rule.

III. Proposed Information Collection Revisions and Request for Comments

The revised burden hours associated with this information collection is:

Title of Information Collection: Incident and Annual Reports for Gas Pipeline Operators.

OMB Control Number: 2137–0522.

Type of Request: Revision of currently approved information collection to one form within the information collection, PHMSA F 7100.1–1 Annual Reports for Gas Distribution System.

Abstract: Currently Information Collection 2137–0522 titled: "Incident and Annual Reports for Gas Pipeline Operators" has an approved burden hour estimate of 37,845 hours. This information collection consists of incident and annual reporting for gas pipeline operators. Based on review of proposed changes to the Gas Distribution Annual Report form data, PHMSA estimates the respondent community of 1,262 Distribution Operators to report a total of 18,000 mechanical fitting failures. PHMSA estimates that the form changes relative to this notice will result in one hour increase per mechanical fitting failure. These actions would result in an increase from 37,845 hours to an estimated 55,845 hours (37,845 hours + 18,000 hours).

The result of this revision is specified in the following:

Affected Public: Gas Pipeline Operators.

Estimated Number of Respondents: 2,212.

Estimated Total Annual Burden Hours: 55,845 hours (18,000 hour increase).

Frequency of collection: Annually with the option for the operator to submit mechanical fitting failure information electronically at greater frequency if the operator chooses.

Issued in Washington, DC on June 18, 2010.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2010–15633 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 100507218–0219–01]

RIN 0648–AY91

International Fisheries; South Pacific Tuna Fisheries; Procedures to Request Licenses and a System to Allocate Licenses

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

ACTION: Proposed rule; request for comments.

SUMMARY: Pursuant to its authority under the South Pacific Tuna Act of 1988 (SPTA), NMFS proposes regulations to modify the procedures that U.S. purse seine vessels use to request fishing licenses to fish in areas managed under the SPTA. This rule would also establish a system for allocating licenses in the event more applications are received than there are licenses available. Such an allocation system is needed because the number of applications is approaching the number of available licenses, and may exceed that number. The proposed license allocation system would include objective criteria to be used by NMFS in prioritizing among license applicants. The license application procedures would be modified in accordance with the allocation system, and would be designed to provide license holders and prospective license applicants with a clear and certain regulatory process. The regulations for vessels licensed under the SPTA would also be modified to require that the vessel monitoring system units (VMS units), also known as mobile transmitting units, installed and carried on the vessels are a type that is NMFS-approved.

DATES: Comments must be received in writing by August 12, 2010.

ADDRESSES: You may submit comments on this proposed rule, identified by 0648–AY91, and the regulatory impact review (RIR) prepared for the proposed rule, by any of the following methods

• Electronic submissions: Submit all electronic public comments via the

Federal e-Rulemaking portal, at *http://www.regulations.gov*.

• Mail: Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Include the identifier "0648–AY91" in the comments.

Instructions: All comments received are part of the public record and generally will be posted to *http://www.regulations.gov* without change. No comments will be posted for public viewing until after the comment period has closed. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (if submitting comments via the Federal e-Rulemaking portal, enter "N/A" in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

A certification prepared under authority of the Regulatory Flexibility Act (RFA) is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this proposed rule.

Copies of the RIR prepared for this proposed rule are available at *http://www.fpir.noaa.gov/IFD/ifd__documents__data.html* or may be obtained from William L. Robinson, Regional Administrator, NMFS PIRO (see address above).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to William L. Robinson, Regional Administrator, NMFS PIRO (see address above) and by e-mail to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–944–2219.

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is also accessible at *http://www.gpoaccess.gov/fr*.

Background

The U.S. purse seine fishery in the western and central Pacific Ocean (WCPO) is regulated primarily under the authority of the South Pacific Tuna Act of 1988 (SPTA) (16 U.S.C. 973–973r), which NMFS has implemented at 50 CFR part 300, subpart D. The SPTA was enacted to implement the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America and its annexes, schedules, and implementing agreements, as amended (hereafter "the Treaty"). This treaty is between the United States and 16 Members of the Pacific Islands Forum Fisheries Agency. The Treaty governs the conduct of U.S. fishing vessel operations in the Treaty Area, as defined at 50 CFR 300.31, and which encompasses approximately 10 million square miles (26 million square kilometers) of the WCPO. The Treaty allows U.S. purse seine vessels access to a large portion of the WCPO by authorizing, and regulating through a licensing system, U.S. purse seine vessels operations within all or part of the exclusive economic zones (EEZs) of the 16 Pacific Island Parties (PIPs) to the Treaty. Licenses to operate in the Licensing Area under the Treaty are issued by the Pacific Islands Forum Fisheries Agency (FFA), based in Honiara, Solomon Islands, which acts as the Treaty Administrator on behalf of the PIPs. The Licensing Area comprises the entire Treaty Area, with the exception of areas subject to the jurisdiction of the United States and areas closed to fishing under the Treaty. U.S. purse seine vessels licensed under the Treaty are used to target skipjack tuna and yellowfin tuna.

The Treaty and SPTA also allow U.S. longline vessels and U.S. vessels fishing for albacore by the trolling method to fish in the high seas portion of the Treaty Area. However, such vessels are not subject to the Treaty's or SPTA's licensing requirements, and do not fall under the actions proposed in this rule.

The Treaty entered into force in 1988 following ratification by the United States and the PIPs. The Treaty was renewed for ten years in 1993, and again in 2003 for 10 more years (through June 14, 2013). Currently, the Treaty allows for a maximum of 45 licenses to U.S. purse seine fishing vessels to fish in the Licensing Area of the Treaty. Of the 45 licenses, 5 are reserved for "joint venture" arrangements with PIPs. The Licensing Area includes all or part of the EEZs of the following countries: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. Treaty licenses are issued by the FFA, but license applications are first submitted to, and must be approved by, NMFS before being forwarded to the FFA. Under current practices, NMFS ensures that applications are complete, and forwards them to the FFA on a first-come, first-served basis.

Recent Developments in the Fishery

The number of U.S. purse seine vessels licensed under the Treaty has varied widely since its entry into force in 1988. The number of licensed vessels reached a high of 49 in 1994 (at which time the Treaty authorized up to 55 licenses, with 5 reserved for joint ventures), and a low of 11 in 2007. As of May 2010, 38 licenses had been issued for the current licensing period (June 15, 2009 through June 14, 2010). No joint venture licenses have ever been issued under the Treaty.

Advance Notices of Proposed Rulemakings and Control Dates

On March 28, 2008, NMFS issued an advance notice of proposed rulemaking (ANPR) (73 FR 16619), to establish a control date for participation in the U.S. purse seine fishery managed under the SPTA (hereafter, "WCPO purse seine fishery"). One purpose of the ANPR was to notify vessel owners and operators that attempts to enter the WCPO purse seine fishery after the control date of March 28, 2008, would not assure a vessel of being granted entry into or future participation in the fishery if all available licenses have been issued, or if NMFS limits the number of available licenses or imposes other management measures in the fishery.

Prior to the March 2008 ANPR, on August 15, 2005, NMFS issued an ANPR (70 FR 47782) that established a control date of June 2, 2005, for persons contemplating entry into the purse seine fishery in the U.S. EEZ in the western Pacific region (the control date also applied to persons interested in the longline fishery in the western Pacific region). The June 2, 2005, control date is limited to fishing vessels that operate within the U.S. EEZ, and does not affect fishing vessels operating elsewhere in the Treaty Area. In contrast, the March 28, 2008, control date applies to all purse seine vessels subject to the Treaty and the SPTA; that is, to purse seine vessels operating anywhere on the high seas in the Treaty Area or in the EEZs of the 16 PIPs.

Both the June 2, 2005, and March 28, 2008, control dates remain in effect.

In addition to establishing a control date for entry into the WCPO purse seine fishery, the March 28, 2008, ANPR solicited comments and input on possible criteria and procedures that NMFS could use to review, order, and process license applications. NMFS received five sets of such comments, which it has considered in developing this proposed rule. NMFS has

incorporated some of the suggestions contained in those comments, or variations of those suggestions, into the proposed rule. Several comments were on issues outside the scope of this proposed rule. The comments received are summarized as follows:

Two commenters suggested that, with respect to the transferability of licenses among vessels and vessel owners: (1) in the case where a vessel licensed under the Treaty is sold to U.S. interests, the license should be transferable to the new owner; (2) in the case where a vessel licensed under the Treaty sinks, the vessel owner should be allowed five years to replace the vessel and retain for the new vessel the license associated with the sunk vessel; and (3) in the case where a vessel licensed under the Treaty is sold to foreign interests, the original owner should be allowed three years to replace the vessel and retain for the new vessel the license associated with the sold vessel.

One commenter recommended that priority consideration be given to owners of vessels that were licensed under the Treaty when the number of licensed vessels was at its low point in 2007.

One commenter suggested that five to seven licenses should be set aside, as they expire, for small business owners, and that license eligibility requirements include such things as: (1) the vessel hull being built in the United States; (2) a history of participation in the Treaty; (3) a higher percentage of U.S. citizen ownership of the vessel; and (4) a history of landing fish in U.S. ports, including American Samoa, Guam, and Puerto Rico.

One commenter stated that the most reasonable, fair, and implementable criteria and procedures for allocating licenses would take into account: (1) the origin of the purse seine vessel's hull; (2) a history of good-standing participation in the existing and pre-existing treaties; (3) the ownership level of the applicant; (4) the record of fishing landings (unloadings) or transshipments via U.S.-controlled ports such as American Samoa, Guam, and Puerto Rico; and (5) a history of compliance with relevant U.S. treaties and U.S. Coast Guard regulations.

Two commenters recommended that a moratorium be placed on the building of new tuna vessels, with one commenter qualifying that recommendation to say that new vessels may be built to replace vessels that have sunk or been scrapped.

One commenter expressed disappointment with the recent U.S. support for the building of new vessels in Taiwan and legitimizing the transfer of recently built foreign vessels to U.S. flag without full regard to the total number of vessels and fishing licenses in the western and central Pacific region.

One commenter noted, with respect to the establishment of a control date for the WCPO purse seine fishery, that vessel owners need advance notice of those types of things, and that an equitable control date would be June 14, 2008, the last day in the then-current Treaty licensing period.

Scope of the Proposed Action

NMFS notes that the March 28, 2008, ANPR stated that NMFS was considering the possible need to limit the number of vessels, or take other actions in the WCPO purse seine fishery, in order to implement the obligations of the United States as a Contracting Party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The scope of this proposed rule does not include any such actions. Rather, as described further below, it is limited to: (1) establishing a system to allocate licenses in the event that more applications are received than there are licenses; (2) modifying the procedures used to request licenses and the procedures used by NMFS to process such requests; and (3) modifying the existing requirements regarding the installation, carrying, and operation of VMS units to require that such units be a type that is NMFS-approved.

Description of the Proposed Action

Under section 973g of the SPTA, the Secretary of Commerce (Secretary) may establish a system of allocating Treaty licenses in the event more applications are received than there are licenses available. In part because the number of licenses issued is approaching the number of licenses available under the Treaty, NMFS proposes to establish such a system.

Section 973g of the SPTA also authorizes the Secretary to establish procedures for vessel operators ("operator" is defined under the SPTA to mean any person who is in charge of, directs, or controls a vessel, including the owner, charterer, and master) to request licenses from the Secretary to fish in the Treaty's Licensing Area. Such procedures have been established by NMFS, on behalf of the Secretary, at 50 CFR 300.32. In order to accommodate the allocation system that this proposed rule would establish, this action would also modify the procedures used by applicants to request licenses along with the procedures used by NMFS to process those requests. The proposed modifications to the procedures are designed in part to provide license holders and prospective license applicants with a clear and certain regulatory process.

The FFA, as Treaty Administrator, issues licenses only to vessels for which the license applications have first been approved by NMFS on behalf of the Secretary. Licenses are issued on an annual basis, with the licensing period starting June 15th of each year. This proposed rule would establish license application and review procedures up to the point of approval by NMFS for forwarding to the Treaty Administrator.

The main elements of the proposed rule are described below, starting with the license application and review procedures, followed by the license allocation system (including transferability provisions), and closing with the VMS-related requirements.

Proposed License Application and Review Procedures

(1) The distinction between joint venture licenses (licenses for fishing activities designed to promote maximization of the benefits generated for the PIPs, of which there are five available) and "general licenses" (the remaining licenses, of which there are 40 available) would be clarified, and separate application procedures would be established for the two license types.

(2) To obtain approval from NMFS for a joint venture license, in addition to submitting a complete application, as for a general license, an applicant would have to obtain initial approval from the FFA, as Treaty Administrator, as well as documentation from the relevant PIP or PIPs providing concurrence for the issuance of a joint venture license for the vessel. Upon receipt of a complete application for a joint venture license, NMFS would process and approve the application as it would for a general license, except that it would not issue pre-approvals, as described below for general licenses. NMFS would approve applications for joint venture licenses on a first-come, first-served basis, based on the date of initial approval by the FFA.

(3) To provide an opportunity for applicants to receive earlier and greater certainty on the status of their general license applications for a given licensing period, applicants would be allowed to seek and receive pre-approval of their applications. They would do so by submitting expressions of interest earlier than the submission of complete applications. A pre-approval would serve to temporarily reserve an application approval spot until the time that complete applications are due.

Whether a pre-approval would be issued for a given application would depend on the outcome of the allocation process, described below. Because of time constraints associated with implementing this rule, pre-approvals would not be issued for the 2011–2012 licensing period.

(4) Dates by which expressions of interest and complete applications for general licenses must be received by NMFS would be established. For a given licensing period with the exception of the 2011–2012 licensing period, for which pre-approvals would not be issued the deadline for submitting expressions of interest would be June 1st of the year preceding the year in which the licensing period begins. The deadline for submitting complete applications would be February 5th of the year in which the licensing period begins. Comparable due dates would be established for applications for licenses that become available in the middle of a licensing period.

(5) Dates by which NMFS would decide on pre-approvals and approvals for general licenses and notify applicants of those decisions would be established. With the exception of the 2011–2012 licensing period, for which pre-approvals would not be issued, NMFS would pre-approve applications by July 16th of the year preceding the year in which the licensing period begins, and notify applicants of its decisions by July 26th of the same year. NMFS would approve applications by March 7th of the year in which the licensing period begins, and notify applicants of its decisions by March 17th of the same year.

(6) A process to appeal NMFS' pre-approval and approval decisions would be established. Appeals would have to be submitted in writing within 14 days of the notice of NMFS' decision. The initial decision on an appeal would be made by a designee of the NMFS Pacific Islands Regional Administrator within 30 days of the appeal. Within 10 days of notice of the initial decision, the applicant could request a review of the initial decision. The final decision on an appeal would be made by the Assistant Administrator for Fisheries, NOAA, or a designee, within 30 days of the request for review. The final decision would constitute the final administrative action of the Department of Commerce.

(7) Interim procedures would be established for the 2011–2012 licensing period, as the proposed rule would likely not become effective in time for the new procedures to be fully applied for that licensing period. These procedures would not include any provisions regarding pre-approvals. Instead, the application process would start with the February 5, 2011, deadline for submitting complete applications.

Proposed License Allocation System

(1) The following criteria would be used to prioritize applicants for general licenses. Based on this prioritization, NMFS would issue pre-approvals for up to 40 applications for general licenses.

First priority would be given to applications for vessels that have a valid Treaty license on the due date for expressions of interest. Also included in the first priority pool would be applications for vessels licensed in the current or previous two licensing periods, but that were lost or were destroyed. In other words, first priority would be given to license renewals, provided that the vessel is the same. In the event that a licensed vessel is lost or destroyed, the applicant would be reserved an approval spot for the licensing period in which the vessel was lost, and for the two subsequent licensing periods, provided that the ownership of the replacement vessel is identical to the ownership of the lost vessel.

Second priority would be given to applicants according to a ranking scheme in which points are assigned to an applicant as follows: (a) 15 points would be assigned if the vessel has been issued, or will be issued by the time application approvals are issued, in accordance with applicable U.S. Coast Guard regulations, a valid U.S. Coast Guard Certificate of Documentation with a fishery endorsement (among the eligibility criteria for receiving a fishery endorsement are that the vessel must have been built in the United States, and if rebuilt, it must have been rebuilt in the United States); (b) one point would be assigned for each licensing period, starting with the 1988–1989 licensing period, in which a Treaty license had been issued for the vessel, for a total of no more than 10 points; (c) one point would be assigned for each calendar year in which at least 3,000 mt of fish were landed or transshipped from the vessel in U.S. ports (including ports located in any of the U.S. States, commonwealths, territories, or possessions) starting in 1988 and ending in the year prior to the year in which the applied-for licensing period starts, for a total of no more than 5 points; and (d) if application of the foregoing criteria results in a tie, priority would be given to the vessel from which the greatest amount of fish, by weight, was landed or transshipped in U.S. ports (including ports located in any of the U.S. States, commonwealths, territories, or possessions) starting in 1988 and ending in the year prior to the year in which the applied-for licensing period starts. If there is still a tie, priority would be given by a lottery conducted by the NMFS Pacific Islands Regional Administrator.

(2) With respect to joint venture licenses, NMFS would not pre-approve applications or prioritize applications using the scheme established for general licenses. Instead, NMFS would approve joint venture license applications on a first-come, first-served basis, based on the date of initial approval by the FFA.

(3) With respect to the interim procedures that would be established for the 2011–2012 licensing period, NMFS would apply the same prioritization scheme and criteria as it would for subsequent licensing periods, but it would do so only after receiving the complete applications that would be due February 5, 2011.

(4) The proposed rule would clarify that application approvals from NMFS are not transferable among vessel owners or operators or applicants. It would, however, allow limited transferability of application approvals among vessels. Specifically, if a general or joint venture license has been issued to a vessel, and has been valid for at least 365 consecutive days, and all required fees to the FFA for the vessel have been paid, the vessel operators would be able to request that the license be transferred to a different vessel. Such a transfer would only be allowed if the ownership of the replacement vessel is identical to that of the licensed vessel, and the transferee vessel otherwise meets the requirements for licensing under 50 CFR part 300 and the SPTA.

Until NMFS issues a final rule to establish a system for allocating licenses and/or to modify the license application and processing procedures, and that rule becomes effective, NMFS will continue its practice of processing and forwarding completed applications to the Treaty Administrator based upon order of receipt.

Neither the Treaty nor the SPTA include criteria or guidelines as to how licenses should be allocated among prospective participants. In the absence of such guidance, NMFS solicited public input through the ANPR on possible criteria that could be used to order license applications. In reviewing public comment, NMFS considered the principles set forth in the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act, which although not directly applicable to the SPTA, provide guidance on the equitable allocation of fishing privileges among U.S. fishermen.

In particular, National Standard 4 states, in relevant part (16 U.S.C. 1851(a)(4)):

> If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Some of the public comments made in response to the ANPR advocated an allocation system that favors vessels with longer and more active histories in the fishery. NMFS generally agrees that a system that recognizes a demonstrated history of active participation in the fishery helps ensure that licenses will be productively utilized, and that resulting catches will generate economic and social benefits to the nation. Under the proposed allocation system, in any given year, first priority would be given to vessels that are currently in the fishery that is, to license renewals. One of the reasons for this prioritization is that in a fishery that requires such large investments in order to participate (new purse seine vessels cost tens of millions of dollars), participants should be given reasonable assurances that they will be able to continue to participate in the fishery for a reasonable amount of time. At the second tier of prioritization, after license renewals, the proposed allocation system includes three criteria. The first would favor vessels with fishery endorsements, which requires that the vessel be built in the United States, or if rebuilt, then rebuilt in the United States. This is consistent with some of the public comments on the ANPR. The second criterion would favor vessels with the longest histories of participation in the WCPO purse seine fishery. The rationale for this is partly the same as described for the first-tier prioritization (favoring license renewals). Also, it supports the notion that those who have invested more in the fishery in the past should be afforded greater opportunity to participate in the future. This concept was prevalent in the public comments in response to the ANPR. The third criterion would favor vessels with the longest histories of landing or transshipping fish in U.S. ports while participating in the WCPO purse seine fishery. The rationale for giving priority to those who have landed or transshipped fish in U.S. ports (i.e., versus foreign ports) is that it is expected to result in more fish being landed or transshipped at U.S. ports in the future, thereby possibly generating greater domestic economic benefits than would otherwise be the case. This concept also was suggested in the public comments on the ANPR. Finally, the proposed tie-breaking second-tier criterion would favor participants that landed or transshipped the most fish in U.S. ports while participating in the WCPO purse seine fishery. The rationale for this is the same as for the previous criterion that is, it would be expected to result in more fish being landed or transshipped in U.S. ports in the future, with attendant economic benefits to the Nation.

NMFS recognizes that the proposed license allocation system may potentially limit entry of new participants in the WCPO purse seine fishery, while encouraging continued participation of historically active participants that are already in the fishery (in any given licensing period, first priority would be given to vessels that had licenses during the previous licensing period). Nevertheless, NMFS believes that the proposed allocation system would provide opportunities for new participants to enter the fishery. For example, occasionally license holders can be expected to depart from the WCPO purse seine fishery with their vessels and move to other purse seine fisheries, or sell their interests in Treaty-licensed vessels, thereby making licenses available for reallocation. NMFS will continually monitor the WCPO purse seine fishery with respect to the turnover of participants, and will consider further regulatory action as appropriate.

Proposed VMS-Related Requirements

The proposed rule would modify the regulations at 50 CFR 300.45, which relate to the installation, carrying, and operation of VMS units on vessels licensed under the SPTA. The regulations currently require that the VMS units installed and carried on board vessels consist of hardware and software that are type-approved by the Treaty Administrator. This is consistent with the terms of the Treaty, which mandates that the VMS units used on licensed vessels be of a type approved by the Treaty Administrator. The regulations would be modified to require that the hardware and software that constitute the VMS units be type-approved by both the Treaty Administrator and NMFS. The purpose of the proposed change is to ensure that the VMS units used on licensed vessels are compatible with, and meet the technical standards of, the vessel monitoring system administered by NMFS, as well as the vessel monitoring system administered by the Treaty Administrator.

NMFS publishes separately lists of the VMS units that it has type-approved. The current type-approval lists can be obtained from the NOAA Office of Law Enforcement, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910; by telephone at 888–210–9288; or by fax at 301–427–0049.

To be considered, comments on this proposed rule must be received by August 12, 2010, not postmarked or otherwise transmitted by that date.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the SPTA and other applicable laws, subject to further consideration after public comment.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule includes three elements. The first element would modify the procedures used by U.S. purse seine vessels to apply for licenses to fish in the area governed under the SPTA. Such licenses are required for U.S. purse seine vessels that operate anywhere in a large portion of western and central Pacific Ocean (WCPO), including areas of high seas and areas under foreign jurisdiction. The second element would establish a system for allocating such licenses in the event more applications are received than there are licenses available. Such an allocation system is needed because the number of annual applications is approaching the number of available licenses (40, plus 5 under joint-venture arrangements) and may exceed that number. The proposed license allocation system would include objective criteria to be used by the National Marine Fisheries Service (NMFS) in prioritizing among license applicants. The license application procedures would be modified in accordance with the allocation system, and would be designed to provide license holders and prospective license applicants with a clear and certain regulatory process. The third element of the proposed rule would modify the regulations for purse seine vessels licensed under the SPTA to require that the vessel monitoring system (VMS) units that are installed and carried on vessels be a type that is NMFS-approved.

The fleet of U.S. purse seine vessels licensed under the SPTA currently consists of 37 vessels. Most or all of the businesses that operate these vessels are large entities as defined by the Regulatory Flexibility Act. However, it is possible that one or a few of

these fish harvesting businesses meet the criteria for small entities; that is, they are independently owned and operated and not dominant in their fields of operation, and have annual receipts of no more than $4.0 million. Based on available data, it is not possible to determine with any certainty how many small entities are in the fleet, and no attempt is made here to determine whether a substantial number of small entities would be impacted by the proposed rule. Instead, this certification is based on a finding that the proposed rule would not have significant economic impacts on affected entities.

The VMS element of the proposed rule would not have any economic impact on affected entities because it overlaps completely with regulations recently issued under authority of the Western and Central Pacific Fisheries Convention Implementation Act. Specifically, regulations at 50 CFR 300.219, which became effective on April 21, 2010, established VMS requirements for U.S. vessels used to fish on the high seas in the Convention Area. Among the requirements is that the vessels carry VMS units that are type-approved by NMFS. The type-approvals under those regulations are expected to be the same as those that would be established under this proposed rule, because they are both for the purpose of tracking vessels in the NMFS VMS. Because U.S. vessels licensed under the SPTA are also subject to the requirements at 50 CFR 300.219, they are already subject to the VMS requirements of this proposed rule.

The license application procedures included in the proposed rule would add a step in the application process for applicants choosing to submit "expressions of interest" for pre-approval of applications prior to submitting their complete applications. This step would not involve any change in application fees or other fees, but for applicants that voluntarily submit expressions of interest, it would increase the public reporting burden associated with the information collected as part of the license application process (the collection of information is approved by the Office of Management and Budget under control number 0648–0218). For vessels already in the fleet (license renewals), the additional time burden associated with these expressions of interest is estimated to average 15 minutes per vessel per year. For new applicants, the burden is estimated to average 120 minutes per vessel per year. The cost associated with this burden is discountable when compared to gross receipts or total operating costs for even the smallest of the affected entities.

The license allocation system included in the proposed rule would establish a prioritization scheme that would be applied in the event more applications are received than there are licenses available under the existing limit of 40 non-joint-venture licenses. First priority would be given to vessels already with licenses that is, to license renewals. This element of the proposed rule would not cause any adverse economic impacts on license holders, and would help to ensure their future participation in the fishery.

Based on these findings, the Chief Counsel for Regulation at the Department of Commerce has concluded that the proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection has been approved by the Office of Management and Budget (OMB) under control number 0648–0218. Public reporting burden for this collection of information, called "South Pacific Tuna Act," is estimated to average: (a) for the complete license application form, 15 minutes per response (with one response per year); (b) for the regional register application / VMS registration form, 45 minutes per response (with 1 response per year); (c) for the purse seine transshipment logsheet, 60 minutes per response (with 5 responses per year); and (d) for the unloading logsheet, 30 minutes per response (with 6 responses per year). These estimates include 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 this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

The proposed rule would require changes to the OMB-approved collection of information. Specifically, additional information would be required from prospective license applicants choosing to submit "expressions of interest" for pre-approval of license applications. Expressions of interest would be due from prospective license applicants by a specified date each year, prior to the due date for complete license application packages. The information provided in expressions of interest would be used by NMFS to determine eligibility for licenses. Public reporting burden for the expressions of interest is expected to average an additional 15 minutes per response for licenses being renewed, and 120 minutes per response for initial licenses, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This proposed change to the collection of information will be subject to review by OMB.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: June 22, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart D—South Pacific Tuna Fisheries

1. The authority citation for 50 CFR part 300, subpart D continues to read as follows:

Authority: 16 U.S.C. 973–973r.

2. In § 300.31, a definition of "State" is added, in alphabetical order, and the definition of "Vessel Monitoring System Unit" or "VMS unit" is revised, to read as follows:

§ 300.31 Definitions.

* * * * *

State means each of the several States of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

* * * * *

Vessel Monitoring System Unit or *VMS unit*, sometimes known as a "mobile transmitting unit," means Administrator-approved and NMFS-approved VMS unit hardware and software that is installed on a vessel pursuant to § 300.45. The VMS units are a component of the regional vessel monitoring system administered by the FFA, as well as of the vessel monitoring system administered by NMFS, and as such are used to transmit information between the vessel and the Administrator and NMFS and/or other reporting points designated by NMFS.

3. § 300.32 is revised to read as follows:

§ 300.32 Vessel licenses.

(a) Each vessel fishing in the Licensing Area must have a license issued by the Administrator for the licensing period being fished, unless exempted by § 300.39. Each licensing period begins on June 15 and ends on June 14 of the following year.

(b) Upon receipt, the license or a copy or facsimile thereof must be carried on board the vessel when in the Licensing Area or Closed Areas, and must be produced at the request of authorized officers, authorized party officers, or authorized inspectors. A vessel may be used to fish in the Licensing Area if the license has been issued but not yet received, provided that the license number is available on board.

(c) The total number of licenses that may be issued and valid at any point in time is 45, five of which shall be reserved for fishing vessels of the United States engaged in joint venture arrangements.

(1) For the purpose of this section, the licenses reserved for vessels engaged in joint venture arrangements are referred to as "joint venture licenses," and the remaining licenses are referred to as "general licenses."

(2) A joint venture arrangement is one in which the subject vessel and its operators are engaged in fishing-related activities designed to maximize the benefits generated for the Pacific Island Parties from the operations of fishing vessels licensed pursuant to the Treaty, as determined by the Administrator. Such activities can include the use of canning, transshipment, vessel slipping and repair facilities located in the Pacific Island Parties; the purchase of equipment and supplies, including fuel supplies, from suppliers located in the Pacific Island Parties; and the employment of nationals of the Pacific Island Parties on board such vessels.

(d) Licenses are issued by the Administrator. The Administrator will issue licenses only for applications that have been approved by the Regional Administrator. The Regional Administrator's approval is indicated by the signature of the Regional Administrator on the part of the application form labeled "Schedule 1." Upon approval by the Regional Administrator of a license application, the complete application will be forwarded to the Administrator for consideration. Except as provided in paragraph (n) of this section, prior to approving license applications for a given licensing period, the Regional Administrator will issue pre-approvals that serve the purpose of temporarily reserving approvals up until the time complete applications are due to be received by the Regional Administrator.

(e) The Regional Administrator, in his or her sole discretion, may approve fewer license applications than there are licenses available for any given licensing period or at any given time.

(f) A pre-approval or approval issued by the Regional Administrator pursuant to this section:

(1) Shall not confer any right of compensation to the recipient of such pre-approval or approval;

(2) Shall not create, or be construed to create, any right, title, or interest in or to a license or any fish; and

(3) Shall be considered a grant of permission to the recipient of the pre-approval or approval to proceed with the process of seeking a license from the Administrator.

(g) A pre-approval or approval issued by the Regional Administrator pursuant to this section is subject to being rescinded at any time if the Regional Administrator determines that an administrative error has been made in its granting, false information has been provided by the applicant, or circumstances have changed such that the information provided by the applicant is no longer accurate, true or valid, or if the applicant or vessel no longer meets the requirements for licensing under this subpart or under the Act. NMFS will notify the applicant of its rescission of a pre-approval or approval within 14 days of the rescission. In the event that the Regional Administrator rescinds an approval after the license has been issued, NMFS will notify the Administrator of such, and request that the Administrator immediately revoke the license.

(h) *Application process for general licenses.*

(1) A vessel operator who satisfies the requirements for licensing under the Act and under this subpart may apply for a general license.

(2) In order for a general license to be issued for a vessel, an applicant must submit a complete application to, and obtain an application approval from, the Regional Administrator.

(3) Except for the 2011–2012 licensing period, prior to submitting a complete application, an applicant may request pre-approval of an application by the Regional Administrator by submitting an expression of interest. A pre-approval of an application establishes that the applicant is eligible to be considered for one of the available licenses following timely submission of a complete application. Although submission of an expression of interest is entirely voluntary, applications that have not been pre-approved might not be eligible for approval if the number of applications exceeds the number of available licenses for a given licensing period.

(4) Except as provided in paragraph (n) of this section, in order to obtain a pre-approval for a given licensing period, either an expression of interest or a complete application must be received by the Regional Administrator no later than June 1st in the year preceding the year in which the licensing period begins.

(5) An expression of interest must include the information listed below, which may be submitted by electronic or hard-copy correspondence following instructions provided by the Regional Administrator.

(i) If the expression of interest is for a vessel that has a valid license on June 1st in the year preceding the year in which the licensing period begins (i.e., an anticipated renewal of the license is being sought), the expression of interest shall include:

(A) The licensing period for which the license is being sought.

(B) The current name, IRCS, and annual USCG Certificate of Documentation number of the vessel.

(ii) If the expression of interest is for a vessel that does not have a valid license on June 1st in the year preceding the year in which the licensing period begins, the expression of interest shall include:

(A) The licensing period for which the license is being sought.

(B) The full name and address of each person who is, or who is anticipated to be, an operator of the vessel for which a license is sought, and for each such person, a statement of whether the person is, or is anticipated to be, owner, charterer, and/or master of the vessel.

(C) A statement of whether or not the vessel to be licensed is known, and if it is known, the current name, IRCS, and annual USCG Certificate of Documentation number, if any, of the vessel.

(D) A copy of the vessel's current USCG Certificate of Documentation. If the vessel has not been issued such a document, then a statement of whether application has been or will be made for a USCG Certificate of Documentation, including identification of all endorsements sought in such application.

(E) If the vessel is known, a list of the licensing periods, if any, during which a license for the vessel was issued under this section.

(F) If the vessel is known, a statement of the total amount, in metric tons, of any tuna species landed or transshipped from the vessel at United States ports,

including ports located in any of the States, for each of the calendar years 1988 through the current year.

(6) In order to obtain an application approval for a given licensing period, a complete application must be received by the Regional Administrator no later than February 5th in the year in which the licensing period begins, except that in cases in which pre-approvals are issued in accordance with paragraphs (k)(8) or (k)(9)(i) of this section, the complete application must be received by the Regional Administrator not later than the date specified by NMFS in the notification of such pre-approval (which will be calculated by NMFS to be no later than 194 days from the date of mailing of the notification of the pre-approval).

(7) License application forms, which include the "Schedule 1" form and the FFA Vessel Register application form, are available from the Regional Administrator. The complete application must be received by the Regional Administrator by the date specified in paragraph (h)(6) of this section. An application shall not be complete, and shall not be subject to processing, unless it contains all of the information specified on the "Schedule 1" form and all the items listed in paragraphs (h)(7)(i) through (h)(7)(x) of this section, as follows:

(i) The licensing period for which the license is requested.

(ii) The name of an agent, located in Port Moresby, Papua New Guinea, who, on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty.

(iii) Documentation from an insurance company showing that the vessel will be fully insured for the licensing period against all risks and liabilities normally covered by maritime liability insurance.

(iv) If the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, a statement that the owner or charterer will be financially able to fulfill any and all responsibilities under the Treaty, Act, and regulations, including the payment of any penalties or fines.

(v) A copy of the vessel's current annual USCG Certificate of Documentation.

(vi) Electronic versions of full color photographs of the vessel in its current form and appearance, including a bow-to-stern side-view photograph of the vessel that clearly and legibly shows the vessel markings, and a photograph of every area of the vessel that is marked with the IRCS assigned to the vessel.

(vii) A schematic stowage/well plan for the vessel.

(viii) The VMS unit installation certificate, issued by the Administrator-authorized person who installed the VMS unit, for the VMS unit installed on the vessel in accordance with § 300.45.

(ix) An FFA Vessel Register application form that includes all the applicable information specified in the form.

(x) In the case of an application for a vessel that did not have a valid license on June 1st in the year preceding the year in which the licensing period begins, any information under paragraph (h)(5)(ii) of this section that has not already been provided or that has changed since it was previously submitted.

(i) *Application process for joint venture licenses.*

(1) A vessel operator who satisfies the requirements for licensing under the Act and under this subpart may apply for a joint venture license.

(2) The applicant, in coordination with one or more Pacific Island Parties, shall contact the Administrator to determine the specific information and documents that are required by the Administrator in order to obtain an initial approval from the Administrator for a joint venture license. The applicant shall submit such required information and documents directly to the Administrator. Once an initial approval is obtained from the Administrator, the applicant shall submit a complete application package, as described in paragraph (h)(7) of this section, to the Regional Administrator, along with dated documentation of the Administrator's initial approval, and a letter or other documentation from the relevant national authority or authorities of the Pacific Island Party or Parties identifying the joint venture partner or partners and indicating the Party's or Parties' approval of the joint venture arrangement and its or their concurrence that a joint venture license may be issued for the vessel.

(j) *Appeals.*

(1) *Eligibility.* Any applicant who is denied a pre-approval or an approval under this section may appeal the denial. The appeal must be made in writing and must clearly state the basis for the appeal and the nature of the relief that is requested. The appeal must be received by the Regional Administrator not later than 14 days after the date that the notice of denial is postmarked.

(2) *Appeal review.* Upon receipt of an appeal, the Regional Administrator will appoint a designee who will review the basis of the appeal and issue an initial written decision. The written decision will be mailed to the applicant within 30 days of receipt of the appeal. If the appellant does not request a review within 10 days of mailing of the initial decision, the initial decision is the final administrative action of the Department of Commerce. If, within 10 days of mailing of the initial decision, the Regional Administrator receives from the appellant a written request for review of the initial decision, the Assistant Administrator or a designee will review the basis of the appeal and issue a final written decision. The final decision will be made within 30 days of receipt of the request for review of the initial decision. The decision of the Assistant Administrator or designee constitutes the final administrative action of the Department of Commerce.

(k) *Procedures used by the Secretary to review and process applications for general licenses.* The procedures in this paragraph apply to the process used by NMFS, on behalf of the Secretary and in consultation with the Secretary of State, to review expressions of interest and applications, and to approve applications. For the purpose of this section, NMFS' approval of an application means the signing by the Regional Administrator of the "Schedule 1" part of the application form, indicating that the application is complete, and that it meets the requirements of the Act and of this subpart for forwarding to the Administrator. For the purpose of this section, NMFS' pre-approval of an application means that the Regional Administrator has initially determined that the applicant is eligible for a general license, but that the application has not yet been approved for forwarding to the Administrator.

(1) NMFS will pre-approve no more applications for a given licensing period than there are licenses available for that licensing period.

(2) NMFS will approve no more applications for a given licensing period than there are licenses available for that licensing period.

(3) NMFS will not approve a license application if it determines that:

(i) The application is not in accord with the Treaty, Act, or regulations;

(ii) The owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, and reasonable financial assurances have not been provided to the Secretary that the owner or charterer will be financially able to fulfill any and all responsibilities under the Treaty, Act, and regulations, including the payment of any penalties or fines;

(iii) The owner or charterer has not established to the satisfaction of the Secretary that the vessel will be fully

insured for the licensing period against all risks and liabilities normally covered by maritime liability insurance; or

(iv) The owner or charterer has not paid any final penalty assessed by the Secretary in accordance with the Act.

(4) Except as provided in paragraph (n) of this section, no later than July 16th of each year, NMFS will pre-approve applications from among the expressions of interest and applications received for the licensing period that starts the following year, prioritizing the expressions of interest and applications as follows:

(i) First priority will be given to expressions of interest and applications for vessels with valid licenses as of June 1st of that year (i.e., anticipated license renewal applications), provided that such vessels continue to satisfy the requirements for licensing under the Act and this subpart, and provided such vessels have no unsatisfied civil penalties or fines assessed by the Secretary under the Act that have become final.

(ii) Second priority will be given to expressions of interest and applications scored using the following scheme, in descending order of the sum of the points assigned:

(A) 15 points will be assigned for a vessel that has been issued, or will be issued by the date complete applications are due to be received the Regional Administrator under paragraph (h)(6) of this section, a valid USCG Certificate of Documentation with a fishery endorsement.

(B) 1 point will be assigned for each licensing period, starting with the 1988–1989 licensing period, in which a license had been issued for the vessel pursuant to the Act, for a total of no more than 10 points.

(C) 1 point will be assigned for each calendar year in which at least 3,000 metric tons of fish were landed or transshipped from the vessel in United States ports, including ports located in any of the States, as determined by the Regional Administrator. The applicable period shall run from 1988 through the last calendar year prior to the year in which the applied-for licensing period starts, and the total number of points assigned shall be no more than 5.

(D) In the event that two or more vessels receive the same sum number of points under paragraphs (k)(4)(ii)(A) through (k)(4)(ii)(C) of this section, priority will be given to the vessel from which the greatest amount of fish, by weight, was landed or transshipped in United States ports, including ports located in any of the States, starting in calendar year 1988 and ending in the year prior to the year in which the applied-for licensing period starts, as determined by the Regional Administrator. In the event that that does not resolve the tie, priority will be given by lottery, which will be conducted by the Regional Administrator.

(5) Except as provided in paragraph (n) of this section, no later than July 26th of each year, NMFS will notify all applicants (for the licensing period that starts the following year) whether their applications have been pre-approved.

(6) No later than March 7th of each year, NMFS will approve complete applications (for the licensing period that starts that year) that satisfy all of the following conditions:

(i) The application was pre-approved;

(ii) The information associated with the application has not changed since the point of pre-approval in a way such that pre-approval would not have been made using the updated information;

(iii) The complete application was received by February 5th of the same year; and

(iv) The applicant satisfies the requirements of this subpart.

(7) No later than March 17th of each year, NMFS will notify all applicants (for the licensing period that starts that year) who submitted complete applications by March 7th of that year, whether their applications have been approved under paragraph (k)(6) of this section, and in cases where they have not, whether their applications are being considered for approval under paragraph (k)(8) of this section.

(8) In the event that additional licenses are available after issuing the approvals under paragraph (k)(6) of this section, NMFS, after final administrative action by the Department of Commerce on any appeals of approvals made under paragraph (j) of this section, shall:

(i) Review all outstanding expressions of interest and applications it received within the required deadlines for that licensing period; and

(ii) Apply the process described in paragraphs (k)(9)(i) through (k)(9)(iv) of this section to pre-approve and approve applications from among that pool of applicants.

(9) If a license or application approval that has been issued for a given licensing period becomes available before or during that licensing period, NMFS will review all outstanding expressions of interest and complete applications it received within the required deadlines for that licensing period and will pre-approve and approve applications for that license from among that pool as follows:

(i) Within 45 days of NMFS becoming aware of the availability of the license, NMFS will pre-approve an application using the prioritization criteria and point-assigning scheme described in paragraphs (k)(4)(i) and (k)(4)(ii) of this section.

(ii) Within 55 days of NMFS becoming aware of the availability of the license NMFS will notify all active applicants as to whether their applications have been pre-approved, and for those applications that have been pre-approved, notify each applicant of the date by which a complete application, if not already received, must be received (which will be calculated by NMFS to be no later than 194 days from the date of mailing of the notification of the pre-approval).

(iii) Within 30 days of receiving a complete application that had been pre-approved, NMFS will approve the application, if and as appropriate and if the applicant satisfies the requirements of this subpart.

(iv) Within 10 days of approving an application, NMFS will notify the applicant.

(l) *Procedures used by the Secretary to review and process applications for joint venture licenses.* NMFS, on behalf of the Secretary and in consultation with the Secretary of State, will review and approve applications for joint venture licenses as described in paragraph (k) of this section for general licenses, except that NMFS will not consider expressions of interest for joint venture licenses or pre-approve applications for joint venture licenses. In the event that NMFS receives for a given licensing period more applications for joint venture licenses than there are licenses available, it will approve the applications in the chronological order that the Administrator has provided its initial approval.

(m) *Transferability of application approvals.* Application approvals from NMFS are not transferable among vessel owners or operators or license applicants. Application approvals are transferable among vessels, subject to the following requirements:

(1) A vessel operator may seek to transfer a general or joint venture license to another vessel that meets the requirements for licensing under this subpart and the Act, only if the license has been valid for the vessel for at least 365 consecutive days and all the fees required by the Administrator for the current licensing period have been paid to the Administrator. The vessel operator may seek to transfer the license by submitting a written request to the Regional Administrator along with a complete application for the other

vessel as described in paragraph (h)(7) of this section. Any such transfer may be subject to additional fees for the registration of the vessel on the FFA Vessel Register, as specified in paragraph (b) of § 300.45.

(2) Upon receipt of an application under paragraph (m)(1) of this section, the Regional Administrator, after determining that all the fees required for the vessel by the Administrator for the current licensing period have been paid, that the ownership of the licensed vessel and the ownership of the vessel to which the application approval would be transferred are identical, and that the transferee vessel meets the requirements for licensing under this subpart and the Act, will approve the application and notify the applicant of such within 10 days of the determination.

(3) If a licensed vessel is lost or destroyed, and the operators of the vessel apply for a license for another vessel for the licensing period during which the vessel was lost, or for either of the two subsequent licensing periods, NMFS will consider the applicants to have a currently licensed vessel for the purpose of applying the prioritization criteria of paragraph (k)(4) of this section, provided that the ownership of the lost or destroyed vessel and the ownership of the replacement vessel, as determined by the Regional Administrator, are identical.

(n) *Procedures for 2011–2012 licensing period.* For the licensing period that starts June 15, 2011, and for that licensing period only, pre-approvals may not be sought and will not be issued by NMFS. NMFS will rank order those applications received by February 5, 2011, for the 2011–2012 licensing period by applying the criteria in paragraphs (k)(4)(i) and (k)(4)(ii) of this section, except that in lieu of using June 1, 2010, as the date referred to in paragraph (k)(4)(i) of this section, NMFS will use February 5, 2011.

4. In § 300.45, paragraph (d) is revised to read as follows:

§ 300.45 Vessel monitoring system.

* * * * *

(d) *Hardware and software specifications.* The VMS unit installed and carried on board a vessel to comply with the requirements of this section must consist of hardware and software that is approved by the Administrator and approved by NMFS. A current list of hardware and software approved by the Administrator may be obtained from the Administrator. A current list of hardware and software approved by NMFS may be obtained from NMFS.

* * * * *

[FR Doc. 2010–15642 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 75, No. 123
Monday, June 28, 2010

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

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection; Correction

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection, comments requested; correction.

SUMMARY: The Rural Housing published a document in the **Federal Register** of June 16, 2010, concerning the extension of a currently approved information collection. The document contained incorrect information.

FOR FURTHER INFORMATION CONTACT: Cheryl Thompson, 202–692–0043.

Correction

In the **Federal Register** of June 16, 2010, in FR Doc. 2010–14490, on page 34093, correct the following to read:

1. In the first column, OMB Number: 0575–0192; and

2. In the second column, line 30, (202) 692–0040.

Dated: June 16, 2010.

Tammye Trevino,

Administrator, Rural Housing Service.

[FR Doc. 2010–15553 Filed 6–25–10; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–007]

Barium Chloride From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 28, 2010.

SUMMARY: As a result of the determinations by the Department of Commerce ("Department") and the International Trade Commission ("ITC") that revocation of the antidumping duty order on barium chloride from the People's Republic of China ("PRC") would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3518.

SUPPLEMENTARY INFORMATION: On July 1, 2009, the Department published the notice of initiation of the third sunset review of the antidumping duty order on barium chloride from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). *See Initiation of Five-year ("Sunset") Review,* 74 FR 31412 (July 1, 2009). As a result of its review, the Department determined that revocation of the antidumping duty order on barium chloride from the PRC would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked. *See Barium Chloride From the People's Republic of China: Final Results of Expedited Third Sunset Review of Antidumping Duty Order,* 74 FR 55814 (October 29, 2009).

On May 26, 2010, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on barium chloride from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Barium Chloride From China,* 75 FR 33824 (June 15, 2010), and Barium Chloride from China (Inv. No. 731–TA–149 (Third Review), USITC Publication 4157 (June 2010)).

Scope of the Order

The merchandise covered by the order is barium chloride, a chemical compound having the formulas $BaCl_2$ or $BaCl_2$-$2H_2O$, currently classifiable under item number 2827.39.45.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").[1] Although the HTSUS item number is provided for convenience and for customs purposes, the written description remains dispositive.

Continuation of the Order

As a result of these determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping order on barium chloride from the PRC. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: June 17, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–15630 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–888

Floor–Standing, Metal–Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Continuation of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 2010.

[1] The scope reflects the HTSUS item number currently in effect.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (the Commission) that revocation of the antidumping duty order on floor–standing, metal–top ironing tables and certain parts thereof (ironing tables) from the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4475 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2009, the Department initiated a sunset review of the antidumping duty order on ironing tables from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Tariff Act). *See Initiation of Five–Year ("Sunset") Reviews*, 74 FR 31412 (July 1, 2009).

As a result of its review, the Department determined that revocation of the antidumping duty order on ironing tables from the PRC would likely lead to a continuation or recurrence of dumping and, therefore, notified the Commission of the magnitude of the margins likely to prevail should the order be revoked. *See Floor–Standing, Metal–Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Expedited Five–year (Sunset) Review of Antidumping Duty Order*, 74 FR 56794 (November 3, 2009).

On May 21, 2010, the Commission determined, pursuant to section 751(c) of the Tariff Act, that revocation of the antidumping duty order on ironing tables from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within the reasonably foreseeable future. See USITC Publication 4155 (June 2010), and *Ironing Tables and Certain Parts Thereof From China; Determination*, 75 FR 33636 (June 14, 2010).

Scope of the Order

For purposes of this order, the product covered consists of floor–standing, metal–top ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. The subject tables are designed and used principally for the hand ironing or pressing of garments or other articles of fabric. The subject tables have full–height leg assemblies that support the ironing surface at an appropriate (often adjustable) height above the floor. The subject tables are produced in a variety of leg finishes, such as painted, plated, or matte, and they are available with various features, including iron rests, linen racks, and others. The subject ironing tables may be sold with or without a pad and/or cover. All types and configurations of floor–standing, metal–top ironing tables are covered by this review.

Furthermore, this order specifically covers imports of ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. For purposes of this order, the term "unassembled" ironing table means a product requiring the attachment of the leg assembly to the top or the attachment of an included feature such as an iron rest or linen rack. The term "complete" ironing table means product sold as a ready–to-use ensemble consisting of the metal–top table and a pad and cover, with or without additional features, *e.g.*, iron rest or linen rack. The term "incomplete" ironing table means product shipped or sold as a "bare board" – *i.e.*, a metal–top table only, without the pad and cover– with or without additional features, *e.g.*, iron rest or linen rack. The major parts or components of ironing tables that are intended to be covered by this order under the term "certain parts thereof" consist of the metal top component (with or without assembled supports and slides) and/or the leg components, whether or not attached together as a leg assembly. The order covers separately shipped metal top components and leg components, without regard to whether the respective quantities would yield an exact quantity of assembled ironing tables.

Ironing tables without legs (such as models that mount on walls or over doors) are not floor–standing and are specifically excluded. Additionally, tabletop or countertop models with short legs that do not exceed 12 inches in length (and which may or may not collapse or retract) are specifically excluded.

The subject ironing tables are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0011. The subject metal top and leg components are classified under HTSUS subheading 9403.90.8040. Although the HTSUS subheadings are provided for convenience and for Customs and Border Protection (CBP) purposes, the Department's written description of the scope remains dispositive.

Continuation of the Order

As a result of these determinations by the Department and the Commission that revocation of the antidumping duty order on ironing tables would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Tariff Act, the Department hereby orders the continuation of the antidumping order on ironing tables from the PRC. United States Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation.

Pursuant to section 751(c)(2) of the Tariff Act, the Department intends to initiate the next five–year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five–year (sunset) review and this notice are in accordance with section 751(c) of the Tariff Act and published pursuant to section 777(i)(1) of the Tariff Act.

Dated: June 21, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–15631 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–892

Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 29, 2009, the Department of Commerce (the Department) published the preliminary results of the 2007–2008 administrative review of the antidumping duty order on carbazole violet pigment 23 (CVP 23) from the People's Republic of China (PRC). *See Carbazole Violet Pigment 23 From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR

68780 (December 29, 2009) (*Preliminary Results*). This administrative review covers one exporter of the subject merchandise, Trust Chem Co., Ltd. (Trust Chem). We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we have made one change to the margin calculation for Trust Chem. The final dumping margin for this review is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: June 28, 2010.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2009, the Department published the *Preliminary Results* of the 2007–2008 administrative review of the antidumping duty order on CVP 23 from the PRC in the **Federal Register**. We invited parties to comment on the *Preliminary Results*. On January 28, 2010, we received case briefs from Nation Ford Chemical Company and Sun Chemical Corporation (collectively, petitioners) and from Trust Chem. On February 1, 2010, we returned Trust Chem's case brief because it contained new, unsolicited information submitted after the deadline for such information. Trust Chem submitted its revised case brief on February 2, 2010. On February 3, 2010, petitioners filed a rebuttal brief.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the federal government from February 5 through February 12, 2010. *See* Memorandum for the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010. Thus, the deadline for issuing the final results of this administrative review was extended by seven days from April 28, 2010 until May 5, 2010.

On May 4, 2010, we placed new information on the record and invited parties to submit comments. Finding it was not practicable to complete this administrative review by May 5, 2010, the Department published in the **Federal Register** a notice extending the deadline for the final results of this administrative review until June 21, 2010. *See Carbazole Violet Pigment 23 from the People's Republic of China: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review*, 75 FR 25840 (May 10, 2010). On May 17, 2010, both petitioners and Trust Chem submitted comments on the new information placed on the record on May 4, 2010; petitioners filed rebuttal comments on May 19, 2010.

Analysis of Comments Received

All of the issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Memorandum from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Acting Deputy Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order on Carbazole Violet Pigment 23 from the People's Republic of China," dated concurrently with this notice (Issues and Decision Memorandum), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Main Commerce Building, Room 1117, and is also accessible on the Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Period of Review

The period of review is December 1, 2007 through November 30, 2008.

Scope of the Order

The merchandise covered by this order is carbazole violet pigment 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of diindolo [3,2–b:3',2'-m] triphenodioxazine, 8,18–dichloro–5, 15–diethy–5,15–dihydro-, and molecular formula of $C_{34}H_{22}C_{l2}N_4O_2$.[1] The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.*, pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of this order. The merchandise subject to this order is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Separate Rates

In proceedings involving non–market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the preliminary results, we found that Trust Chem demonstrated its eligibility for separate rate status. We received no comments from interested parties regarding Trust Chem's separate rate status. In these final results of review, we continue to find the evidence placed on the record by Trust Chem demonstrates an absence of government control, both in law and in fact, with respect to Trust Chem's exports of the merchandise under review. Thus, we have determined that Trust Chem is eligible to receive a separate rate.

Changes Since the Preliminary Results

Based on an analysis of the comments received, the Department has made one change to the margin calculation for Trust Chem. Specifically, in calculating the surrogate financial ratios, the Department has deducted directors' salaries and benefits from direct labor costs and added these expenses to selling, general and administrative expenses (SG&A). As a result, the surrogate financial ratios for factory overhead and SG&A differ from the preliminary results. For more information, *see* Memorandum to the File through Robert James, Program Manager, AD/CVD Operations, Office 7, from Deborah Scott, International Trade Compliance Analyst, AD/CVD Operations, Office 7, "2007–2008 Administrative Review of Carbazole Violet Pigment 23 from the People's Republic of China: Surrogate Values for the Final Results," dated June 21, 2010.

[1] The bracketed section of the product description, [3,2-b:3',2'-m], is not business proprietary information, but is part of the chemical nomenclature.

Final Results of Review

We determine that the following weighted–average dumping margin exists for Trust Chem for the period December 1, 2007 through November 30, 2008:

Exporter	Margin (percent)
Trust Chem Co., Ltd.	30.72

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries pursuant to section 751(a)(1)(B) of the Act and 19 CFR 351.212(b)(1). The Department intends to issue assessment instructions directly to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Trust Chem, the cash deposit rate will be 30.72 percent, as listed above; (2) for previously investigated or reviewed PRC and non–PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 241.32 percent; and (4) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non–PRC exporter. The deposit requirements shall remain in effect until further notice.

Notification to Importers

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

Notification Regarding Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 21, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix I – List of Issues Addressed in the Accompanying Issues and Decision Memorandum

Comment 1. Basis of the Surrogate Financial Ratios
Comment 2. Inclusion of Directors' Salaries and Benefits in SG&A
Comment 3. Surrogate Values for Raw Material Inputs
Comment 4. Surrogate Value for Nitric Acid
Comment 5. Surrogate Value for Chloranil
Comment 6. Surrogate Value for Benzene Sulfonyl Chloride

[FR Doc. 2010–15638 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–900

Diamond Sawblades and Parts Thereof from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 2010.

SUMMARY: The Department of Commerce ("Department") has determined that a request for a new shipper review ("NSR") of the antidumping duty order on diamond sawblades and parts thereof ("diamond sawblades") from the People's Republic of China ("PRC"), received on April 30, 2010, meets the statutory and regulatory requirements for initiation. The period of review ("POR") for the NSR is January 23, 2009, through April 30, 2010.

FOR FURTHER INFORMATION CONTACT: Alan Ray, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–5403.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on diamond sawblades from the PRC was published in the **Federal Register** on November 4, 2009. *See Diamond Sawblades and Parts Thereof From the People's Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009) ("Antidumping Duty Order"). On April 30, 2010, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended ("Act"), the Department received a NSR request from Pujiang Talent Diamond Tools Co., Ltd. ("PTDT"). PTDT's request was properly made on April 30, 2010, May being the semi–annual anniversary of the *Antidumping Duty Order*. PTDT certified that it is both the producer and exporter of the subject merchandise upon which the request was based. PTDT also submitted a public version of its request, which adequately summarized proprietary information and provided explanations as to why certain proprietary information is not capable of summarization.

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), PTDT certified that it did not export subject merchandise to the United States during the period of investigation ("POI"). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), PTDT certified that, since the initiation of the investigation, it has never been affiliated with any PRC exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), PTDT also certified that its export activities were not controlled by the central government of the PRC.

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv)(A), (B), and (C), PTDT submitted documentation establishing the following: (1) the date on which PTDT first shipped subject merchandise for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.

The Department conducted U.S. Customs and Border Protection ("CBP") database queries in an attempt to confirm that PTDT's shipments of subject merchandise had entered the United States for consumption and that liquidation of such entries had been properly suspended for antidumping duties.[1] The Department also examined whether the CBP data confirmed that such entries were made during the NSR POR. The information we examined was consistent with that provided by PTDT.

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), we find that the request submitted by PTDT meets the threshold requirements for initiation of a new shipper review for shipments of diamond sawblades from the PRC produced and exported by PTDT. *See* "Memorandum to the File From Alan Ray, Case Analyst, New Shipper Initiation Checklist: Diamond Sawblades and Parts Thereof From the People's Republic of China and the Republic of Korea (A–570–900)," dated concurrently with this notice. The POR is January 23, 2009, through April 30, 2010. *See* 19 CFR 351.214(g)(1)(ii)(B). The Department intends to issue the preliminary results of this NSR no later than 180 days from the date of initiation, and the final results no later than 270 days from the date of initiation. *See* section 751(a)(2)(B)(iv) of the Act.

It is the Department's usual practice, in cases involving non–market economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country–wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue questionnaires to PTDT, which will include a section requesting information with regard to PTDT's export activities for separate rates purposes. The review will proceed if the response provides sufficient indication that PTDT is not subject to either *de jure* or *de facto* government control with respect to its exports of subject merchandise.

We will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from PTDT in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because PTDT certified that it both produced and exported the subject merchandise, the sale of which is the basis for this new shipper review request, we will apply the bonding privilege to PTDT only for subject merchandise which PTDT both produced and exported.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: June 17, 2010.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–15216 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–DS–S

[1] The Department only resumed the suspension of liquidation of sawblades and parts on January 23, 2009, as prior to that date, no order was in place because the ITC found in its final determination that domestic parties had not suffered from the importation of diamond sawblades from the PRC. As such, without an order in place, CBP had no authority to suspend the liquidation of entries. On August 30, 2009, the CIT ordered the Department to issue the order, and it was effective retroactive to January 23, 2009. *See Antidumping Duty Order.* The deposit rates that CBP collected for entries after January 23, 2009, were the antidumping duty rates from the *Final Determination. See Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, (May 22, 2006) ("*Final Determination*").

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Telecommunications and Information Administration

International Trade Administration

Cybersecurity and Innovation in the Information Economy

AGENCY: National Institute of Standards and Technology, National Telecommunications and Information Administration, and International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST), the National Telecommunications and Information Administration (NTIA), and the International Trade Administration (ITA), on behalf of the U.S. Department of Commerce (Department), will hold a public meeting on July 27, 2010, to discuss the relationship between cybersecurity in the commercial space and innovation in the Internet economy.

DATES: The meeting will be held on July 27, 2010, from 9 a.m. to 4:45 p.m., Eastern Daylight Time. Registration will begin at 8:30 a.m.

ADDRESSES: The meeting will be held in the Amphitheater of the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC 20006. All major entrances to the building are accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meeting, contact W. Curt Barker by e-mail at *william.barker@nist.gov* or by phone at (202) 482–0935.

SUPPLEMENTARY INFORMATION:

Recognizing the vital importance of the Internet to U.S. economic growth and innovation, the Department has made it a top priority to ensure that the Internet remains a vehicle for these important purposes. The Department has assembled an Internet Policy Task Force (Task Force), comprised of Department officials, whose mission is to identify leading public policy and operational challenges in the Internet environment. The Task Force leverages expertise across many bureaus, including those responsible for domestic and international information and communications policy, international trade, cybersecurity standards and best practices, intellectual property, business advocacy and export control.

As part of the Task Force agenda, NIST, NTIA, and ITA are conducting a comprehensive review of cybersecurity and innovation in the Internet economy, with a particular emphasis on the security practices of those businesses that operate non-critical infrastructure. To facilitate this review, on July 27, 2010, NIST, NTIA, and ITA will hold a public meeting to discuss stakeholder views and to encourage public discussion of cybersecurity policy in the United States. The event will seek participation and comment from all interested stakeholders, including the commercial, academic, and civil society sectors, on the impact of current cybersecurity law and governmental policy, the common and emerging techniques used in successful cybersecurity strategies, and the relative

roles of the private and public sectors with respect to improving cybersecurity in the commercial arena. The bureaus will explore the changing nature of threats and whether those changes suggest gaps in cybersecurity policy. Similarly, they invite discussion and comment on how the public sector can organize more clearly its roles. The review will also seek to develop a deeper understanding of the relationship of current cybersecurity policy to consumer welfare, job creation, international trade, and fundamental democratic values. The review is being coordinated with the Office of the Cybersecurity Coordinator, Executive Office of the President. As part of this review, the Task Force will shortly issue a notice of inquiry seeking public comments on key issues.

The agenda for the public meeting will be available at least one week prior to the meeting. The agenda will be available on the Internet Policy Task Force Web site, *http://www.ntia.doc.gov/internetpolicytaskforce/* and the NIST's Web site at *http://www.nist.gov,* under Conferences and Events. Gary Locke, Secretary of Commerce, is scheduled to deliver keynote remarks. Also participating with remarks will be Howard Schmidt, White House Cyber Security Coordinator, Cameron Kerry, the Department of Commerce's General Counsel, Patrick Gallagher, Director of the National Institute of Standards and Technology, and Anna Gomez, the Deputy Assistant Secretary for Communications and Information and Deputy National Telecommunications and Information Administrator. Other U.S. Government officials will also participate, as will a number of well-regarded, non-government experts.

The meeting will be open to members of the public on a first-come, first-served basis. To pre-register for the meeting, please send a request to Teresa Vicente at *teresa.vicente@nist.gov* indicating your name, organizational affiliation, mailing address, telephone, and e-mail address. The meeting will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign language interpretation or other ancillary aids, should communicate their needs to Teresa Vicente at least five (5) days prior to the meeting. Attendees should arrive at least one-half hour prior to the start of the meeting and must present valid government-issued photo identification upon arrival. Persons who have pre-registered (and received confirmation) will have seating held until 15 minutes before the program begins. Members of the public will have an opportunity to ask questions at the meeting.

Dated: June 15, 2010.

Katharine B. Gebbie,

Director, Physics Laboratory, National Institute of Standards and Technology.

Lawrence E. Strickling,

Assistant Secretary of Commerce for Communications and Information, National Telecommunications and Information Administration.

Dated: June 22, 2010.

Michelle O'Neill,

Deputy Under Secretary of Commerce for International Trade, International Trade Administration.

[FR Doc. 2010–15589 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

Civil Nuclear Trade Advisory Committee Public Meeting

AGENCY: International Trade Administration, DOC.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the next meeting of the Civil Nuclear Trade Advisory Committee (CINTAC). The members will discuss issues outlined in the following agenda.

DATES: The meeting is scheduled for: Tuesday, July 13, 2010, from 11 a.m. to 4 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held in Room 1414 at the U.S. Department of Commerce, Herbert Clark Hoover Building, 1401 Constitution Ave., NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Caliva, Office of Energy & Environmental Industries, International Trade Administration, Room 4053, 1401 Constitution Ave., NW., Washington, DC 20230. (Phone: 202–482–8245; Fax: 202–482–5665; e-mail: *Frank.Caliva@trade.gov*).

SUPPLEMENTARY INFORMATION:

Background: The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable United States regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

Topics to be considered: The agenda for the July 13, 2010, CINTAC meeting is as follows:

1. Welcome

2. DOC briefing on current status of Civil Nuclear Trade Initiative

3. Update on civil nuclear trade policy with India

4. Discussion of DOC small modular reactor report

5. Discussion of subcommittees' work and progress on their respective areas of focus: Domestic competitiveness, technologies, treaties and regulations, advocacy, and talent and workforce.

Public Participation: The meeting will be open to the public and the room is disabled-accessible. Public seating is limited and available on a first-come, first-served basis. Members of the public wishing to attend the meeting must notify Mr. Frank Caliva at the contact information above by 5 p.m. EDT on Friday, July 9, 2010, in order to pre-register for clearance into the building. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted, but may be impossible to fill.

Any member of the public may submit pertinent written comments concerning the CINTAC's affairs at any time before and after the meeting. Comments may be submitted to the Civil Nuclear Trade Advisory Committee, Office of Energy & Environmental Industries, Room 4053, 1401 Constitution Ave., NW., Washington, DC 20230. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on Friday, July 9, 2010, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

Dated: June 21, 2010.

Edward A. O'Malley,

Director, Office of Energy & Environmental Industries.

[FR Doc. 2010–15538 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Circular Welded Carbon Steel Pipes and Tubes From Thailand: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 28, 2010.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Milton Koch, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5255 or (202) 482–2584, respectively.

Background

On March 1, 2010, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 75 FR 9162 (March 1, 2010). On March 31, 2010, we received a timely request from Saha Thai Steel Pipe Company, Ltd. (Saha Thai) to conduct an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand for the period March 1, 2009 through February 28, 2010. In accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice initiating an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 75 FR 22107 (April 27, 2010).

Rescission of Antidumping Duty Administrative Review

The Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation. *See* 19 CFR 351.213(d)(1). On May 28, 2010, Saha Thai submitted a letter withdrawing its request of the review within the 90-day deadline. No other party requested a review of the order. Therefore, the Department is rescinding this administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand for the period March 1, 2009 through February 28, 2010. The Department intends to issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after the date of publication of this notice.

Notification to Importers

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

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3) of the Department's regulations, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 22, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–15640 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Rescission of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") is conducting a new shipper review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam ("Vietnam") with respect to Nhat Duc Co., Ltd. ("Nhat Duc") covering the period of review ("POR") of February 1, 2008, through January 31, 2009. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam,* 70 FR 5152 (February 1, 2005) ("*Shrimp Order*"). We announced our preliminary intent to rescind the new shipper review for Nhat Duc, finding that Nhat Duc's sole U.S. sale during the POR was non-*bona fide,* and, therefore, Nhat Duc had no reviewable sales during the POR. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Intent to Rescind New Shipper Review,* 75 FR 3446 (January 21, 2010) ("*Preliminary Rescission*"). We have analyzed the comments received, and we have made no changes to the *Preliminary Rescission.*

DATES: *Effective Date:* June 28, 2010.

FOR FURTHER INFORMATION CONTACT: Toni Dach or Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1655 or (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On January 21, 2010, the Department published in the **Federal Register** the *Preliminary Rescission.* On March 2, 2010, Nhat Duc filed comments regarding the Department's *Preliminary Rescission.* On March 8, 2010, the Ad Hoc Shrimp Trade Action Committee ("domestic producers"), filed comments regarding the Department's *Preliminary Rescission.* On April 20, 2010, the Department extended the time limit for the completion of the final results of

this new shipper review by 30 days. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Extension of Final Results of Antidumping Duty New Shipper Review,* 75 FR 20563 (April 20, 2010). On May 18, 2010, the Department fully extended the time limit for the completion of the final results of this new shipper review by an additional 30 days. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Extension of Final Results of Antidumping Duty New Shipper Review,* 75 FR 27705 (May 18, 2010).

Scope of the Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[1] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States ("HTSUS"), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the order. In addition, food preparations, which are not "prepared meals," that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the order.

[1] "Tails" in this context means the tail fan, which includes the telson and the uropods.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the Pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a "dusting" layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen ("IQF") freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the order is dispositive.

Analysis of Comments Received

Issues raised in the comments by Nhat Duc and domestic producers are addressed in the concurrent Issues and Decision Memorandum ("Issues and Decision Memo"), which is hereby adopted by this notice.[2] A list of the issues which Nhat Duc and domestic producers raised and to which we respond in the Issues and Decision Memo is attached to this notice as an Appendix. The Issues and Decision Memo is a public document and is on file in the Central Records Unit, Main Commerce Building, Room 1117, and is accessible on the Web at *http://www.trade.gov/ia.* The paper copy and electronic version of the memorandum are identical in content.

[2] In addition, due to the proprietary nature of much of the information involved in company specific discussions, the Department has addressed certain issues in a separate proprietary memorandum. *See* Antidumping Duty New Shipper Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: *Bona Fide* Nature of the Sale Under Review for Nhat Duc Co., Ltd.: Price of the Sale and Subsequent U.S. Sales.

Rescission of Review

In evaluating whether or not a sale is commercially reasonable, and therefore *bona fide,* the Department has considered, inter alia, such factors as (1) The timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was at arms-length. *See e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd.* v. *U.S.,* 366 F. Supp. 2d 1246, 1250 (CIT 2005) ("*TTPC*"), *citing Am. Silicon Techs.* v. *U.S.,* 110 F. Supp. 2d 992, 995 (CIT 2000). However, the analysis is not limited to these factors alone. *Id.* The Department examines a number of factors, all of which may speak to the commercial realities surrounding the sale of subject merchandise. While some *bona fide* issues may share commonalities across various Department cases, each one is company-specific and may vary with the facts surrounding each sale. *See Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review,* 68 FR 41304 (July 11, 2003) and accompanying Issues and Decision Memorandum at Comment 2. The weight given to each factor considered will depend on the circumstances surrounding the sale. See *TTPC* at 1263.

As discussed in detail in the Issues and Decision Memo, the Department has determined that the sale made by Nhat Duc was not *bona fide,* as it is not typical of Nhat Duc's usual commercial practices or commercially reasonable. Further, the Department is unable to analyze whether the sale was conducted on an arm's-length basis. The Department reached this conclusion based on the totality of the circumstances, namely: (a) The atypical nature of Nhat Duc's POR pricing; (b) the timing and extent of payment receipt for Nhat Duc's single POR sale; (c) the existence of undisclosed sales subsequent to Nhat Duc's single POR sale; (d) the atypical nature of Nhat Duc's production timeline for its POR U.S. sale; (e) irregularities in Nhat Duc's

sales negotiation correspondence and the unverifiable nature of this correspondence; and (f) the unverifiable nature of Nhat Duc's founding capital sources.

Nhat Duc only made a single, non-*bona fide* sale during the POR. Therefore, the Department is rescinding this review because there are no reviewable sales during the POR. *See TTCP* at 1249. Because the Department is rescinding the new shipper review, we are not making a determination as to whether Nhat Duc qualifies for a separate rate. Therefore, Nhat Duc will remain part of the Vietnam-wide entity.

Cash Deposit Rates

The following cash deposit requirements continue to apply for all shipments of subject merchandise from Nhat Duc entered, or withdrawn from warehouse: (1) For subject merchandise produced and exported by Nhat Duc, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.,* 25.76 percent); (2) for subject merchandise exported by Nhat Duc but not manufactured by Nhat Duc, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.,* 25.76 percent); and (3) for subject merchandise manufactured by Nhat Duc, but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements shall remain in effect until further notice.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(5).

Dated: June 18, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Issues and Decision Memorandum

Comment: *Bona Fide* Nature of Nhat Duc's POR Sale.

[FR Doc. 2010–15639 Filed 6–25–10; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements for Non-Full-Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission ("CPSC" or "Commission") is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 ("the PRA"), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed collection of information on recordkeeping requirements under the safety regulations for non-full-size baby cribs.

DATES: Submit written or electronic comments on the collection of information by August 27, 2010.

ADDRESSES: Written comments should be captioned "Proposed Collection—Non-Full-Size Cribs" and sent by e-mail to *cpsc-os@cpsc.gov.* Comments may also be sent by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Linda L. Glatz, Division of Policy and Planning, Office of Information Technology, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7671. *lglatz@cpsc.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, the CPSC is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, the CPSC invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of CPSC's functions, including whether the information will have practical utility; (2) the accuracy of CPSC'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.

Title: Requirements for Non-Full-Size Baby Cribs—16 CFR Part 1509 and 16 CFR 1500.18(a)(14) (OMB Control Number 3041–0012—Extension). The safety regulations for non-full-size baby cribs (also referred to as "non-full-size cribs") are codified at 16 CFR Part 1509 and 16 CFR 1500.18(a)(14). These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration, and other injuries associated with non-full-size cribs. (A non-full-size crib is a crib having an interior length greater than 55 inches or smaller than 49¾ inches; or an interior width greater than 30⅝ inches or smaller than 25⅜ inches; or both.) The regulations prescribe performance, design, and labeling requirements for non-full-size cribs. They also require manufacturers and importers of those products to maintain sales records for a period of three years after the manufacture or importation of non-full-size cribs. If any non-full-size cribs subject to provisions of 16 CFR 1500.18(a)(14) and part 1509 fail to comply in a manner to warrant a recall,

the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from OMB.

Estimated Burden: Approximately 16 firms manufacture or import non-full-size baby cribs and are subject to the recordkeeping requirements. The Commission staff estimates that the recordkeeping will take five hours per firm for obtaining the information from existing sales and distribution data. The annualized cost to respondents for the burden for collection of information is approximately $2,222. This estimated cost to respondents is based on 80 hours (16 firms × 5 hours each) multiplied by a cost of $27.78 per hour (Bureau of Labor Statistics, Total Compensation, All workers, goods-producing industries, Sales and office, September 2009, Table 9) or $2,222.40, which we have rounded down to $2,222.

The cost to the government (wages and benefits) for 8 hours staff time to review the information (½ hour per firm) is approximately $655. Assuming that the employee reviewing the records will be a GS–14 level employee, the average hourly wage rate for a mid-level GS–14 employee in the Washington, DC metropolitan area, effective as of January 2010, is $57.33. This represents 70 percent of total compensation (Bureau of Labor Statistics, March 2010, percentage wages and salaries for all civilian management, professional, and related employees, Table 1). Adding an additional 30 percent for benefits brings average hourly compensation for a mid-range GS–14 employee to $81.89. Thus, 8 hours multiplied against an hourly compensation figure of $81.89 results in an estimated cost to the government of $655.12, which we have rounded down to $655.

Dated: June 22, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–15510 Filed 6–25–10; 8:45 am]

BILLING CODE P

CONSUMER PRODUCT SAFETY COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements for Full-Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission ("CPSC" or "Commission") is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 ("the PRA"), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed collection of information on recordkeeping requirements under the safety regulations for full-size baby cribs.

DATES: Submit written or electronic comments on the collection of information by August 27, 2010.

ADDRESSES: Written comments should be captioned "Proposed Collection—Full-Size Cribs" and sent by e-mail to *cpsc-os@cpsc.gov.* Comments may also be sent by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Linda L. Glatz, Division of Policy and Planning, Office of Information Technology, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7671, *lglatz@cpsc.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, the CPSC is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, the CPSC invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of CPSC's functions, including whether the information will have practical utility; (2) the accuracy of CPSC'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.

Title: Requirements for Full-Size Baby Cribs—16 CFR part 1508 and 16 CFR 1500.18(a)(13) (OMB Control Number 3041–0013—Extension). The safety regulations for full-size baby cribs (also referred to as "full-size cribs") are codified at 16 CFR part 1508 and 16 CFR 1500.18(a)(13). These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration, and other injuries associated with full-size cribs. (Full-size cribs have specific interior dimensions, 28 ± ⅝ inches (71 ± 1.6 centimeters) wide by 52⅜ ± ⅝ inches (133 ± 1.6 centimeters) long). The regulations prescribe performance, design, and labeling requirements for full-size cribs. They also require manufacturers and importers of those products to maintain sales records for a period of three years after the manufacture or importation of full-size cribs. If any full-size cribs subject to provisions of 16 CFR 1500.18(a)(13) and part 1508 fail to comply in a manner to warrant a recall, the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from OMB.

Estimated Burden: Approximately 75 firms manufacture or import full-size baby cribs and are subject to the recordkeeping requirements. The Commission staff estimates that the recordkeeping will take five hours per firm for obtaining the information from existing sales and distribution data. The annualized cost to respondents for the burden of collection of information is $10,417.50 based on 375 hours (75 firms × 5 hours each) multiplied by a cost of $27.78 per hour (Bureau of Labor Statistics, Total Compensation, All workers, goods-producing industries, Sales and office, September 2009, Table 9).

The cost to the government (wages and benefits) for 37.5 hours staff time to

review the information (½ hour per firm) is approximately $3,071. Assuming that the employee reviewing the records will be a GS–14 level employee, the average hourly wage rate for a mid-level GS–14 employee in the Washington, DC metropolitan area, effective as of January 2010, is $57.33. This represents 70 percent of total compensation (Bureau of Labor Statistics, March 2010, percentage wages and salaries for all civilian management, professional, and related employees, Table 1). Adding an additional 30 percent for benefits brings average hourly compensation for a mid-range GS–14 employee to $81.89. Thus, 37.5 hours multiplied against an hourly compensation figure of $81.89 results in an estimated cost to the government of $3,070.87, which we have rounded up to $3,071.

Dated: June 22, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–15513 Filed 6–25–10; 8:45 am]

BILLING CODE P

CONSUMER PRODUCT SAFETY COMMISSION

Change in Times for Meeting of Chronic Hazard Advisory Panel on Phthalates and Phthalate Substitutes and Correction of E-mail Address

AGENCY: Consumer Product Safety Commission.

ACTION: Change in notice of meeting and correction.

SUMMARY: The Consumer Product Safety Commission ("CPSC" or "Commission") is announcing time changes to the second meeting of the Chronic Hazard Advisory Panel (CHAP) on phthalates and phthalate substitutes. The Commission appointed this CHAP to study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles, pursuant to section 108 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) (Pub. L. 110–314). The Commission also is correcting the e-mail address for requests and procedures for oral presentations of comments.

DATES: The meeting will begin at 8:30 a.m. on July 26, 2010. The opportunity for the public to present oral comments will remain on July 26, 2010, from 10 a.m. to 5 p.m. The remainder of the meeting will be from 8:30 a.m. to 5 p.m. on July 27, 2010 and from 8:30 a.m. to 2 p.m. on July 28, 2010.

Online Registration and Webcast: Members of the public who wish to attend the meeting are requested to preregister online at *http://www.cpsc.gov/cgibin/chap.aspx.* This meeting will also be available live via Webcast on July 26 and July 27, and by prerecorded Webcast on July 28, 2010, at *http://www.cpsc.gov/* Webcast. Registration is not necessary to view the Webcast.

FOR FURTHER INFORMATION CONTACT: Concerning requests and procedures for oral presentations of comments: Rockelle Hammond, Consumer Product Safety Commission, Bethesda, MD 20814; telephone: (301) 504–6833; e-mail *cpsc-os@cpsc.gov.* For all other matters: Michael Babich, Directorate for Health Sciences, Consumer Product Safety Commission, Bethesda, MD 20814; telephone (301) 504–07253; e-mail *mbabich@cpsc.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 3, 2010 (75 FR 31426), the Consumer Product Safety Commission published a notice announcing the second meeting of the Chronic Hazard Advisory Panel (CHAP) on phthalates and phthalate substitutes. The Commission appointed this CHAP to study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles, pursuant to section 108 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) (Pub. L. 110–314).

The times for the meeting have been changed. The meeting now will begin at 8:30 a.m. on July 26, 2010, although the opportunity for the public to present oral comments will remain on July 26, 2010, from 10 a.m. to 5 p.m. On July 27, the meeting will begin at 8:30 a.m. and end at 5 p.m., and on July 28, the meeting will begin at 8 a.m. and end at 2 p.m.

Additionally, in the **Federal Register** of June 3, 2010, the e-mail address for requests and procedures for oral presentations of comments that was provided in the "**FOR FURTHER INFORMATION CONTACT**" portion of the notice was incorrect. The correct e-mail address is *cpsc-os.cpsc.gov.* Requests to present oral comments must be filed with the Office of the Secretary no later than July 1, 2010.

Dated: June 22, 2010.

Todd Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–15508 Filed 6–25–10; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Reserve Forces Policy Board (RFPB)

AGENCY: Department of Defense (DoD).

ACTION: Notice of advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Reserve Forces Policy Board (RFPB) will meet on July 28 and 29, 2010, in Washington, DC:

DATES: The meeting will be held on July 28 (from 8:30 a.m. to 4:45 p.m.) and on July 29, 2010 (from 8:30 a.m. to 3:15 p.m.).

ADDRESSES: The meeting will be held in Room 3E863, Pentagon, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Col. Marjorie Davis, Designated Federal Officer, (703) 697–4486 (Voice), (703) 614–0504 (Facsimile), *RFPB@osd.mil.*

The Board's mailing address is: Reserve Forces Policy Board, 7300 Defense Pentagon, Washington, DC 20301–7300.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

An open meeting of the Reserve Forces Policy Board.

Agenda

Consider reserve forces' health care issues and the long range implications of a generation of young veterans.

Meeting Accessibility

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. To request a seat, contact the Designated Federal Officer not later than July 15, 2010, at 703–697–4486, or by e-mail at *RFPB@osd.mil.*

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Reserve Forces Policy Board at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Reserve Forces Policy Board's Designated Federal Officer (*see* **FOR FURTHER INFORMATION CONTACT**). The Designated Federal Officer's contact information

can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

Written statements that do not pertain to a scheduled meeting of the Reserve Forces Policy Board may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all of the committee members.

Dated: June 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–15625 Filed 6–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0085]

Privacy Act of 1974; System of Records

AGENCY: Department of Defense (DoD).

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 28, 2010, unless comments are received which result in a contrary determination.

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

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

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

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 14, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: June 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS D01

SYSTEM NAME:

Pentagon Parking/national Capital Region Transit Subsidy Program (May 3, 2007; 72 FR 24574).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with "DoD National Capital Region Mass Transportation Benefit Program."

SYSTEM LOCATION:

Delete entry and replace with "Washington Headquarters Services, Information Technology and Management Directorate, Department of Defense, 1155 Defense Pentagon, Washington, DC 20301–1155."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "DoD military and civilian personnel assigned to the National Capital Region applying for and/or obtaining a public fare transportation subsidy."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, last four of Social Security Number (SSN), point-to-point commuting expenses, type of mass transit used, city, state, and ZIP+4 of residence, organizational affiliation of the individual, office work number, DoD e-mail address, duty/work address. Individuals participating in a pilot program also provide their Smartrip card number."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 7905, Programs to encourage commuting by means other than single-occupancy motor vehicles; DoD Instruction 1000.27, Mass Transportation Benefit Program; E.O. 12191, Federal Facility Ridesharing Program; E.O. 13150, Federal Workforce Transportation; and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To manage the DoD National Capital Region Mass Transportation Benefit Program for DoD military and civilian personnel applying for and in receipt of fare subsidies."

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

Delete entry and replace with, "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Transportation for purposes of administering the DoD National Capital Region Public Transportation Benefit Program and/or verifying the eligibility of individuals to receive a fare subsidy pursuant to the transportation benefit program operated by the DoD.

To the Washington Metro Area Transit Authority for the purpose of crediting fare subsidies directly to the Smartrip Card of DoD military or civilian employees participating in the SmartBenefit pilot program.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Office of the Secretary of Defense compilation of systems of records notices apply to this system of records."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Individual's name and last four of Social Security Number (SSN)."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Chief, Defense Facilities Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, Defense Facilities Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests for information should contain the full name of the individual and last four of Social Security Number (SSN)."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests for information should contain the full name of the individual, last four of Social Security Number (SSN), and include the name and number of this system of record notice and be signed by the individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of the Secretary of Defense Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Applications for mass transportation benefit program submitted by the individual."

* * * * *

DWHS D01

SYSTEM NAME:

DoD National Capital Region Mass Transportation Benefit Program.

SYSTEM LOCATION:

Washington Headquarters Services, Information Technology and Management Directorate, Department of Defense, 1155 Defense Pentagon, Washington, DC 20301–1155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD military and civilian personnel assigned to the National Capital Region applying for and/or obtaining a public fare transportation subsidy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, last four of Social Security Number (SSN), point-to-point commuting expenses, type of mass transit used, city, state, and ZIP+4 of residence, organizational affiliation of the individual, office work number, DoD email address, duty/work address. Individuals participating in a pilot program also provide their Smartrip card number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 7905, Programs to encourage commuting by means other than single-occupancy motor vehicles; DoD Instruction 1000.27, Mass Transportation Benefit Program; E.O. 12191, Federal Facility Ridesharing Program; E.O. 13150, Federal Workforce Transportation; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To manage the DoD National Capital Region Mass Transportation Benefit Program for DoD military and civilian personnel applying for and in receipt of fare subsidies.

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

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

To the Department of Transportation for purposes of administering the DoD National Capital Region Public Transportation Benefit Program and/or verifying the eligibility of individuals to receive a fare subsidy pursuant to the transportation benefit program operated by the DoD.

To the Washington Metro Area Transit Authority for the purpose of crediting fare subsidies directly to the Smartrip Card of DoD military or civilian employees participating in the SmartBenefit pilot program.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Office of the Secretary of Defense compilation of systems of records notices apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and last four of Social Security Number (SSN).

SAFEGUARDS:

Records are stored in a secured area accessible only to authorized personnel. Records are accessed by the custodian of the record system and by persons responsible for using or servicing the system, who are properly screened and have a need-to-know. Computer hardware is located in controlled areas with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration has approved the disposition schedule for these records, treat them as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Defense Facilities Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, Defense Facilities Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests for information should contain the full name of the individual and last four of Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests for information should contain the full name of the individual, last four of Social Security Number (SSN), and include the name and number of this system of record notice and be signed by the individual.

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of the Secretary of Defense Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Applications for mass transportation benefit program submitted by the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–15635 Filed 6–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2010–OS–0084]

Privacy Act of 1974; System of Records

AGENCY: National Security Agency/Central Security Service, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The National Security Agency/Central Security Service proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 28, 2010, unless comments are received which result in a contrary determination.

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

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

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

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

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688–6527.

SUPPLEMENTARY INFORMATION: The National Security Agency/Central Security Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the National Security Agency/Central Security Service, Freedom of Information Act and Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

The proposed system report, as required by 5 U.S.C. § 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 14, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: June 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

GNSA 11

SYSTEM NAME:

NSA/CSS Key Accountability Records

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian employees, personnel under contract or appointment and military assignees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records related to the authorization to obtain keys, and records relating to the issue, return, and accountability of keys to secure areas. Records may contain name, Social Security Number (SSN), address, Personal Identification Number (PIN), key number, and Magnetic Strip Number (MSN).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Agency Act of 1959, Public Law 86–36 (50 U.S.C. 402 note), as amended; Executive Order 12333, as amended, United States Intelligence Activities; DCID 6/1, Security Policy for SCI; DoD Instruction 5200.08, Security of DoD Installations and Resources and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To maintain records relating to key accountability, daily use, and for investigative purposes, as appropriate.

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

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

The DoD 'Blanket Routine Uses' set forth at the beginning of the NSA/CSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By name, Social Security Number (SSN), key number, personal identification number (PIN), Magnetic Strip Number (MSN), room number, and date and time.

SAFEGUARDS:

Buildings are secured by a series of guarded pedestrian gates and checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts are controlled by limited-access facilities and lockable containers. Access to electronic means is limited and controlled by computer password protection.

RETENTION AND DISPOSAL:

Destroy 3 years after turn in of key. Records are destroyed by pulping, burning, shredding, or erasure or destruction of magnet media.

SYSTEM MANAGER(S) AND ADDRESS:

The Associate Director for Security and Counterintelligence, National Security Agency/Central Security Service, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether records about themselves is contained in this record system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN), and mailing address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN), and mailing address.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial agency determinations may be obtained by written request addressed to the National Security Agency/Central Security Service, Freedom of Information Act (FOIA)/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

RECORD SOURCE CATEGORIES:

Information is collected from the individual and the individual's supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 322. For additional information contact the system manager.

[FR Doc. 2010–15634 Filed 6–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Interim Change to the Military Freight Traffic Unified Rules Publication (MFTURP) No. 1

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: The Military Surface Deployment and Distribution Command (SDDC) is providing notice that it will release an interim change to the MFTURP No. 1 on Monday, June 28, 2010. The interim change updates Section A, Part VI, Paragraph A, Advancing Charges (045). The update provides clearer guidance on when Transportation Service Providers (TSP) may charge for Advancing Charges.

DATES: *Effective date:* June, 28, 2010.

ADDRESSES: Submit comments to Publication and Rules Manager, Strategic Business Directorate, Business Services, 661 Sheppard Place, *Attn:* SDDC–OPM, Fort Eustis, VA 23604–1644. Requests for additional information may be sent by e-mail to: *chad.t.privett@us.army.mil* or *george.alie@us.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Chad Privett, (757) 878–8161, or Mr. George Alie, (618) 220–5870.

SUPPLEMENTARY INFORMATION:

References: Military Freight Traffic Unified Rules Publications (MFTURP) No. 1; SDDC Docketing System (*http://www.sddc.army.mil/docketing*), Section A, Docket 1017.

Miscellaneous: The MFTURP No. 1, as well as the other SDDC publications, can be accessed via the SDDC Web site at: *http://www.sddc.army.mil/Public/Global%20Cargo%20Distribution/Domestic/Publications/.*

Larry L. Earick,

Branch Chief, G9, Business Services.

[FR Doc. 2010–15578 Filed 6–25–10; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Academy Board of Visitors Notice of Meeting

AGENCY: U.S. Air Force Academy Board of Visitors.

ACTION: Meeting notice.

SUMMARY: Pursuant to 10 U.S.C. 9355, the US Air Force Academy (USAFA) Board of Visitors (BoV) will meet in Harmon Hall, 2304 Cadet Drive, Suite 3300 at the United States Air Force Academy in Colorado Springs, CO on 23–24 July 2010. The meeting session will begin at 1:30 p.m. on 23 July 2010. The purpose of this meeting is to review morale and discipline, social climate, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy. Specific topics for this meeting include the status of the Air Force Academy Athletic Association Non-Profit initiative, a review of the Airmanship program, and consideration of the surveys cadets must take at the Academy.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Administrative Assistant to the Secretary of the Air Force has determined that portions of this meeting shall be closed to the public. The Administrative Assistant to the Secretary of the Air Force, in consultation with the Office of the Air Force General Counsel, has determined in writing that the public interest requires that two portions of this meeting be closed to the public because it will involve matters covered by subsection (c)(6) of 5 U.S.C. 552b.

Public attendance at the open portions of this USAFA BoV meeting shall be accommodated on a first-come, first-served basis up to the reasonable and safe capacity of the meeting room. In addition, any member of the public wishing to provide input to the USAFA BoV should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act (FACA) and the procedures described in this paragraph. Written statements must address the following details: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and provide any necessary background information. Written statements can be submitted to the Designated Federal Officer (DFO) at the Air Force Pentagon address detailed below at any time. However, if a written statement is not received at least 10 days before the first day of the meeting which is the subject of this notice, then it may not be provided to, or considered by, the BoV until its next open meeting. The DFO will review all timely submissions with the BoV Chairperson and ensure they are provided to members of the BoV before the meeting that is the subject of this notice. For the benefit of the public, rosters that list the names of BoV members and any releasable materials presented during open portions of this BoV meeting shall be made available upon request.

If, after review of timely submitted written comments, the BoV Chairperson and DFO deem appropriate, they may choose to invite the submitter of the written comments to orally present their issue during an open portion of the BoV meeting that is the subject of this notice. Members of the BoV may also petition the Chairperson to allow specific persons to make oral presentations before the BoV. Per 41 CFR 102–3.140(d), any oral presentations before the BoV shall be in accordance with agency guidelines provided pursuant to a written invitation and this paragraph. Direct questioning of BoV members or meeting participants by the public is not

permitted except with the approval of the DFO and Chairperson.

For further information or to attend this BoV meeting, contact Mr. David Boyle, USAFA Programs Manager, Directorate of Force Development, Deputy Chief of Staff, Manpower and Personnel, AF/A1DOA, 2221 S. Clark St, Ste 500, Arlington, VA 22202, (703) 604–8158. If members of the public would like to attend, please contact the USAFA Public Affairs Office, (719) 333–7731 for information on access to the Academy meeting site.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2010–15571 Filed 6–25–10; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2010–0014]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army proposes to alter a system of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 28, 2010 unless comments are received which result in a contrary determination.

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

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

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

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones at (703) 428–6185.

SUPPLEMENTARY INFORMATION: Department of the Army notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 14, 2010, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," February 20, 1996; 61 FR 6427.

Dated: June 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0190–47 DAMO

SYSTEM NAME:

Correctional Reporting System (CRS) (August 23, 1999; 64 FR 45957).

* * * * *

CHANGES:

SYSTEM ID:

Delete entry and replace with "A0190–47 DAPM–ACC".

SYSTEM NAME:

Delete entry and replace with "Army Corrections and Review Board Records."

SYSTEM LOCATION:

Delete entry and replace with "Office of the Provost Marshal General, 2800 Army Pentagon, Washington, DC 20310–2800; Army Corrections Command, 200 Stovall St, Alexandria, VA 22332–6100; Army Corrections System Facilities, Navy and Marine Corps Brigs; and Army Clemency and Parole Board Office, 1901 South Bell Street, Arlington, VA 22202–4508."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Any military member confined at a DoD correctional facility as a result of, or pending trial by courts-martial under Army responsibility, and those under community supervision once released from DoD correctional facility. All Department of Defense civilian employees, military members and contractors who have been granted user accounts on the system in order to conduct official business."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Full name, Social Security Number (SSN), present address; documents related to the administration of individual military prisoners; courts-martial orders, dates of confinement, release/confinement orders, register number, medical examiner's reports, requests and receipts for health and comfort supplies, reports and recommendations relating to disciplinary actions, clothing and equipment issue records; forms authorizing correspondence by prisoner, mail records; personal history records; individual prisoner utilization records; requests for interview; fingerprint cards, military police reports; prisoner identification records; parolee/mandatory supervised release agreements; inspections; documents regarding custodianship of personal funds and property of prisoners; former commanding officer's report; parents' report; spouse's report; classification recommendations; request to transfer prisoner; social history; clemency and parole actions; psychologist's report; psychiatric and sociologic reports; certificate of parole; certificate of release from parole; assignment progress reports; and similar relevant documents."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete and replace with "10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 951, Military Claims; DoD Directive 1030.1, Victim and Witness Assistance; DoD Instruction 1030.2, Victim and Witness Assistance Procedures; DoD Instruction 1325.7, Administration of Military Correctional Facilities and Clemency and Parole Authority; Army Regulation 190–130, Army Clemency and parole board, Army Regulation 190–47, The Army Corrections System; and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "Automated records provide pertinent information required for proper clemency and parole decisions that the Army Clemency and Parole Board makes for the Secretary of the Army."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Office of the Provost Marshal General, 2800 Army Pentagon, Washington, DC 20310–2800; Army Corrections Command, 200 Stovall St, Alexandria, VA 22332–6100."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine

whether information about themselves is contained in this system should address written inquiries to the commander of the correctional facility where confined.

For verification purposes, individual should provide their full name, Social Security Number (SSN), dates of confinement, any details, which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the commander of the correctional facility.

For verification purposes, individual should provide their full name, Social Security Number (SSN), dates of confinement, any details, which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

* * * * *

A0190–47 DAPM–ACC

SYSTEM NAME:

Army Corrections and Review Board Records.

SYSTEM LOCATION:

Office of the Provost Marshal General, 2800 Army Pentagon, Washington, DC 20310–2800; Army Corrections Command, 200 Stovall St., Alexandria, VA 22332–6100; Army Corrections System Facilities, Navy and Marine Corps Brigs; and Army Clemency and Parole Board Office, 1901 South Bell Street, Arlington, VA 22202–4508.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any military member confined at a DoD Correctional facility as a result of, or pending trial by courts-martial under Army responsibility, and those under community supervision once released from DoD correctional facility. All Department of Defense civilian employees, military members and contractors who have been granted user accounts on the system in order to conduct official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, Social Security Number (SSN), present address; documents related to the administration of individual military prisoners; courts-martial orders, dates of confinement, release/confinement orders, register number, medical examiner's reports, requests and receipts for health and comfort supplies, reports and recommendations relating to disciplinary actions, clothing and equipment issue records; forms authorizing correspondence by prisoner, mail records; personal history records; individual prisoner utilization records; requests for interview; fingerprint cards, military police reports; prisoner identification records; parolee/mandatory supervised release agreements; inspections; documents regarding custodianship of personal funds and property of prisoners; former commanding officer's report; parents' report; spouse's report; classification recommendations; request to transfer prisoner; social history; clemency and parole actions; psychologist's report; psychiatric and sociologic reports; certificate of parole; certificate of release from parole; assignment progress reports; and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 951, Military Claims; DoD Directive 1030.1, Victim and Witness Assistance; DoD Instruction 1030.2, Victim and Witness Assistance Procedures; DoD Instruction 1325.7, Administration of Military correctional Facilities and Clemency and Parole Authority; Army Regulation 190–130, Army Clemency and parole board, Army Regulation 190–47, The Army Corrections System; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Automated records provide pertinent information required for proper clemency and parole decisions that the Army Clemency and Parole Board makes for the Secretary of the Army.

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

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

To Federal, State and local confinement/correctional agencies for use in the administration of correctional programs including custody classification, employment, training and educational assignments, treatment programs, clemency, restoration to duty or parole actions, verification of offender's criminal records, employment records, and social histories.

To state and local authorities for purposes of providing (1) notification that individuals, who have been convicted of a specified sex offense or an offense against a victim who is a minor, will be residing in the state upon release from military confinement, (2) information about the individual for inclusion in a State operated sex offender registry and (3) DNA, or deoxyribonucleic acid policy on collecting samples from military prisoners.

To the Bureau of Prisons for purpose of providing notification that the military transferee has been convicted of a sexually violent offense or an offense against a victim who is a minor.

To victims and witnesses of a crime(s) for the purpose of notifying them of date of parole or clemency hearing and other release related activities.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By prisoner's surname and/or Social Security Number (SSN) and/or register number.

SAFEGUARDS:

All records are maintained in areas accessible only to designated personnel

having official need therefore. Automated data base and output are managed through comprehensive procedures and policies prescribed in system functional users manuals. Regional Data Centers are contractor-operated. Contractor personnel are security screened; employees receive a security briefing and participate in an on-going security education program under the Regional Data Security Officer. Regional Data Centers are connected through a communications network to 44 distributed data processing centers at Army installations. Data are available only to installation personnel responsible for system operation and maintenance. Terminals not in data processing centers are under the supervision of a terminal area security officer at each remote location protecting them from unauthorized use. Access to information is controlled further by a system of assigned passwords for authorized users of terminals.

RETENTION AND DISPOSAL:

Individual correctional treatment records for prisoners in the U.S. Army Corrections System Facilities are retained for 2 years following expiration of sentence/completion of parole/maximum release date, following which they are retired to the National Personnel Records Center for 25 years before destruction by shredding.

Note: Transfer of a prisoner from one facility to another is not construed as release from confinement. When a prisoner is transferred to another facility, his/her file is transferred with him/her.

Information on tape/disc is erased after 3 years.

Army Clemency Board case files are returned on completion of Board action, as appropriate, where they are retained for 2 years following expiration of sentence/completion of parole/maximum release date, following which they are retired to the National Personnel Records Center and maintained for 25 years before being destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Provost Marshal General, 2800 Army Pentagon, Washington, DC 20310–2800; Army Corrections Command, 200 Stovall St, Alexandria, VA 22332–6100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the commander of the correctional facility where confined.

For verification purposes, individual should provide their full name, Social Security Number (SSN), dates of confinement, any details, which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the commander of the correctional facility.

For verification purposes, individual should provide their full name, Social Security Number (SSN), dates of confinement, any details, which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual witnesses; victims; Military Police/U.S. Army Criminal Investigation Command personnel and/or reports; informants; various Federal, State and local investigative and law enforcement agencies; foreign governments; and other individual or organization that may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 2010–15637 Filed 6–25–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of a Waiver of Section 1605 of the American Recovery and Reinvestment Act of 2009 (ARRA) for Indian River Central School District, Philadelphia, New York

SUMMARY: In this notice, the Department of Education (the Department) announces its waiver of the Buy American requirements in section 1605(a) of the ARRA (Buy American Requirements) for the Indian River Central School District in Philadelphia, New York (Indian River District) and the justification for this waiver. This waiver permits use of compatible telephones, servers, and software as well as American Power Conversion (APC) power supply and surge suppression equipment in the Indian River District's telecommunications project, which is supported with Impact Aid funds appropriated under the ARRA.

SUPPLEMENTARY INFORMATION: The Department provided the Indian River District with an Impact Aid ARRA formula grant for school construction activities authorized under section 8007(a) of the Elementary and Secondary Education Act of 1965, as amended. The Indian River District proposes to use these funds for a telecommunications infrastructure investment, but reports that the particular telecommunication and power supply components needed for this construction project are not produced in the United States.

In accordance with section 1605(c) of the ARRA, the Department hereby provides notice that it is granting a waiver of the Buy American Requirements for the Indian River District's telecommunications project. This notice constitutes the detailed

written justification that the Department is required to publish in instances when it grants such a waiver pursuant to section 1605(b) of the ARRA.

Section 1605(a) of the ARRA requires that none of the appropriated funds be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. The ARRA further provides that this requirement does not apply, and that a waiver may be granted, when the head of the Federal department or agency involved finds that: (1) Applying these requirements would be inconsistent with the public interest; (2) iron, steel, and relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and relevant manufactured goods produced in the United States will increase the overall cost of the project by more than 25 percent.

The district seeks a waiver based on the fact that the telecommunications upgrade will provide the necessary support to provide a reliable flow of products and services essential to the smooth functioning of government at the local level. The project would completely replace the current telecommunications infrastructure for six buildings within the school district, and make it consistent with a single Voice over Internet Protocol (VoIP) system that has already been installed in the district's other three facilities. One problem with the current infrastructure is that there are four different systems installed in the various buildings, which has contributed to incompatible systems and ineffective communications. As a result, the district determined that it is essential that all of it buildings should share a single, state-of-the-art system.

The district reported that the existing VoIP system comprises Cisco telephones, servers, and software as well as American Power Conversion (APC) power supply and surge suppression equipment. While both Cisco and APC are American firms that provide the bulk of the equipment and software in the U.S., the products themselves are manufactured in China and India. In order to remain technologically consistent with the district facilities that were updated with other resources and use materials of comparable satisfactory quality, the school district would need to use the same products in the proposed project.

The Secretary has determined that a section 1605(b) waiver of the Buy American Requirements is appropriate for the Indian River District's telecommunications project because, based on information provided by the Indian River District as well the Department's own research, the particular telecommunications and power supply components needed for this project are not manufactured in the United States. The Department bases this determination on information provided by the Indian River District as well as its own research. The Indian River District has provided information to the Department documenting that there are no Cisco telephones, servers, and software or APC power supply and surge suppression equipment manufactured in the United States. In addition, based on the Department's own research (Internet product literature searches) and to the best of the Department's knowledge at the time of its review of the Indian River District's waiver request, there do not appear to be U.S.-manufactured Cisco telephones, servers, and software or APC power supply and surge suppression equipment available to the Indian River District for the ARRA-funded telecommunications project.

Furthermore, the purpose of the ARRA is to stimulate economic recovery, in part, by funding current infrastructure construction, and not to delay projects that are "shovel ready" by requiring the revision of standards and specifications or a new bidding process. The imposition of the Buy American Requirements on such otherwise eligible projects would result in requiring the district to abandon a VoIP system that it already had purchased and installed in three facilities or requiring it to install possibly incompatible technology in the six remaining facilities. Either alternative is inconsistent with the public interest. In addition, imposing Buy American requirements for this project at this point would also result in an unreasonable delay, and to further delay construction would be in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

The Department has reviewed the Indian River District's waiver request and has determined that the supporting documentation is sufficient to demonstrate that a waiver is justified under section 1605(b) of the ARRA. Having established both a proper basis to specify the particular goods required for this project, and that these compatible manufactured goods are not available from a producer in the United States, the Indian River District is hereby granted a waiver from the Buy American Requirements reflected in section 1605(a) of the ARRA for the installation of the telecommunication and power supply components of compatible telecommunications infrastructure (including telephones, servers, and software) in all of the district's school facilities using ARRA funds as specified in the Indian River District's request.

FOR FURTHER INFORMATION CONTACT: Kristen Walls-Rivas, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 260–1357 or via Internet: *Kristen.Walls-Rivas@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339. Individuals with disabilities can obtain this document in an accessible format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

Electronic Access to This Document: You may 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) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: 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 on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Authority: Section 1605 of the American Recovery and Reinvestment Act, Public Law 111–5.

Dated: June 23, 2010.

Arne Duncan,

Secretary of Education.

[FR Doc. 2010–15657 Filed 6–25–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Blue Ribbon Commission on America's Nuclear Future

AGENCY: Office of Nuclear Energy, DOE.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Blue Ribbon Commission on America's Nuclear Future (the Commission). The Commission was organized pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

DATES:
Wednesday, July 14, 2010, 8 a.m.–5 p.m. p.d.t.
Thursday, July 15, 2010, 8:30 a.m.–1 p.m. p.d.t.

ADDRESSES: Three Rivers Convention Center, 7016 W. Grandridge Blvd., Kennewick, WA 99336, 509–737–3700.

FOR FURTHER INFORMATION CONTACT: Timothy A. Frazier, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone (202) 586–4243 or facsimile (202) 586–0544; e-mail *CommissionDFO@nuclear.energy.gov.* Additional information may also be available at *http://www.brc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The President directed that the Blue Ribbon Commission on America's Nuclear Future (the Commission) be established to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle. The Commission will provide advice and make recommendations on issues including alternatives for the storage, processing, and disposal of civilian and defense spent nuclear fuel and nuclear waste.

The Commission held its second full Commission meeting on May 25 and 26, 2010. The Commission is scheduled to submit a draft report to the Secretary of Energy by July 2011, and a final report by January 2012.

Purpose of the Meeting: The meeting will provide the Commission with a range of local and regional perspectives from a wide variety of individuals and organizations. The tours will afford the Commissioners an opportunity to see first-hand a collection of facilities involved in the treatment, packaging and storage of used fuel and high-level wastes.

Tentative Agenda: The meeting is expected to start at 8 a.m. on July 14 with the Commissioners touring relevant areas of the Hanford Site. Presentations to the Commission are expected to begin at approximately 2 p.m. at the Three Rivers Convention Center. The Commission will then hear presentations and statements from various stakeholder groups, and ask questions of the presenters, to provide additional information for Commission consideration. The meeting on July 15 is expected to start at 8:30 a.m. with additional presentations and statements, move to discussions by the Commissioners, and conclude with public statements. The meeting will end by 1 p.m.

Public Participation: The meeting and the tour of the relevant areas of the Hanford Site are open to the public on a space-available basis. Those wishing to attend the tour with the Commissioners must register in advance at *http://www.hanford.gov.* Registration is on a "first-come, first-served" basis and is limited to 80 people. Registration will open on July 2 at 7 a.m. and close on July 9 at noon.

Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting on Thursday, July 15, 2010. Approximately 45 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 8 a.m. on July 15, 2010 at the Three Rivers Convention Center.

Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to Timothy A. Frazier, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, e-mail to *CommissionDFO@nuclear.energy.gov,* or post comments on the Commission Web site at *http://www.brc.gov.*

Additionally, the meeting will be available via live Webcast. The link will be available at *http://www.brc.gov.*

Minutes: The minutes of the meeting will be available at *http://www.brc.gov* or by contacting Mr. Frazier. He may be reached at the postal address or e-mail address above.

Issued in Washington, DC on June 22, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–15593 Filed 6–25–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Blue Ribbon Commission on America's Nuclear Future, Reactor and Fuel Cycle Technologies Subcommittee

AGENCY: Office of Nuclear Energy, DOE.

ACTION: Notice of open meeting correction.

On June 21, 2010, the Department of Energy published a notice announcing an open meeting of the Reactor and Fuel Cycle Technologies (RFCT) Subcommittee, 75 FR 35001. In that notice, the date of the meeting listed under **DATES** was Monday, July 13, 2010 and is incorrect. The correct date is Monday, July 12, 2010.

Also, in that notice under Public Participation it was indicated that the meeting will be available via live audio Webcast. The meeting is now planned to be live video Webcast. Additional information will be available regarding the live video Webcast via the Commission at *http://www.brc.gov.*

Issued in Washington, DC on June 22, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–15596 Filed 6–25–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Blue Ribbon Commission on America's Nuclear Future, Disposal Subcommittee

AGENCY: Department of Energy, Office of Nuclear Energy.

ACTION: Notice of open meeting correction.

On June 21, 2010, the Department of Energy published a notice announcing an open meeting of the Disposal Subcommittee, 75 FR 35000, on July 7, 2010. In that notice under Public Participation it was indicated that the meeting will be available via live audio Webcast. The meeting is now planned to be live video Webcast. Additional information will be available regarding the live video Webcast via the Commission Web site at *http://www.brc.gov.*

Issued in Washington, DC, on June 22, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–15624 Filed 6–25–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 18, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05–1482–006; ER06–442–001; ER08–1168–003; ER09–1505–004; ER94–1188–050; ER98–4540–019; ER99–1623–019.

Applicants: Kentucky Utilities Company, LG&E Energy Marketing Inc., Louisville Gas & Electric Company, Electric Energy, Inc., Stony Creek Wind

Farm, LLC, Munnsville Wind Farm, LLC, Midwest Electric Power, Inc.; LG&E Energy Marketing-Hadson Energy.

Description: Change in Status Filing of LG&E Energy Marketing Inc., *et al.*

Filed Date: 06/18/2010.

Accession Number: 20100618–5026.

Comment Date: 5 p.m. Eastern Time on Friday, July 9, 2010.

Docket Numbers: ER01–1099–014; ER02–1406–015.

Applicants: Cleco Power LLC; Acadia Power Partners, LLC.

Description: Cleco Companies submits Simultaneous Import Limitation data filing.

Filed Date: 06/17/2010.

Accession Number: 20100617–0043.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–863–002.

Applicants: Midwest Independent System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator.

Filed Date: 06/17/2010.

Accession Number: 20100618–0201.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–355–000.

Applicants: AEP Appalachian Transmission Company, In, AEP Indiana Michigan Transmission Company, AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., AEP Oklahoma Transmission Company, Inc., AEP Southwestern Transmission Company, Inc., AEP West Virginia Transmission Company, Inc.

Description: American Electric Power Service Corporation submit its Annual Update Informational filings in two parts on May 25, 2010 and supplement its filings on 6/8/10.

Filed Date: 05/25/2010; 06/08/2010.

Accession Number: 20100608–5093; 20100525–5113; 20100525–5114.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 29, 2010.

Docket Numbers: ER10–1154–001.

Applicants: Buy Energy Direct, LLC.

Description: Buy Energy Direct, LLC submits Substitute Original Sheet 3 to Rate Schedule FERC No 1 to be effective 6/30/10.

Filed Date: 06/16/2010.

Accession Number: 20100617–0203.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 7, 2010.

Docket Numbers: ER10–1406–000.

Applicants: Lake Cogen, Ltd.

Description: Community Power & Utility submits petition for acceptance of initial tariff, waivers and Blanket Authority.

Filed Date: 06/17/2010.

Accession Number: 20100616–0220.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1463–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits an executed Interconnection Agreement.

Filed Date: 06/16/2010.

Accession Number: 20100617–0201.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 7, 2010.

Docket Numbers: ER10–1463–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits an executed Interconnection Agreement with City of Columbia *et al.*

Filed Date: 06/17/2010.

Accession Number: 20100617–0206.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1464–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc submits proposed updated rates for Reactive Supply and Voltage Control from Generation of Other Sources Service.

Filed Date: 06/16/2010.

Accession Number: 20100617–0202.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 7, 2010.

Docket Numbers: ER10–1470–000.

Applicants: Plymouth Rock Energy, LLC.

Description: Petition for acceptance of initial tariff, waivers and blanket authorization re Plymouth Rock Energy, LLC.

Filed Date: 06/17/2010.

Accession Number: 20100617–0207.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1471–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an executed interconnection service agreement with The Dayton Power and Light Company.

Filed Date: 06/17/2010.

Accession Number: 20100617–0205.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1472–000.

Applicants: Choice Energy.

Description: Application of Choice Energy LLC for order accepting rates for filing and granting waivers and blanket approvals re Choice Energy, LLC.

Filed Date: 06/17/2010.

Accession Number: 20100617–0210.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1473–000.

Applicants: Pennsylvania Power Company.

Description: Pennsylvania Power Company submits tariff filing per 35: Compliance Baseline Filing to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5094.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1474–000.

Applicants: Metropolitan Edison Company.

Description: Metropolitan Edison Company submits tariff filing per 35: Compliance Baseline filing to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5098.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1475–000.

Applicants: Allegheny Energy, Inc.

Description: Allegheny Energy, Inc. request a waiver of certain affiliate restriction requirements.

Filed Date: 06/17/2010.

Accession Number: 20100618–0202.

Comment Date: 5 p.m. Eastern Time on Thursday, July 8, 2010.

Docket Numbers: ER10–1476–000.

Applicants: Tampa Electric Company.

Description: Tampa Electric Company submits tariff filing per 35.12: Baseline-Market Based Tariff to be effective 6/18/2010.

Filed Date: 06/18/2010.

Accession Number: 20100618–5027.

Comment Date: 5 p.m. Eastern Time on Friday, July 9, 2010.

Docket Numbers: ER10–1477–000.

Applicants: FirstEnergy Solutions Corp.

Description: FirstEnergy Solutions Corp. submits tariff filing per 35: Compliance Baseline Filing to be effective 6/18/2010.

Filed Date: 06/18/2010.

Accession Number: 20100618–5031.

Comment Date: 5 p.m. Eastern Time on Friday, July 9, 2010.

Docket Numbers: ER10–1478–000.

Applicants: Pennsylvania Electric Company.

Description: Pennsylvania Electric Company submits tariff filing per 35.12: Compliance Baseline Filing to be effective 6/18/2010.

Filed Date: 06/18/2010.

Accession Number: 20100618–5039.

Comment Date: 5 p.m. Eastern Time on Friday, July 9, 2010.

Docket Numbers: ER10–1479–000.

Applicants: Carolina Power & Light Company.

Description: Progress Energy Carolinas, Inc submits revisions to the Network Integration Transmission Service Agreement with North Carolina Eastern Municipal Power Agency to be effective 7/1/10.

Filed Date: 06/18/2010.

Accession Number: 20100618–0208.

Comment Date: 5 p.m. Eastern Time on Friday, July 9, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protests do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

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 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–15575 Filed 6–25–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Doc EPA–HQ–OECA–2010–0531, FRL–9169–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; Recordkeeping Requirements for Producers, Registrants, and Applicants of Pesticides and Pesticide Devices under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA ICR Number 0143.11, OMB Control Number 2070–0028

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on January 31, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 27, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2010–0531 by one of the following methods:

1. *Electronic Submission:* Access *http://www.regulations.gov* and follow the on-line instructions for submitting comments.

2. *E-mail: docket.oeca@epa.gov.*

3. *Fax:* (202) 566–9744.

4. *Mail:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

5. *Hand Delivery:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Deliveries are only accepted during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID Number: EPA–HQ–OECA–2010–0531. It is EPA's policy that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail.

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 e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail 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 FURTHER INFORMATION CONTACT: Robin Nogle, tel: (202) 564–4154; fax: (202) 564–0085; e-mail: *nogle.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID number OECA–2010–0531. This docket is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC), in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center (ECDIC) docket is (202) 566–1752.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c) (2) (A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it to:

(1) Evaluate whether the proposed collections of information are 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 burdens of the proposed collections of information.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, *e.g.,* permitting electronic submission of responses.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

Affected Entities: Entities potentially affected by this action are producers, registrants, and applicants for registration of pesticides and pesticide devices.

Title: Recordkeeping Requirements for Producers, Registrants, and Applicants of Pesticides and Pesticide Devices under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). ICR Number 0143.11, OMB Control Number 2070–0028. Expires 01/31/11.

Abstract: Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) states that the Administrator of the Environmental Protection Agency may prescribe regulations requiring producers, registrants and applicants for registration to maintain such records with respect to their operations and the effective enforcement of this Act as the Administrator determines are necessary for the effective enforcement of FIFRA and to make such records available for inspection and copying as specified in the statute. The regulations at 40 CFR part 169 (Books and Records of Pesticide Production and Distribution) specify the following records that producers must keep and the disposition of those records: Production data for pesticides, devices, or active ingredients (including pesticides produced pursuant to an experimental use permit); receipt by the producer of pesticides, devices, or active ingredients used in producing pesticides; delivery, moving, or holding of pesticides; inventory; domestic advertising for restricted use pesticides; guarantees; exports; disposal; human testing; and tolerance petitions. Additionally, section 8 gives the Agency inspectional authority to monitor the validity of research data (including raw data), including data developed in accordance with Good Laboratory Practice Standards, and used to support pesticide registration. The EPA or States/Indian Tribes operating under Cooperative Enforcement Agreements make use of the records required by section 8 through periodically inspecting them to help determine FIFRA compliance of this subject to the provisions of the Act. In addition, producers themselves make use of such records in order to comply with reporting requirements under FIFRA section 7 and 40 CFR 167.85. (Those reporting requirements are addressed in the ICR entitled "Pesticide Registration Application, Notification and Report for Pesticide-Producing Establishments.")

Since most of the records required to be maintained are likely to be collected and maintained in the course of good business practice, the records are generally stored on site at either the establishment producing the pesticide or at the place of business of the person holding the registration. However, the registrant may decide to transfer records relating to disposal of pesticides and human testing to EPA for storage because of a twenty year retention requirement for the records. 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 are listed in 40 CFR part 9.

Burden: The average annual burden to the industry over the next three years is estimated to be 2 person hours per response.

Respondents/Affected Entities: 11,600.

Estimated Number of Respondents: 11,600.

Frequency of Response: 1.

Estimated Total Annual Hour Burden: 23,200.

There are no capital/startup costs or operating and maintenance (O&M) costs associated with this ICR since all equipment associated with this ICR is present as part of ordinary business practices.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

EPA will consider any comments received and may amend the ICR, as appropriate. Then the final ICR package will be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue a **Federal Register** notice 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 any of the above ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 17, 2010.

Al Havinga,

Acting Director, Agriculture Division, Office of Compliance, Office of Enforcement and Compliance Assurance.

[FR Doc. 2010–15643 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2010–0437; FRL–9168–8]

Agency Information Collection Activities; Proposed Collection; Comment Request; Notification of Episodic Releases of Oil and Hazardous Substances (Renewal); EPA ICR No. 1049.12, OMB Control No. 2050–0046

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on January 31, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 27, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2010–0437, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: superfund.docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, Mailcode: [2822T], 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center—Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2010–0437. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. 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 e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail 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 FURTHER INFORMATION CONTACT: Lynn Beasley, Regulation and Policy Development Division, Office of Emergency Management, (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–1965; fax number: (202) 564–2625; e-mail address: *Beasley.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–SFUND–2010–0437, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC 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 Reading Room is 202–566–1744, and the telephone number for the Superfund Docket is 202–566–0276.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits 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. 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.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are facilities or vessels that manufacture, process, transport, or otherwise use certain specified hazardous substances and oil.

Title: Notification of Episodic Releases of Oil and Hazardous Substances (Renewal).

ICR numbers: EPA ICR No. 1049.12, OMB Control No. 2050–0046.

ICR status: This ICR is currently scheduled to expire on January 31, 2011. 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 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 in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 103(a) of CERCLA, as amended, requires the person in charge of a facility or vessel to immediately notify the National Response Center (NRC) of a hazardous substance release into the environment if the amount of the release equals or exceeds the substance's reportable quantity (RQ) limit. The RQ of every hazardous substance can be found in Table 302.4 of 40 CFR 302.4.

Section 311 of the CWA, as amended, requires the person in charge of a vessel to immediately notify the NRC of an oil spill into U.S. navigable waters if the spill causes a sheen, violates applicable water quality standards, or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

The reporting of a hazardous substance release that is at or above the substance's RQ allows the Federal government to determine whether a Federal response action is required to control or mitigate any potential adverse effects to public health or welfare or the environment. Likewise, the reporting of oil spills allows the Federal government to determine whether cleaning up the oil spill is necessary to mitigate or prevent damage to public health or welfare or the environment. The hazardous substance and oil release information collected under CERCLA section 103(a) and CWA section 311 also is available to EPA program offices and other Federal agencies that use the information to evaluate the potential need for additional regulations, new permitting requirements for specific substances or sources, or improved emergency response planning. Release notification information, which is stored in the national Emergency Response Notification System (ERNS) data base, is available to State and local government authorities as well as the general public. State and local government authorities and the regulated community use release information for purposes of local emergency response planning. Members of the general public, who have access to release information through the Freedom of Information Act, may request release information for purposes of maintaining an awareness of what types of releases are occurring in different localities and what actions, if any are being taken to protect public health and welfare and the environment. ERNS fact sheets, which provide summary and statistical information about hazardous substance and oil release notifications, also are available to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments 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, other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.1 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 24,041.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 98,568.

Estimated total annual costs: $3,121,796. This includes an estimated burden cost of $3,121,796 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

There is a decrease of 7,462 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's expected

decrease in the projected number of release notifications per year.

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. At that time, EPA will issue another **Federal Register** notice 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**.

Dated: May 27, 2010.

Maryann B. Petrole,

Acting Director, Office of Emergency Management.

[FR Doc. 2010–15644 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9168–6]

Final Notice of Data Availability Concerning 2010 CAIR NO_X Ozone Season Trading Program New Unit Set-Aside Allowance Allocations Under the Clean Air Interstate Rule Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability (NODA).

SUMMARY: EPA is administering—under the Clean Air Interstate Rule (CAIR) Federal Implementation Plans (FIPs)—the CAIR NO_X Ozone Season Trading Program (CAIROS) new unit set-aside allowance pools for Delaware and the District of Columbia. The CAIROS FIPs require the Administrator to determine each year by order the allowance allocations from the new unit set-aside for units in these jurisdictions whose owners and operators requested these allocations and to provide the public with the opportunity to object to the allocation determinations. On April 27, 2010, EPA issued a NODA setting forth such determinations in the **Federal Register** and provided an opportunity for submission of objections. Through the NODA issued today, EPA is making available to the public the Agency's determinations, after considering all objections, of CAIROS allowance allocations and denials of such allocations under the FIPs, as well as the data upon which the allocations and denials of allocations were based.

DATES: Under § 97.353(e), EPA must record, by September 1, 2010, the CAIROS new unit set-aside allowance allocations, consistent with this NODA, in the compliance accounts of units whose owners and operators successfully applied for a CAIROS new unit set-aside allowance allocation under the CAIR FIPs.

FOR FURTHER INFORMATION CONTACT: Questions concerning this action should be addressed to Robert L. Miller, U.S. Environmental Protection Agency, CAMD (6204J), 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 343–9077, and e-mail *miller.robertl@epa.gov.*

SUPPLEMENTARY INFORMATION:

For more background and information regarding the purpose of the NODA, requirements for requesting and receiving CAIROS new unit set-aside allowances under the CAIR FIPs, procedures for allocating such allowances, the application by EPA of requirements to individual CAIROS new unit set-aside allocation requests, and the interpretation the data upon which the CAIROS new unit set-aside allocations and denial of allocations were based, *see* the April 27, 2010 NODA (75 FR 22172, April 27, 2010).

EPA received no objections to the determinations and data in the April 27, 2010 NODA. Therefore, EPA adopts the CAIROS new unit set-aside allocations set forth in the April 27, 2010 NODA.

EPA is not requesting objections to the data provided in this final NODA. This action constitutes a final action for determining the CAIROS new unit set-aside allowance allocations under § 97.342 and the CAIR FIPs.

Dated: June 18, 2010.

Brian McLean,

Director, Office of Atmospheric Programs.

[FR Doc. 2010–15646 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0265; FRL–8833–3]

Petition from Pesticide Poisoning Victims United; Notice of Availability; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of April 28, 2010, concerning a petition from Pesticide Poisoning Victims United that asks the Agency to undertake a number of actions to protect potentially affected individuals in Lane County, OR from pesticides applied to surrounding forestlands. This document extends the comment period for 45 days, from June 28, 2010, to August 12, 2010.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0265, must be received on or before August 12, 2010.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of April 28, 2010.

FOR FURTHER INFORMATION CONTACT: Jill Bloom, Pesticide Re-evaluation Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8019; e-mail address: *bloom.jill@epa.gov*.

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** of April 28, 2010 (75 FR 22401) (FRL–8822–8). EPA is hereby extending the comment period, which was set to end on June 28, 2010, to August 12, 2010.

To submit comments, or access the docket, please follow the detailed instructions as provided under **ADDRESSES** in the April 28, 2010 **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Pesticides, and Pests.

Dated: June 23, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–15719 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9168–9]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended

("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address lawsuits filed by Navistar, Inc. (Navistar) in the United States Court of Appeals for the District of Columbia Circuit: *Navistar* v. *EPA,* Nos. 09–1113, 09–1114 and 09–1317 (DC Cir.). Navistar filed petitions for review of the following: (1) An EPA rule published January 18, 2001 promulgating standards for new heavy duty motor vehicles and engines; (2) a letter, dated February 18, 2009, sent by the Director of the Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, providing guidance to manufacturers of heavy-duty diesel engines; and (3) an agency notice, published November 9, 2009, approving new scheduled maintenance for new motor vehicles and engines using selective catalytic technologies. Under the terms of the proposed settlement agreement, Navistar agrees to dismiss these petitions with prejudice, to withdraw related Freedom if Information Act requests, and to be precluded from challenging certain other related actions. EPA agrees to engage in a public process within a specific time frame to reexamine its policies, for future model year 2011 and later heavy duty diesel engines, for operation of SCR-equipped engines without DEF, with improper DEF, or when tampering (or some other defect in the SCR system) is detected. The public process shall take the form of a workshop, hearing, or other public process.

DATES: Written comments on the proposed settlement agreement must be received by *July 28, 2010.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2010–0507, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Michael Horowitz, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5583; fax number (202) 564–5603; e-mail address: *horowitz.michael@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement Agreement

This proposed settlement agreement would potentially resolve petitions for judicial review filed by Navistar for review of the following: (1) An EPA rule published January 18, 2001 promulgating standards for new heavy duty motor vehicles and engines; (2) a letter, dated February 18, 2009, sent by the Director of the Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, providing guidance to manufacturers of heavy-duty diesel engines; and (3) an agency notice, published November 9, 2009, approving new scheduled maintenance for new motor vehicles and engines using selective catalytic technologies. Under the terms of the proposed settlement agreement, Navistar agrees to dismiss these petitions with prejudice and to withdraw related Freedom of Information Act requests. Navistar also agrees that it would be precluded from filing any of the following petitions for review: (1) Petitions challenging directly or indirectly individual certificates of conformity issued for a model year prior to the 2012 model year (excluding action exercising its rights regarding certifications of its own engines in any model year); and (2) petitions challenging a letter dated December 30, 2009 from the Director of the Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, providing revised guidance for certification of heavy-duty diesel engines using SCR technologies ("December 2009 Guidance"). However, Navistar reserves its right to exercise its rights regarding any changes or modifications to that guidance issued after the public process selected by EPA and retains all other rights and remedies to challenge EPA's final action that occurs following the public process selected by EPA.

Under the terms of the proposed settlement agreement, EPA agrees to engage in a public process to reexamine its policies, for future model year 2011 and later heavy duty diesel engines, for operation of SCR-equipped engines without DEF, with improper DEF, or when tampering (or some other defect in the SCR system) is detected. The public process will take the form of a workshop, hearing, or other public process. EPA will issue a public notice of the public process to be published in the **Federal Register** not later than June 30, 2010 or twenty-eight days after the date this Agreement becomes final, whichever is later. EPA will include in the public notice statements that: (a) The public process is designed to provide a thorough review of EPA's policies regarding operation of SCR-equipped heavy duty diesel engines without DEF, with improper DEF, or when tampering (or some other defect in the SCR system) is detected for future 2011 and later model year engines, in order to ensure, among other things, that SCR-equipped engines are designed to properly control emissions as required under applicable regulations; (b) it is appropriate for EPA to review and reexamine its policies as technologies are introduced into the marketplace; (c) EPA intends to review any information that has become available to determine whether its policies regarding SCR-equipped engines should be revised; and (d) the scope of the review includes the December 2009 Guidance.

EPA will conduct the selected public process not later than sixty days after the publication of the public notice in the **Federal Register**.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How can I get a copy of the settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2010–0507) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington,

DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov*. You may use the *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do i submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 21, 2010.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. 2010–15645 Filed 6–25–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: June 21, 2010.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10250	Nevada Security Bank	Reno	NV	06/18/2010

[FR Doc. 2010–15500 Filed 6–25–10; 8:45 am]

BILLING CODE P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, June 29, 2010, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Darlene Harris,

Deputy Secretary of the Commission.

[FR Doc. 2010–15562 Filed 6–25–10; 8:45 am]

BILLING CODE 6715–01–M

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 also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the 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. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

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 22, 2010.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. M and P Community Bancshares, Inc. 401(k) Employee Stock Ownership Plan, Newport, Arkansas, to acquire additional shares for a total of up to 32 percent of the voting shares of M and P Community Bancshares, Inc., Newport, Arkansas and thereby indirectly acquire Merchants and Planters Bank, Newport, Arkansas.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. FRB Investments, Inc., Denver, Colorado, to become a bank holding company by acquiring 100 percent of the voting shares of Omega Capital Corp., Centennial, Colorado, and thereby acquire Front Range Bank, Lakewood, Colorado.

Board of Governors of the Federal Reserve System, June 23, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–15587 Filed 6–25–10; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Standards Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Standards Committee's Workgroups: Clinical Operations Vocabulary, Clinical Quality, Implementation, and Privacy & Security workgroups.

General Function of the Committee: To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The HIT Standards Committee Workgroups will hold the following public meetings during July 2010: July 14th Clinical Operations/ Vocabulary Task Force, 3 p.m. to 5 p.m. ET; and July 22nd Clinical Operations Workgroup, 11 a.m. to 1 p.m. ET.

Location: All workgroup meetings will be available via webcast; visit *http://healthit.hhs.gov* for instructions on how to listen via telephone or Web. Please check the ONC Web site for additional information as it becomes available.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, *e.g.,* clinical operations vocabulary standards, clinical quality measure, implementation opportunities and challenges, and privacy and security standards activities. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroups' meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: June 21, 2010.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2010–15566 Filed 6–25–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Policy Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Policy Committee's Workgroups: Meaningful Use, Privacy & Security Tiger Team, Enrollment, Adoption/Certification, and Nationwide Health Information Infrastructure (NHIN) workgroups.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The HIT Policy Committee Workgroups will hold the following public meetings during July 2010: July 2nd Enrollment Workgroup, 11 a.m. to 2 p.m./ET; July 6th, Privacy & Security Tiger Team, 10 a.m. to 12 p.m./ET; July 8th Certification/Adoption Workgroup, 10 a.m. to 12 p.m./ET; July 9th Privacy & Security Tiger Team, 10 a.m. to 1 p.m./ET; July 13th Privacy & Security Tiger Team, 10 a.m. to 1 p.m./ET; July 14th NHIN Workgroup, 10 a.m. to 1 p.m./ET; July 15th Enrollment Workgroup, 11 a.m. to 2 p.m./ET; July 16th Privacy & Security Tiger Team, 10 a.m. to 1 p.m./ET; July 19th Enrollment Workgroup, 11 a.m. to 2 p.m./ET; July 23rd Privacy & Security Tiger Team, 10 a.m. to 1 p.m./ET; July 27th Privacy & Security Tiger Team, 10 a.m. to 1 p.m./ET; July 29th Meaningful Use Workgroup, 9 a.m. to 5 p.m./ET; and July 30th Enrollment Workgroup, 11 a.m. to 2 p.m./ET.

Location: All workgroup meetings will be available via webcast; for instructions on how to listen via telephone or Web visit *http://healthit.hhs.gov.* Please check the ONC Web site for additional information as it becomes available.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, *e.g.,* meaningful use, the NHIN, privacy and security, enrollment, or adoption/certification. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroups' meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: June 21, 2010.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2010–15567 Filed 6–25–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: National Medical Support Notice—NPRM.

OMB No.: 0970–0222.

Description: The information collected by State IV–D Child Support Enforcement agencies is used to complete the National Medical Support Notice NMSN), which is sent to employers of employee/obligors and used as a means of enforcing the healthcare coverage provision in a child support order. Primarily, the information the State Child Support enforcement agencies use to complete the NMSN is information regarding appropriate persons, which is necessary for the enrollment of the child in employment-related health care coverage, such as the employee/obligors name, address, and Social Security Number; the employers name and address; the name and address of the alternate recipient (child); and the custodial parents name and address. The employer forwards the second part of the NMSN to the group health plan administrator, which contains the same individual identifying information. The plan administrator requires this information to determine whether to enroll the alternate recipient in the group health plan. If necessary, the employer also initiates withholding from the employees wages for the purpose of paying premiums to the group health plan for enrollment of the child.

Respondents: State and Territory agencies administering the child Support Enforcement program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
National Medical Support Notice	54	97,775	0.17	897,574.50

Estimated Total Annual Burden Hours: 897,574.50.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 23, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–15636 Filed 6–25–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Brain Power! The NIDA Junior Scientist Program and the Companion Program, Brain Power! Challenge

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for the opportunity for public comment on proposed data collection projects, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Brain Power! The NIDA Junior Scientist Program, for grades K–5, and the companion program for Middle School, the Brain Power! Challenge.

Type of Information Collection Request: NEW.

Need and Use of Information Collection: This is a request for clearance to evaluate the effectiveness of the Brain Power! Program's ability to:

- Increase students' knowledge about the biology of the brain and the neurobiology of drug addiction;
- Increase positive attitudes toward science, careers in science, and science as an enjoyable endeavor, and stimulating interest in scientific careers; and
- Promote more balanced perceptions and attitudes of scientists as being of many races, ages, and genders

The secondary goal is to determine the influence or change of attitudes toward and intentions about drug use. The findings will provide valuable information concerning the goals of NIDA's *Science Education Program* of increasing scientific literacy and stimulating interest in scientific careers. In order to test the effectiveness of the evaluation, information will be collected from students before and after exposure to the curriculum with pre- and post-test self-report measures. Surveys also will be administered to teachers after the completion of the program to examine ease and fidelity of implementation, as well as impact in knowledge and understanding of the neurobiology of addiction. Surveys will be administered to parents to obtain parental reaction and opinion on the materials and the degree to which parents find the curriculum informative and appropriate.

Frequency of Response: On occasion.

Affected Public: Middle school students, teachers, and parents.

Type of Respondents: Students, Teachers, and Parents. The reporting burden is as follows: *Estimated Number of Respondents:* 1,260.

Estimated Number of Responses per Respondent: Students: 2, Parents and Teachers: 1.

Average Burden Hours per Response: Students: .5, Parents: .25 and Teachers: .5.

Estimated Total Annual Burden Hours Requested: 892.5. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report. The estimated annualized burden is summarized below.

Types of respondents	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Students (K–grade 5)	375	2	.5	375
Students (grades 6–9)	375	2	.5	375
Parents (survey) (K–grade 5)	25	1	.25	6.25
Parents (survey) (grades 6–9)	25	1	.25	6.25
Parents (postcard) (K–grade 5)	200	1	.25	50
Parents (postcard) (grades 6–9)	200	1	.25	50
Teachers (evaluation)	30	1	.5	15
Teachers (online survey)	30	1	.5	15
Total	1,260			892.50

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Cathrine Sasek, Coordinator, Science Education Program, Office of Science Policy and Communications, National Institute on Drug Abuse, 6001 Executive Blvd, Room 5237, Bethesda, MD 20892, or call non-toll-free number (301) 443–6071; fax (301) 443–6277; or by e-mail to *csasek@nida.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: June 15, 2010.

Mary Affeldt,

Executive Officer, (OM Director, NIDA), National Institutes of Health.

[FR Doc. 2010–15608 Filed 6–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 27, 2010, from 8 a.m. to 6 p.m.

Location: Holiday Inn, Ballroom, 2 Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Tracy Phillips, Food and Drug Administration, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, rm. 1611, Silver Spring, MD 20993–0002, 301–796–6150 or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512521. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On July 27, 2010, the committee will discuss, make recommendations and vote on a premarket approval application for the AMPLIFY rhBMP-2 Matrix, sponsored by Medtronic, Inc. The AMPLIFY rhBMP-2 Matrix is used for posterolateral fusion treatment of single level lumbar (L2–S1) degenerative disc disease.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 21, 2010. Oral presentations from the public will be scheduled between approximately 1 and 2 p.m., immediately following lunch. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 13, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 14, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 18, 2010.

Thinh Nguyen,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–15350 Filed 6–23–10; 4:15 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Review of Member Conflict R21 Applications.

Date: July 30, 2010.

Time: 11:30 a.m. to 1 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: Ranga Srinivas, PhD, Chief, Extramural Project Review Branch, EPRB, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: June 18, 2010.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15609 Filed 6–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; New Approaches in Cancer Chemotherapy.

Date: July 15, 2010.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 8018, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Wlodek Lopaczynski, M.D., PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8131, Bethesda, MD 20892, 301–594–1402, *lopacw@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Small Grants for Behavioral Research in Cancer Control.

Date: July 21–22, 2010.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8101, Bethesda, MD 20892–8329, 301/496–7987, *lovingeg@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Emerging Technologies for Cancer Research.

Date: September 29–30, 2010.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Savvas C Makrides, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Rm 8050a, Bethesda, MD 20892, 301–496–7421, *makridessc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 22, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15603 Filed 6–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special, Emphasis Panel Changing American Neighborhoods and Communities.

Date: July 20, 2010.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Carla T. Walls, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892. 301–435–6898. *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 22, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15606 Filed 6–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; Transition to Fatherhood: Fatherhood Trajectories and Consequences for Men.

Date: July 12, 2010.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Carla T. Walls, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6898, *wallsc@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 Nos.93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 22, 2010.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15607 Filed 6–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel "Muscle Rehabilitation".

Date: July 16, 2010.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Dennis E. Leszczynski, PhD, Scientific Review Officer, Division Of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6884, *leszczyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 22, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15604 Filed 6–25–10; 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; RFA Panel: Translational Research in Pediatric and Obstetric Pharmacology.

Date: July 21, 2010.

Time: 11 a.m. to 2:30 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: Gary Hunnicutt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of the Mass Spectrometry Research Center.

Date: July 27–29, 2010.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Nashville, 1715 Broadway, Nashville, TN 37203.

Contact Person: James W. Mack, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biological Chemistry and Macromolecular Biophysics.

Date: July 29–30, 2010.

Time: 11 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting)

Contact Person: Donald L. Schneider, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7842, Bethesda, MD 20892, (301) 435–1727, *schneidd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurogenesis, Stem Cells, and Transcription Factors.

Date: July 29, 2010.

Time: 12 p.m. to 2 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: Joanne T Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@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 22, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15601 Filed 6–25–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2010–0021]

Notice of Meeting of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of U.S. Customs and Border Protection (COAC) will meet Thursday, July 15, 2010, from 2 to 3 p.m. EST via teleconference. The meeting is limited to one topic, the 2010 National Strategy for Global Supply Chain Security, which will be voted upon by the COAC members. The meeting will be open to the public.

DATES: The COAC meeting will take place from 2 to 3 p.m. EST on Thursday, July 15, 2010, via teleconference. Please be advised that the meeting is scheduled for one hour and that the meeting may close early if the committee completes its business.

ADDRESSES: The meeting will be held via teleconference. Members of the public interested in attending this teleconference meeting may do so by following the process outlined below (see "Public Participation"). Written comments must be submitted and received by July 9, 2010. Comments must be identified by USCBP–2010–0021 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–325–4290.
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW., Room 5.2–A, Washington, DC 20229.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by COAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW., Room 5.2–A, Washington, DC 20229; *tradeevents@dhs.gov;* telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), DHS hereby announces the meeting of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC). COAC is tasked with providing advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury. The teleconference meeting of the COAC will be held on the date and time specified above. The COAC will meet to discuss its views on the development of the 2010 National Strategy for Global Supply Chain Security.

Public Participation: This meeting is open to the public; however, participation in COAC deliberations is limited to committee members, Department of Homeland Security and Department of the Treasury officials, and persons invited to attend the meeting for special presentations. Please note that the meeting may close early if all business is finished. Members of the public may register online to attend this COAC teleconference meeting as per the instructions set forth below. All members of the public wishing to attend should promptly call in at the beginning of the teleconference.

Each individual must provide his or her full legal name, e-mail address and phone number no later than 5 p.m. EST on July 9, 2010, via online registration at *https://apps.cbp.gov/te_registration/?w=26* or e-mail at *tradeevents@dhs.gov* or via phone at 202–344–1440. The meeting's teleconference call details will be provided to registered members of the public via e-mail.

Information on Services for Individuals with Disabilities: For information on services for individuals with disabilities or to request special assistance, contact Ms. Wanda Tate as soon as possible.

Dated: June 23, 2010.

Kimberly Marsho,

Director, Office of Trade Relations, U.S. Customs and Border Protection.

[FR Doc. 2010–15675 Filed 6–25–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Proposed Renewal of Information Collection: OMB Control Number 1084–0033

AGENCY: Office of the Secretary, Office of Acquisition and Property Management.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary of the Department of the Interior announces that it has submitted a request for proposed extension of an information collection to the Office of Management and Budget and requests public comments on this submission.

DATES: OMB has up to 60 days to approve or disapprove the information collection request, but may respond after 30 days; therefore, public comments should be submitted to OMB by *July 28, 2010,* in order to be assured of consideration.

ADDRESSES: Send your written comments by facsimile to (202) 395–5806 or e-mail (*OIRA_DOCKET@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer (1084–0033). Also, please send a copy of your comments to U.S. Department of the Interior, Office of the Secretary, Information Collection Clearance Officer, Rachel Drucker, 1951 Constitution Avenue, NW., MS 116 SIB, Washington, DC 20240, or by e-mail to *Rachel_Drucker@nbc.gov.* Individuals providing comments should reference OMB control number 1084–0033, "Private Rental Survey."

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instrument, please write or e-mail Lavera Hamidi, Mail Stop 2607, 1849 C Street, NW., Washington, DC 20240, *Lavera_Hamidi@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice

identifies an information collection activity that the Office of the Secretary will submit to OMB for extension or re-approval.

Public Law 88–459 authorizes Federal agencies to provide housing for Government employees under specified circumstances. In compliance with OMB Circular A–45 (Revised), Rental and Construction of Government Quarters, a review of private rental market housing rates is required at least once every 5 years to ensure that the rental, utility charges, and charges for related services to occupants of Government Furnished Housing (GFH) are comparable to corresponding charges in the private sector. To avoid unnecessary duplication and inconsistent rental rates, the Department of the Interior, Office of the Secretary, Office of Acquisition and Property Management, conducts housing surveys in support of employee housing management programs for the Departments of the Interior (DOI), Agriculture, Commerce, Homeland Security, Justice, Transportation, Health and Human Services, and Veterans Affairs. In this survey, two collection forms are used: OS–2000, covering "Houses—Apartments—Mobile Homes" and OS–2001, covering "Trailer Spaces."

This collection of information provides data that helps DOI and the other Federal agencies to manage GFH in accordance with the requirements of OMB Circular A–45 (Revised). If this information were not collected from the public, DOI and the other Federal agencies required to provide GFH would be required to use professional appraisals of open market rental costs for GFH, again, in accordance with OMB Circular A–45.

II. Data

(1) *Title:* Private Rental Survey.

OMB Control Number: 1084–0033.

Current Expiration Date: 07/31/2010.

Type of Review: Information Collection Renewal.

Affected Entities: Individuals or households, Businesses and other for-profit institutions.

Estimated annual number of respondents: OS–2000: 3,604; OS–2001: 200; Total: 3,804.

Frequency of response: Ranges from 1 to 2.1 per respondent every fourth year. Note: Three or four of 15 total survey regions are surveyed every year. Therefore each respondent may potentially be surveyed every fourth year, if an individual respondent lives in the same unit, or if an individual business is a significant rental property owner or rental property manager in the community.

(2) Annual reporting and recordkeeping burden.

Estimated burden per response: OS–2000: 8 minutes; OS–2001: 6 minutes.

Total annual reporting: OS–2000: 577 hours; OS–2001: 22 hours,

Total: 599 hours.

(3) Description of the need and use of the information: This information collection provides the data that enables DOI to determine open market rental costs for GFH. These rates, in turn, enable DOI and other Federal agencies to set GFH rental rates in accordance with the requirements of OMB Circular A–45 (Revised).

(4) As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the information collection was published on April 2, 2010 (75 FR 16826). No comments were received. This notice provides the public with an additional 30 days in which to comment on the proposed information collection activity.

III. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

All written comments will be available for public inspection in the Main Interior Building, 1849 C Street, NW., Washington, DC, during normal business hours, excluding legal holidays. For an appointment to inspect comments, please contact Rachel Drucker by telephone on (202) 208–3568, or by e-mail at *Rachel_Drucker@nbc.gov,* to make an appointment. A valid picture identification is required for entry into the Department of the Interior.

Dated: June 22, 2010.

Debra E. Sonderman,

Director, Office of Acquisition and Property Management.

[FR Doc. 2010–15600 Filed 6–25–10; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the *Exxon Valdez* Oil Spill Public Advisory Committee.

DATES: July 22, 2010, at 9:30 a.m.

ADDRESSES: Exxon Valdez Oil Spill Trustee Council Office, 441 West 5th Avenue, Suite 500, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 "C" Street, Suite 119, Anchorage, Alaska, 99501, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The meeting agenda will include discussions on the Trustee Council's Draft Supplemental Environmental Impact Statement for the Restoration Program, the Fiscal Year 2011 Administrative Budget, the Invitation for Fiscal Year 2012 project proposals,

and revisions to the program's Policies and Procedures.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 2010–15617 Filed 6–25–10; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO260000.L10600000.PC0000]

Renewal of Approved Information Collection, OMB Control Number 1004–0042

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request that the Office of Management and Budget (OMB) renew OMB Control Number 1004–0042 for the paperwork requirements in 43 CFR part 4700, which pertain to the protection, management, and control of wild free-roaming horses and burros.

DATES: Please submit your comments to the BLM at the address below on or before August 27, 2010.

ADDRESSES: You may mail comments to: U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401–LS, 1849 C St., NW., Washington, DC 20240, *Attention:* 1004–0042. You may also comment by e-mail at: *Jean_Sonneman@blm.gov*.

FOR FURTHER INFORMATION CONTACT: You may contact Bea Wade at 775–861–6625. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to contact Ms. Wade. You may also contact Ms. Wade to obtain a copy, at no cost, of the regulations and the form pertaining to this collection of information.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), require that interested members of the public and affected agencies be provided an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies information collections that are contained in 43 CFR part 4700. The BLM will request that the OMB approve this information collection activity for a 3-year term.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany the BLM's submission of the information collection requests to OMB.

The following information is provided for the information collection:

Title: Protection, Management, and Control of Wild Free-Roaming Horses and Burros (43 CFR Part 4700).

Form:

• Form 4710–10, Application for Adoption of Wild Horse(s) or Burro(s).

OMB Control Number: 1004–0042.

Abstract: This notice pertains to the collection of information that is necessary to administer its adoption program for wild horses and burros. The BLM uses the information to determine if applicants are qualified to provide humane care and proper treatment to wild horses and burros.

Frequency: On occasion.

Currently Approved Number and Description of Respondents: 14,000 applicants for private maintenance (including 12 seeking authorization for private maintenance of more than 4 wild horses or burros), 320 applicants to terminate a Private Maintenance and Care Agreement, and 120 applicants for replacement animals.

Currently Approved Reporting and Recordkeeping "Hour" Burden: 14,440 responses and 7,222 hours.

Currently Approved Reporting and Recordkeeping "Non-Hour Cost" Burden: $7,200.

The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond. 44 U.S.C. 3506 and 3507.

The BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record. 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.

Jean Sonneman,

Acting Information Collection Clearance Officer.

[FR Doc. 2010–15620 Filed 6–25–10; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–10–L19100000–BJ0000–LRCS44020800]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, thirty (30) days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Program Manager, Bureau of Reclamation, Great Plains Region, Montana Area Office, Billings, Montana, and was necessary to determine the boundaries of Federal Interest lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 37 N., R. 13 W.

The plat, in 3 sheets, representing the dependent resurvey of portions of the Third Guide Meridian West, through Township 37 North, the west boundary, the subdivisional lines, the subdivision of certain sections, the adjusted original meanders of Spider Lake in sections 21, 28, and 29, and certain rights-of-way of the United States Reclamation Service (U.S.R.S.) Reserve, St. Mary Storage Unit (Canal), through sections 29 and 30, Township 37 North, Range 13 West, Principal Meridian, Montana, was accepted June 14, 2010.

We will place a copy of the plat, in 3 sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a

protest against this survey, as shown on this plat, in 3 sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in 3 sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Dated: June 21, 2010.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2010–15658 Filed 6–25–10; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: University of Hawai'i at Manoa, Honolulu, HI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the University of Hawai'i at Manoa, Honolulu, HI, that meets the definition of unassociated funerary object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations in this notice.

A book entitled,"Hawaiian Kapas: Rodman collection, from Kahua, Kohala," is in the possession of the Hamilton Library, University of Hawai'i at Manoa, Honolulu, HI. The book includes kapa (bark cloth) that originated from four known Hawaiian burial caves including Forbes Cave, Mummy Cave, Kukui Umi Cave, and Kanupa Cave. The manuscript by author Julius Rodman establishes a reasonable belief that the kapa included in the book were removed from the Hawaiian burial caves and are funerary objects as defined by NAGPRA. Since the book includes the kapa, it is considered to be one object and funerary in nature.

Officials of the University of Hawai'i at Manoa have determined that, pursuant to 25 U.S.C. 3001(3)(B), the object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native Hawaiian individual. Officials of the University of Hawai'i at Manoa also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary object and Hui Malama I Na Kupuna O Hawai'i Nei.

Representatives of any other Indian tribe or Native Hawaiian organization that believes itself to be culturally affiliated with the unassociated funerary object should contact Gregg Takayama, Director of Community and Government Affairs, University of Hawai'i at Manoa, Office of the Chancellor, 2500 Campus Road, Honolulu, HI 96822, telephone (808) 956–9836, before July 28, 2010. Repatriation of the unassociated funerary objects to Hui Malama I Na Kupuna O Hawai'i Nei may proceed after that date if no additional claimants come forward.

The University of Hawai'i at Manoa is responsible for notifying Hui Malama I Na Kupuna O Hawai'i Nei that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15598 Filed 6–25–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Rochester Museum & Science Center, Rochester, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Rochester Museum & Science Center, Rochester, NY, that meet the definitions of "sacred objects" and objects of "cultural patrimony" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

Between 1935 and 1941, the Works Progress Administration/Indian Arts Project paid members of the Tonawanda Seneca Nation to create a variety of ethnographic objects. This project was directed by Arthur C. Parker, director, Rochester Museum of Arts & Science (now Rochester Museum & Science Center), with the intent of both giving employment to the Seneca people and building a collection for the museum. In total there are 306 medicine faces described in this Notice.

The following 184 large wooden medicine faces were created under the auspices of that project:

On June 1, 1935, the museum acquired one large wooden medicine face (AE 3163/35.267.5) made by Jesse Cornplanter, Tonawanda Reservation, that measures 10 3/4" x 6 7/8".

Between May 15 and June 8, 1936, the museum acquired five large wooden medicine faces made by Jesse Cornplanter, Tonawanda Reservation. The first (AE 5123/36.378.1) measures 10 3/4" x 7". The second (AE 5034/36.378.2) is made of whitewood and measures 10 1/2" x 7". The third (AE 4858/36.378.3) measures 10 3/8" x 7". The fourth (AE5126/36.378.4) is made of cucumber wood and measures 10" x 6 1/2". The fifth (AE 4859/36.378.5) measures 11" x 7".

Between March 29 and October 13, 1937, the museum acquired seven large wooden medicine faces made by Jesse Cornplanter, Tonawanda Reservation. The first face (AE 5825/37.496.1) is made of basswood. The second face (AE 5801/37.496.2) measures 10" x 6 1/4". The third face (AE 6110/37.496.3) is made of whitewood. The fourth face (AE 5915/37.496.4) is made of willow. The fifth face (AE 5962/37.496.9) is made of basswood and measures 6 1/2" x 10". The sixth face (AE 6290/37.496.10) is made of pine and is 9" long. The seventh face (AE 6191/37.496.11) measures 10" x 6 1/2".

Between February 1 and December 1, 1938, the museum acquired seven large wooden medicine faces made by Jesse Cornplanter, Tonawanda Reservation. The first (AE 6454/38.373.1) is made of basswood and measures 9 1/4" x 6 3/4". The second (AE 6952/38.373.2) is a whitewood ceremonial face that measures 9 1/8" x 6 1/4". The third (AE 6567/38.373.3) is made of basswood and measures 10 1/2" x 7 1/2". The fourth (AE 6453/38.373.4) is made of pine. The fifth (AE 6788/38.373.6) is made of whitewood. The sixth (AE 6636/38.373.7) measures 9" x 6". The seventh

(AE 6785/38.373.10) is made of whitewood.

Between April 1, 1939, and January 1, 1940, the museum acquired six large wooden medicine faces made by Jesse Cornplanter, Tonawanda Reservation. The first (AE 7509/39.375.1) measures 9 5/8" x 6 1/4". The second (AE 7422/39.375.2) measures 9 1/2" x 6 1/2". The third (AE 7515/39.375.3) is made of whitewood and measures 9 1/2" x 5 1/2". The fourth (AE 7705/39.375.4) and fifth (AE 7704/40.465.5) are large wooden faces. The sixth (AE 7698/39.375.5) is made of basswood.

Between January 1 and December 18, 1940, the museum acquired six medicine faces made by Jesse Cornplanter, Tonawanda Reservation. Three are large wooden faces (AE 8278/40.465.2, AE 8277/40.465.3, and AE 7706/40.465.4). Three are large basswood faces (AE 8281/40.465.6, AE 8089/40.465.7, and AE 8273/40.465.8).

On June 1, 1941, the museum acquired one large basswood medicine face (AE 8351/41.255.1) made by Jesse Cornplanter, Tonawanda Reservation.

On July 1, 1940, the museum acquired two large basswood medicine faces (AE 8086/40.464.1 and AE 8088/40.464.17) made by Ira Charles, Tonawanda Reservation.

Between July 18 and August 5, 1935, the museum acquired three large wooden medicine faces made by William Gordon, Tonawanda Reservation. The first face (AE 3227/35.271.8) measures 10 1/4" x 6 1/2". The second (AE 3230/35.271.11) measures 10 3/4" x 6 3/4". The third (AE 3408/35.271.13) measures 9 3/8" long.

On May 15, 1936, the museum acquired five medicine faces made by William Gordon, Tonawanda Reservation. The first (AE 4810/36.379.10) is a large wooden face. The second (AE 4811/36.379.12) is made of willow wood. The third (AE 4814/35.271.22) is made of cucumber wood. The fourth (AE 4815/35.271.23) is a large wooden face made of basswood that measures 10 1/4" x 6 3/4". The fifth (AE 4861/36.379.11) is a wooden face that measures 6 1/2" x 3 1/2".

In June 1936, the museum acquired eight large wooden medicine faces made by William Gordon, Tonawanda Reservation. The first face is made of whitewood (AE 5121/36.379.1) and measures 11" x 6 1/2". The second face is made of whitewood (AE 5127/36.379.2) and measures 10 1/2" x 6 1/2". The third face is made of whitewood (AE 5125/36.379.15) and measures 11" x 6 1/4". The fourth face is made of whitewood (AE 5044/36.379.19) and measures 10 1/4" x 6 1/4". The fifth face is made of whitewood (AE 5124/36.379.14). The sixth face (AE 5014/36.379.18) is made of basswood. The seventh face (AE 5128/36.379.17) is made of cucumber wood and measures 10 1/2" x 6 1/2". The eighth (AE 5035/35.271.24) is a large wooden face.

On December 9, 1936, the museum acquired two large whitewood medicine faces made by William Gordon, Tonawanda Reservation. The first face (AE 5480/36.379.5) measures 11" x 6 1/4". The second face (AE 5486/36.379.6) measures 9 1/2" x 6".

On October 1, 1938, the museum acquired one large wooden medicine face (AE 6696/38.374.7) made by William Gordon, Tonawanda Reservation, that measures 8 3/4" x 6 3/4".

On May 1, 1939, the museum acquired seven large wooden medicine faces made by William Gordon, Tonawanda Reservation. The first face is made of whitewood (AE 7328/39.376.26) and measures 10" x 5 3/4". The second face is made of whitewood (AE 7329/39.376.25) and measures 9 1/2" x 5 1/2". The third face is made of whitewood (AE 7330/39.376.23) and measures 10" x 6". The fourth face is made of whitewood (AE 7333/39.376.22). The fifth face is made of basswood (AE 7331/39.376.27) and measures 10" long. The sixth face is made of basswood (AE 7332/39.376.24) and measures 9 1/2" x 6". The seventh face is made of basswood (AE 7415/39.376.13).

On October 1, 1939, the museum acquired four medicine faces made by William Gordon, Tonawanda Reservation. The first (AE 7520/38.374.2) is a large basswood face that measures 10" x 6 1/4". The second (AE 7522/38.374.9) is made of whitewood and measures 10" x 5 1/2". The third (AE 7511/38.374.8) is a large face made of whitewood. The fourth (AE 7514/39.376.2) is a large wooden face.

On November 1, 1939, the museum acquired five medicine faces made by William Gordon, Tonawanda Reservation. Two are large wooden faces (AE 7554/39.376.3 and AE 7555/39.376.4). Two (AE 7556/39.376.14 and AE 7557/39.376.5) are made of basswood. The fifth (AE 7558/39.376.12) is made of whitewood.

On March 11, 1940, the museum acquired one large basswood medicine face (AE 7997/40.466.12) made by William Gordon, Tonawanda Reservation.

In April 1940, the museum acquired two large wooden medicine faces made by William Gordon, Tonawanda Reservation. The first medicine face (AE 7995/40.466.25) is a made of basswood. The second face (AE 7998/40.466.1) is made of whitewood.

On May 1, 1940, the museum acquired seven large wooden medicine faces made by William Gordon, Tonawanda Reservation. Three (AE 7990/39.376.19, AE 7991/40.466.2, and AE 7993/39.376.16) are made of whitewood. The remaining four (AE 7992/39.376.20, AE 7994/39.376.18, AE 7996/39.376.21, and AE 7999/39.376.17) are made of basswood.

In June 1940, the museum acquired three large wooden faces made by William Gordon, Tonawanda Reservation. Two (AE 8034/40.466.24 and AE 8035/39.376.15) are made of basswood. The third (AE 8255/40.466.23) is made of basswood.

In July 1940, the museum acquired four large basswood faces (AE 8036/40.466.19, AE 8037/40.466.21, AE 8256/40.466.22, and AE 8260/40.466.20) made by William Gordon, Tonawanda Reservation.

In August 1940, the museum acquired three large basswood medicine faces (AE 8059/40.466.4, AE 8258/40.466.5, and AE 8259/40.466.3) made by William Gordon, Tonawanda Reservation.

In November 1940, the museum acquired two large basswood medicine faces (AE 8279/40.466.26 and AE 8280/40.466.27) made by William Gordon, Tonawanda Reservation.

In December 1940, the museum acquired two large medicine faces made by William Gordon, Tonawanda Reservation. One (AE 8270/40.466.6) is made of an unidentified wood. The second (AE 8267/40.466.8) is made of basswood.

Between January 7 and March 3, 1941, the museum acquired four large wooden medicine faces (AE 8272/41.256.1, AE 8274/41.256.5, AE 8275/41.256.2, and AE 8276/41.256.4) made by William Gordon, Tonawanda Reservation.

Between June 1 and July 1, 1941, the museum acquired five large basswood medicine faces (AE 8346/41.256.3, AE 8347/40.483.5, AE 8350/40.466.7, AE 8367/41.256.6, and AE 8368/41.256.7) made by William Gordon, Tonawanda Reservation.

Between February 1 and October 21, 1935, the museum acquired six large wooden medicine faces made by Harrison Ground, Tonawanda Reservation. The first (AE 2684/35.273.29) measures 9 3/4" x 7". The second (AE 3288/35.273.30) measures 10 1/4" x 6 1/2". The third (AE 3289/35.273.31) measures 10" x 5 3/4". The fourth (AE 3290/35.273.32) measures 9" x 6 1/2". The fifth (AE 4026/35.273.35) and sixth (AE 4211/35.273.43) are described as large.

On September 12, 1935, the museum acquired two large wooden medicine faces. The first (AE 3607/35.273.33) was by Harrison Ground, Tonawanda Reservation, and has brass eyes made by Cephas Hill, Tonawanda Reservation. The second (AE 3617/35.273.34) was made by Harrison Ground and Robert Tahamont, Tonawanda Reservation.

Between February 10 and October 23, 1936, the museum acquired four medicine faces made by Harrison Ground, Tonawanda Reservation. The first (AE 4029/35.273.36) is a large basswood face that measures 9 1/2" x 6 1/4". The second (AE 4428/35.273.44) measures 11" x 6 1/4". The third (AE 4430/36.380.30) measures 6 3/8" x 4". The fourth (AE 4601/36.380.20) measures 6 3/8" x 4 1/8".

On March 1, 1938, the museum acquired one large hemlock medicine face (AE 6804/38.376.2) made by Cephas Hill, Tonawanda Reservation.

On October 1, 1939, the museum acquired one large wooden medicine face (AE 7518/39.378.2) made by Cephas Hill, Tonawanda Reservation. The face is made of whitewood and measures 8 3/4" x 5 1/2".

Between October 1 and December 1, 1938, the museum acquired two large wooden medicine faces made by Jesse Hill, Tonawanda Reservation. The first (AE 6697/38.377.11) measures 9 1/2" x 6". The second (AE 6783/38.377.12) is made of whitewood and measures 10 1/4" x 6 3/8".

Between February 1 and May 1, 1935, the museum acquired two medicine faces made by Everett Parker, Tonawanda Reservation. The first (AE 2739/37.307.51) measures 10" x 7". The second (AE 3000/35.37.53) is a large wooden face.

Between February 10 and December 9, 1936, the museum acquired two medicine faces made by Everett Parker, Tonawanda Reservation. The first (AE 4429/35.307.55) is a large wooden face that measures 10" x 6 1/2". The second (AE 5479/36.390.8) is a large wooden face made of whitewood that measures 9 3/4" x 6 1/2".

Between March 29 and May 18, 1937, the museum acquired three wooden medicine faces made by Everett Parker, Tonawanda Reservation. The first (AE 5800/37.505.5) is a large basswood face that measures 10" x 7". The second (AE 5913/37.505.1) and third (AE 5914/37.505.17) are large wooden faces made of willow.

Between April 1 and December 1, 1938, the museum acquired four medicine faces made by Everett Parker, Tonawanda Reservation. The first (AE 6568/38.383.5) is a large wooden face that measures 10" x 6 1/2". The second (AE 6730/38.383.6) is a large whitewood face that measures 10 1/4" x 6 3/4". The third (AE 6731/38.383.33) is a large basswood face. The fourth (AE 6782/38.383.30) is a large wooden face that measures 10" x 6".

On February 1, 1939, the museum acquired one medicine face (AE 6843/38.383.29) made by Everett Parker, Tonawanda Reservation, that measures 9 3/4" x 5 5/8".

Between March 1 and June 30, 1937, the museum acquired six medicine faces made by Franklin Reuben, Tonawanda Reservation. The first (AE 5699/37.508.55) and second (AE 5701/37.508.19) are large basswood faces. The third (AE 5802/37.508.23) is a large wooden face that measures 10 1/4" x 7". The fourth (AE 5960/37.508.42) is a large wooden face made of willow that measures 10" x 6 1/2". The fifth (AE 5961/37.508.52) is a large wooden face made of white pine that measures 6" x 9". The sixth (AE 6074/37.508.25) is a wooden face that measures 6" x 4" that is accompanied by a small buckskin bag.

On December 1, 1938, the museum acquired one basswood medicine face (AE 6779/38.385.26) made by Franklin Reuben, Tonawanda Reservation, that measures 9 3/4" x 6".

On October 1, 1939, the museum acquired four medicine faces made by Franklin Reuben, Tonawanda Reservation. The first (AE 7510/38.385.3) is a large face that measures 9" x 6". The second (AE 7512/39.389.37) is a large wooden face that measures 9 1/4" x 6". The third (AE 7517/39.389.39) is a large wooden face made of whitewood that measures 9 1/2" x 5 3/4". The fourth (AE 7521/39.389.1) is a large wooden face.

Between January 1 and September 18, 1940, the museum acquired four medicine faces made by Franklin Reuben, Tonawanda Reservation. The first (AE 7699/39.389.7) is a large wooden face made of whitewood that measures 9 3/8" x 6". The second (AE 7833/40.475.6) is a large wooden face made of whitewood that measures 9 1/4" x 6". The third (AE 7897/40.475.7) is a large wooden face made of whitewood. The fourth (AE 8268/39.389.40) is a large wooden face made of pinewood.

On November 18, 1935, the museum acquired one medicine face (AE 4213/35.327.17) made by Kidd Smith, Tonawanda Reservation. It is a large wooden face that measures 9 1/2" x 6 1/4".

Between March 1 and October 23, 1935, the museum acquired 13 medicine faces made by Elon Webster, Tonawanda Reservation. The first (AE 2685/35.338.11) is a large wooden face that measures 9 3/8" x 6". The second (AE 2737/35.338.12) is a large wooden face that measures 9" x 6". The third (AE 2738/35.338.13) is a large wooden face that measures 10 1/2" x 6 1/2". The fourth (AE 3226/35.338.14) is a large wooden face that measures 9 1/2" x 5 1/2". The fifth (AE 3440/35.338.15) is a large wooden face made of basswood that measures 10 1/2" x 6 1/4". The sixth (AE 3443/35.338.16) is a large wooden face. The seventh (AE 3625/35.338.17) is a large cucumber wood face. The eighth (AE 3626/35.338.18) is a large wooden face that measures 10" x 6". The ninth (AE 3628/35.338.19) is a large wooden face that measures 13 3/4" x 6 1/2". The tenth (AE 3629/35.338.20) is a large wooden face. The eleventh (AE 4024/35.338.21) is a large wooden face that measures 11" x 7". The twelfth (AE 4028/35.338.22) is a large wooden face that measures 10 3/4" x 6 3/4". The thirteenth (AE 4030/35.338.23) is a large wooden face that measures 10" x 6 1/4" and is described as "made by a member of the False Face Company."

Between April 13 and May 15, 1936, the museum acquired five medicine faces made by Elon Webster, Tonawanda Reservation. The first (AE 4567/36.409.19) is a large wooden face that measures 10 1/2" x 6 1/4". The second (AE 4599/36.409.9) is a large wooden face that measures 10 1/2" x 6 1/4". The third (AE 4633/36.409.6) is a large wooden face made of whitewood that measures 10 1/2" x 6 1/4". The fourth (AE 4812/36.409.29) is a large wooden face made of cucumber wood that measures 10" x 6 1/4". The fifth (AE 4813/36.409.13) is a large wooden face made of whitewood that measures 10 3/4" x 6 1/4".

On March 31, 1937, the museum acquired one large wooden medicine face (AE 5700/37.522.8) made of willow by Elon Webster, Tonawanda Reservation.

On June 1, 1938, the museum acquired one large basswood medicine face (AE 6598/38.392.6) made by Elon Webster, Tonawanda Reservation.

Between March 1 and November 1, 1939, the museum acquired nine medicine faces made by Elon Webster, Tonawanda Reservation. The first (AE 6865/38.392.14) is a large basswood face that measures 10 1/4" x 6". The second (AE 6866/38.392.12) is a large basswood face that measures 10" x 6 1/4". The third (AE 6867/38.392.13) is a large basswood face that measures 10 5/8" x 6". The fourth (AE 6868/38.392.10) and fifth (AE 6869/38.392.11) are large basswood faces. The sixth (AE 7372/39.374.2) is a large wooden face. The seventh (AE 7516/39.374.1) is a large basswood face. The eighth (AE 7519/

39.374.8) is a large basswood face that measures 8 1/2" x 5". The ninth (AE 7553/39.374.10) is a large wooden face that measures 10 1/4" x 5 3/4".

Between January 1 and October 1, 1940, the museum acquired six medicine faces made by Elon Webster, Tonawanda Reservation. Three faces (AE 7513/39.374.5, AE 7701/39.374.9, and AE 7702/39.374.12) are large wooden faces made of whitewood. The fourth (AE 7700/39.374.13) is a large wooden face. The fifth (AE 7703/40.483.7) and sixth (AE 8090/39.374.7) are large basswood faces.

On June 1, 1941, the museum acquired two medicine faces from Elon Webster, Tonawanda Reservation. The first (AE 8348/40.466.9) is a large wooden face. The second (AE 8349/40.483.6) is a large basswood face.

The following 109 small medicine faces were also created under the auspices of the Works Progress Administration/Indian Arts Project:

Between January 1 and February 1, 1940, the museum acquired seven small medicine faces (AE 7707/40.467.5, AE 7840/40.467.6, AE 8176/40.467.11, AE 7838/40.467.15, AE 7837/40.467.16, AE 7841/40.467.18, and AE 7839/40.467.19) made of woven basswood bark by Harrison Ground, Tonawanda Reservation.

On November 1, 1935, the museum acquired five small deerhorn medicine faces (AE 4145a/35.314.47.1, AE 4145b/35.314.47.2, AE 4243a/35.314.50.1, AE 4243b/35.314.50.2, and AE 4244/35.314.51) made by Franklin Reuben, Tonawanda Reservation.

On April 1, 1936, the museum acquired four small medicine faces made by Ira Mitten, Tonawanda Reservation. One (AE 4679/36.389.59) is made of bone. Two (AE 4708/36.389.60 and AE 4709/36.389.61) are made of elkhorn. The fourth (AE 4710/36.389.62) is made of cow bone.

On February 1, 1940, the museum acquired one small elkhorn medicine face (AE 4413/36.389.37) made by Ira Mitten, Tonawanda Reservation.

On March 1, 1940, the museum acquired three small antler medicine faces (AE 4538/36.389.56, AE 4539/36.389.57, and AE 4540/36.389.58) made by Ira Mitten, Tonawanda Reservation.

On November 1, 1935, the museum acquired two small stone medicine faces (AE 4208/35.314.48 and AE 4236/35.314.49) made by Franklin Reuben, Tonawanda Reservation.

On June 1, 1936, the museum acquired two small stone medicine faces (AE 5004/35.314.52 and AE 5005/35.314.53) by Franklin Reuben, Tonawanda Reservation.

Between February 1 and April 19, 1936, the museum acquired three small wooden medicine faces (AE 2573/35.267.1, AE 2575/35.267.3, and AE 3011/35.267.4) made by Jesse Cornplanter, Tonawanda Reservation.

Between May 1 and August 1, 1935, the museum acquired three small faces made of by William Gordon, Tonawanda Reservation. The first (AE 3173/35.271.7) and second (AE 3444/35.271.15) are made of wood. The third (AE 5522/37.523.31) is made of basswood.

On October 23, 1935, the museum acquired six small wooden medicine faces (AE 4068 (1)/35.273.38.1, AE 4068 (2)/35.273.38.2, AE 4068 (3)/35.273.38.3, AE 4068 (4)/35.273.38.4, AE 4068 (5)/35.273.38.5, and AE 4068 (6)/35.273.38.6) made by Harrison Ground, Inez Blackchief, and Robert Tahamont, Tonawanda Reservation.

On October 24, 1935, the museum acquired 20 small wooden medicine faces (AE 4067 (1)/35.273.37.1, AE 4067 (2)/35.273.37.2, AE 4067 (3)/35.273.37.3, AE 4067 (4)/35.273.37.4, AE 4067 (5)/35.273.37.5, AE 4067 (6)/35.273.37.6, AE 4069 (1)/35.273.39.1, AE 4069 (2)/35.273.39.2, AE 4069 (3)/35.273.39.3, AE 4069 (4)/35.273.39.4, AE 4069 (5)/35.273.39.5, AE 4069 (6)/35.273.39.6, AE 4565a/35.273.45.1, AE 4565b/35.273.45.2, AE 4565c/35.273.45.3, AE 4565d/35.273.45.4, AE 4565e/35.273.45.5, AE 4565f/35.273.45.6, AE 4565g/35.273.45.7, and AE 4565h/35.273.45.8) made by Harrison Ground, Inez Blackchief, and Robert Tahamont, Tonawanda Reservation.

On October 24, 1935, the museum acquired six small cedar medicine faces (AE 4070a/35.273.40.1, AE 4070b/35.273.40.2, AE 4070c/35.273.40.3, AE 4070d/35.273.40.4, AE 4070e/35.273.40.5, and AE 4070f/35.273.40.6) made by Harrison Ground, Inez Blackchief, and Robert Tahamont, Tonawanda Reservation.

On November 1, 1935, the museum acquired nine small wooden medicine faces (AE 4205(1)/35.273.41.1, AE 4205 (3)/35.273.41.3, AE 4205 (5)/35.273.41.5, AE 4207 (1)/35.273.42.1, AE 4207 (2)/35.273.42.2, AE 4207 (3)/35.273.42.3, AE 4207 (4)/35.273.42.4, AE 4207 (5)/35.273.42.5, and AE 4207 (6)/35.273.42.6) made by Harrison Ground, Inez Blackchief, and Robert Tahamont, Tonawanda Reservation.

Between February 22 and March 1, 1935, the museum acquired four small wooden medicine faces (AE 2595/35.277.23, AE 2657/35.277.24, AE 2660/35.277.27, and AE 2661/35.277.28) made by Cephas Hill, Tonawanda Reservation.

On June 1, 1936, the museum acquired nine small maple wood medicine faces (AE 7373/36.399.7, AE 7374/36.399.8, AE 7375/36.399.9, AE 7376/36.399.10, AE 7377/36.399.11, AE 7378/36.399.12, AE 7379/36.399.13, AE 7380/36.399.14, and AE 7381/36.399.15) made by Ernest Smith, Tonawanda Reservation.

Between October 1 and December 1, 1939, the museum acquired three small maple wood medicine faces (AE 7536/39.392.3, AE 7537/39.392.1, and AE 7684/39.392.2) made by Ernest Smith, Tonawanda Reservation.

On January 1, 1940, the museum acquired one small waxed-lemonwood medicine face (AE 7708a/40.477.8.1) made by Ernest Smith, Tonawanda Reservation.

On January 1, 1940, the museum acquired four small wooden medicine faces (AE 7708b/40.477.8.2, AE 7708c/40.477.8.3, AE 7708d/40.477.8.4, and AE 7708e/40.477.8.5) made by Ernest Smith, Tonawanda Reservation.

On July 1, 1941, the museum acquired six small maple wood medicine faces (AE 8398/40.477.13, AE 8399/40.477.14, AE 8297/40.477.15, AE 8298/40.477.16, AE 8299/40.477.17, and AE 8300/40.477.18) made by Ernest Smith, Tonawanda Reservation.

On July 17, 1935, the museum acquired one small wooden medicine face (AE 3193/35.327.16) made by Kidd Smith, Tonawanda Reservation.

Between April 1 and November 18, 1935, the museum acquired five small wooden medicine faces (AE 2741/35.338.27, AE 3194/35.338.26, AE 3291/35.338.28, AE 4206a/35.338.24, and AE 4206b/35.338.25) made by Elon Webster, Tonawanda Reservation.

Between March 31 and April 12, 1937, the museum acquired three small medicine faces made by Franklin Reuben, Tonawanda Reservation. The first (AE 5817/37.508.53) is made of basswood. The second (AE 5818/37.508.17) is made of maple wood. The third (AE 5836/37.508.38) is made of applewood.

On April 1, 1936, the museum acquired two small wooden medicine faces (AE 4758/36.406.5 and AE 4759/36.406.6) from an unknown maker on the Tonawanda Reservation.

The following 13 cornhusk medicine faces were also made under the auspices of the Works Progress Administration/Indian Arts Project:

Between July 18 and September 30, 1935, the museum acquired seven braided cornhusk medicine faces made by William Gordon, Tonawanda Reservation. The first face (AE 3228/35.271.9) measures 13" x 12". The second face (AE 3229/35.271.10)

measures 13" x 12". The third (AE 3371/35.271.12) and sixth faces (AE 3632/35.271.19) are referred to as large. The fourth face (AE 3619/35.271.16) measures 14" x 9". The fifth face (AE 3630/35.271.18) measures 13" x 10 1/2". The seventh face (AE 3845/35.271.20) measures 16" x 12".

Between May 26 and June 1, 1937, the museum acquired two braided cornhusk medicine faces made by William Gordon, Tonawanda Reservation. The first (AE 5938/37.523.32) measures 13" x 10". The second (AE 7401/39.376.8) measures 8" x 7".

On September 12, 1935, the museum acquired one woven cornhusk medicine face (AE 3631/35.332.50) made by Robert Tahamont, Tonawanda Reservation, that measures 13" x 12 1/2".

On September 12, 1935, the museum acquired one braided cornhusk medicine face (AE 3618/35.307.54) made by Everett Parker, Tonawanda Reservation, that measures 13 1/2" x 12".

On August 1, 1937, the museum acquired two braided cornhusk medicine faces made by Julia Black, Tonawanda Reservation. The first face (AE 6174/37.493.5) measures 11" x 11". The second face (AE 6175/37.493.6) measures 11" x 12".

Tonawanda Seneca Nation traditional religious leaders have identified these medicine faces as being needed for the practice of traditional Native American religions by present-day adherents. In the course of consultations with NAGPRA representatives of the Tonawanda Seneca Nation, it was shown that individuals who created a face did not have the authority to sell it directly to the Rochester Museum & Science Center. Museum documentation, supported by oral evidence presented during consultation by Tonawanda Seneca Nation NAGPRA representatives, indicates that these medicine faces are culturally affiliated with the Tonawanda Seneca Nation.

Officials of the Rochester Museum & Science Center have determined, that pursuant to 25 U.S.C. 3001(3)(C), the 306 cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Rochester Museum & Science Center have also determined that, pursuant to 25 U.S.C. 3001(3)(D), the 306 cultural items described above are objects having an ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Lastly, officials of the Rochester Museum & Science Center have determined, that pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects/objects of cultural patrimony and the Tonawanda Band of Seneca Indians of New York.

Representatives of any other Indian Nation or tribe that believes itself to be culturally affiliated with the sacred objects/objects of cultural patrimony should contact Adele DeRosa, NAGPRA Coordinator/Collections Manager, Rochester Museum & Science Center, 657 East Ave., Rochester, NY 14607, telephone (585) 271–4552, ext 302, before July 28, 2010. Repatriation of the sacred objects/objects of cultural patrimony to the Tonawanda Band of Seneca Indians of New York may proceed after that date if no additional claimants come forward.

The Rochester Museum & Science Center is responsible for notifying the Tonawanda Band of Seneca Indians of New York that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15602 Filed 6–25–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Wisconsin Historical Society, Museum Division, Madison, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Wisconsin Historical Society (aka State Historical Society of Wisconsin), Museum Division, Madison, WI. The human remains were removed from Fort Berthold, Berthold Ward County, ND.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

An assessment of the human remains was done by Wisconsin Historical Society professional staff in consultation with the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1878, human remains representing a minimum of two individuals were removed from Fort Berthold, in Berthold Ward County, ND, by J.A. Rice. The two skulls were donated to the Wisconsin Historical Society in 1908. No known individuals were identified. No associated funerary objects are present.

The Wisconsin Historical Society determined that the remains represent two adult males of Native American ancestry. The Mandan, Hidatsa, and Arikara tribes, also known as the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, have been living in the Fort Berthold area since 1845. According to historical records, the original fort was erected as a trading post and named Fort Atkinson. In 1862, it was purchased by the American Fur Company and re-named Fort Berthold. In 1864, United States troops were assigned to the fort to protect the trading post. The post was evacuated in 1867. In 1868, it became the agency headquarters for the Arikara, Hidatsa, and Mandan tribes.

Officials of the Wisconsin Historical Society, Museum Division, have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Wisconsin Historical Society, Museum Division, have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the human remains and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Jennifer L. Kolb, Wisconsin Historical Museum, 30 N. Carroll St., Madison, WI 53703, telephone (608) 261–2461, before July 28, 2010. Repatriation of the human remains to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, may proceed after that date if no additional claimants come forward.

The Wisconsin Historical Society is responsible for notifying the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15570 Filed 6–25–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains and associated funerary objects were removed from Lopez Island, San Juan County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals from one site (45–SJ–278), the name used to describe another site (45–SJ–288), and the number of associated funerary objects from a third site (45–SJ–185) reported in a Notice of Inventory Completion published in the **Federal Register** (75 FR 5105–5106, February 1, 2010).

In the **Federal Register**, paragraph number 7, page 5106, is corrected by the addition of one more individual to site 45–SJ–278 and substituting the following paragraph:

In 1968, human remains representing a minimum of two individuals were removed from site 45–SJ–278, Lopez Island, San Juan County, WA. The human remains were removed by a University of Washington field party led by David Munsell. The collection was transferred from the University of Washington Anthropology Department to the Burke Museum in the 1970s, and was formerly accessioned in 1996 (Burke Accn. #1996–121). In 1998 and 2010, the human remains were found in level bags at the museum. No known individuals were identified. No associated funerary objects are present.

In the **Federal Register**, paragraph number 8, page 5106, is corrected by replacing the site name with the site number (45–SJ–288) and substituting the following paragraph:

In 1968, human remains representing a minimum of one individual were removed from site 45–SJ–288, Lopez Island, San Juan County, WA. The human remains were removed by a University of Washington Field Party led by David Munsell. The collection was transferred from the University of Washington Anthropology Department to the Burke Museum in the 1970s, and was formerly accessioned in 1996 (Burke Accn. #1996–121). In 2000, the human remains were found in level bags at the museum. No known individual was identified. The one associated funerary object is one bag of mammal and fish bones.

In the **Federal Register**, paragraph number 9, page 5106, is corrected by the addition of two associated funerary objects, which brings the total to seven, and substitutes the following paragraph:

In 1945, human remains representing a minimum of one individual were removed from the Richardson site (45–SJ–185), Lopez Island, San Juan County, WA. The human remains were excavated by a University of Washington field school under the supervision of Mr. Carroll Burroughs, and transferred to the Burke Museum in 1951 (Burke Accn. #3649). In 2000, the human remains were found in the collection. No known individual was identified. The seven associated funerary objects are six mammal bones and one projectile point.

In the **Federal Register**, paragraph number 11, page 5106, is corrected by substituting the following paragraph:

Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of at least 30 individuals of Native American ancestry. Officials of the Burke Museum also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the 82 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849, before July 28, 2010. Repatriation of the human remains and associated funerary objects to the Lummi Tribe of the Lummi Reservation Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington, may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington, that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15572 Filed 6–25–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Western Michigan University, Anthropology Department, Kalamazoo, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of Western Michigan University, Anthropology Department, Kalamazoo, MI. The human remains and associated funerary objects were removed from Kent County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Western Michigan University professional staff in consultation with representatives of the Little River Band of Ottawa Indians, Michigan, and the Little Traverse Bay Bands of Odawa Indians, Michigan.

In 1984, human remains representing a minimum of two individuals were removed from the Front and Leonard Street intersection, Kent County, MI, during the excavation of a building foundation. George Davis, then president of the Wright L. Coffinberry Chapter of the Michigan Archaeological Society, recovered as much of the material as possible after they had tumbled from the shovel of the tractor during the construction. It is not clear how or why they were transferred to Western Michigan University. No known individuals were identified. The five associated funerary objects are three turtle shell fragments, a badly rusted nail, and a kaolin pipe stem fragment.

The human remains were determined to be of Native American ancestry based on skeletal and dental morphology. The determination of an early 19th century date is based on typology of the kaolin pipe and the close proximity of these remains to a known 19th century Ottawa settlement, Noondays Village (20KT114). Consequently, the preponderance of osteological, historical, and consultation evidence connects the remains found at Front Avenue and Leonard Street to the Little River Band of Ottawa Indians, Michigan.

In 1990, human remains representing a minimum of six individuals were removed from Riverside Drive, Lowell, Kent County, MI. The remains were uncovered during installation of a fire hydrant and water main. Upon discovery, Dr. Robert Sundick was called to the site to conduct an excavation of the remains. After completion, the remains were sent with Sundick to Western Michigan University for curation and analysis. The 68 associated funerary objects are 1 leather garment fragment decorated with small round cuprous brooches, 1 decorative cuprous item (possible ear wheel fragment), 3 cuprous Saturn-shaped bells, 8 wrought iron nails with remnants of wood which may be remains of a coffin, 53 glass beads (representing 27 black glass tubular beads and 26 purple glass seed beads), 1 small bag of very fragmented faunal remains, and 1 pottery sherd.

The human remains were determined to be of Native American ancestry based on skeletal and dental morphology. They were dated to the early 19th century based on analysis of the garment fragment, the presence of glass trade beads, and typology of the other associated funerary objects.

The Little River Band of Ottawa Indians, Michigan, are well-documented as occupying the Grand River Valley since at least the 17th century. All of the human remains and associated funerary objects described above from the Kent County sites are, by a preponderance of the evidence, culturally affiliated with the Little River Band of Ottawa Indians, Michigan, whose ancestors include the Grand River Ottawa Bands.

Officials of Western Michigan University have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of eight individuals of Native American ancestry. Officials of Western Michigan University also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the 73 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of Western Michigan University have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Little River Bands of Ottawa Indians, Michigan.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact LouAnn Wurst, Department of Anthropology, Western Michigan University, 1005 Moore Hall, Kalamazoo, MI 49008, telephone (269) 387–2753, before July 28, 2010. Repatriation of the human remains and associated funerary objects to the Little River Band of Ottawa Indians, Michigan, may proceed after that date if no additional claimants come forward.

Western Michigan University is responsible for notifying the Little River Band of Ottawa Indians, Michigan, and the Little Traverse Bay Bands of Odawa Indians, Michigan, that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15577 Filed 6–25–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains were removed from Lopez Island, San Juan County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Burke Museum professional staff in consultation with representatives of the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington.

In 1949, human remains representing a minimum of one individual were removed from site 45–SJ–186, Lopez Island, San Juan County, WA. The remains were excavated by a University of Washington field school under the supervision of Mr. Carroll Burroughs, and transferred to the Burke Museum in 1951 (Burke Accn. #3649). In 2010, the human remains were found in a level bag at the museum. No known individual was identified. No associated funerary objects are present.

Historical documentation indicates that the southern Lopez Island area is part of the Samish aboriginal territory (Suttles (1951 and 1990), Smith (1941), Roberts (1975), and Tremaine (1975)). The Treaty of Point Elliot in 1855 stated that the Samish were to be relocated to the Lummi Reservation. After the Treaty of Point Elliot, many Samish individuals relocated to either the Lummi Reservation or the Swinomish Reservation (Ruby and Brown 1986:179). Many Samish, however, chose to remain in their old village sites.

Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains listed above represent the physical remains of at least one individual of Native American ancestry. Officials of the Burke Museum also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849, before July 28, 2010. Repatriation of the human remains to the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington, may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington, that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15595 Filed 6–25–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Public Museum of West Michigan, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Public Museum of West Michigan (Grand Rapids Public Museum), Grand Rapids, MI. The human remains and associated funerary objects were removed from Allegan, Berrien, Cass, Grand Traverse, Kalamazoo, Kent, Montcalm, Ottawa, St. Joseph, and Wayne Counties, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary objects was made by Public Museum of West Michigan officials in consultation with the Bay Mills Indian Community, Michigan; Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (formerly the Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band of Potawatomi Nation, Kansas; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sac & Fox Nation, Oklahoma; and Sault Ste. Marie Tribe of Chippewa Indians of Michigan. In addition, the museum also consulted with the following non-federally recognized Indian groups: Burt Lake Band of Ottawa & Chippewa and the Grand River Bands of Ottawa.

In 1956, human remains representing a minimum of four individuals were removed from an unknown site near Saugatuck, Allegan County, MI. The human remains and associated funerary objects were excavated by the museum with the assistance of Dr. E.F. Greenman. No known individuals were identified. The 12 associated funerary objects are 5 shell beads, 1 flint spear, 2 lots of red ochre, 1 shell bracelet, 1 lot of bird bone, 1 flint flake, and 1 projectile point fragment.

At an unknown date, human remains representing a minimum of three individuals were removed from an unknown site in Allegan County, MI. At an unknown date, the "Hibellink Estate" acquired the human remains. At an unknown date, Harvey Bouknegt acquired the human remains from the "Hibellink Estate." At an unknown date, Ruth Herrick acquired the human remains from Harvey Bouknegt. In 1974, the museum acquired the human remains from Ruth Herrick through a bequest. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of three individuals were removed from the Niles area, Berrien County, MI. In 1890–1892, E.H. Crane acquired the human remains. In 1917, the museum purchased the human remains from the E.H. Crane estate. No known individuals were identified. No associated funerary objects are present.

In 1879, human remains representing a minimum of four individuals were removed from Walter Mounds 1 & 2 (20CS31), Cass County, MI. At an unknown date, E.H. Crane acquired the human remains and associated funerary objects. In 1917, the museum purchased the human remains and associated funerary objects from the E.H. Crane estate. No known individuals were identified. The 33 associated funerary objects are 1 Busycon shell dipper, 16 lots of bone awls and fragments, 1 grinding stone, 1 stone dish, 3 fired clay balls, 5 pottery shards, 1 boatstone, 1 drilled bear tooth, 2 lots of polished bone, 1 pottery vessel, and 1 lot of turtle carapace fragments.

In 1879, human remains representing a minimum of one individual were removed from Merrit Mound 5 (20CS31), Cass County, MI. At an unknown date, E.H. Crane acquired the human remains and associated funerary objects. In 1917, the museum purchased the human remains and associated funerary objects from the E.H. Crane estate. No known individuals were identified. The 32 associated funerary objects are 2 pottery vessels, 1 polished sandstone fragment, 5 projectile points, 1 drilled talon, 1 lot of pottery shards, 8 individual pottery shards, 1 lot of mica fragments, 1 lot of flint flakes, 1 copper nugget, 1 vial of pyrite, 4 vials of sand, 2 vials of red ochre, 1 metal tin containing red ochre, 1 vial of lavender pigment, and 2 vials of yellow ochre.

In 1879, human remains representing a minimum of two individuals were removed from Kibler Mound #12 (20CS6), Cass County, MI. At an unknown date, E.H. Crane acquired the human remains and associated funerary objects. In 1917, the museum purchased the human remains and associated funerary objects from the E.H. Crane estate. No known individuals were identified. The 27 associated funerary objects are 1 slate gorget, 1 lot of wood fragments, 1 lot of fired clay balls, 4 lots

of flint flakes, 1 mica sheet, 2 projectile point fragments, 1 metal tin containing pyrite, 3 projectile points, 1 flint biface, 6 pottery shards, 1 graphite cobble, 1 sandstone abrader, 1 animal bone fragment, 1 lot of bone awl fragments, 1 mussel shell, and 1 sample of clay with animal bones.

At an unknown date, human remains representing a minimum of three individuals were removed from an unknown site in Grand Traverse County, MI. At an unknown date, E.H. Crane acquired the human remains and associated funerary objects. In 1917, the museum purchased the human remains and associated funerary objects from the E.H. Crane estate. No known individuals were identified. The three associated funerary objects are one shell, one antler fragment, and one flint scraper.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown site in the Kalamazoo area, Kalamazoo County, MI. At an unknown date, Ruth Herrick acquired the human remains. In 1974, the human remains were donated to the Grand Rapids Public Museum from Ruth Herrick through a bequest. No known individual was identified. No associated funerary objects are present.

In 1964, human remains representing a minimum of three individuals were removed from the Myers Lake Site (20KT185), Kent County, MI, by John Michell. The human remains and associated funerary object were inadvertently discovered by John Michell while excavating a basement. In 1964, the human remains were donated by John Michell to the museum. No known individuals were identified. The one associated funerary object is a pottery vessel.

At an unknown date in the early 1960s, human remains representing a minimum of two individuals were removed from the Hidden Hills site (20KT166), Kent County, MI, after being inadvertently discovered during construction for a subdivision by property owner Gar-Mar Inc. In 1968, Gar-Mar Inc. donated the human remains and associated funerary object to the museum. No known individuals were identified. The one associated funerary object is a nearly complete pottery vessel.

In 1962, human remains representing a minimum of two individuals were removed from the Plaster Creek site, Kent County, MI. The human remains were donated to the museum by Chris Hesse. These remains were found by children, and were reportedly eroding into Plaster Creek. No known individuals were identified. No associated funerary objects are present.

In 1962–1964, human remains representing a minimum of 48 individuals were removed from Norton Mounds (20KT1), Kent County, MI. This site was excavated by staff from the University of Michigan in cooperation with the Grand Rapids Public Museum. The collection is extensively documented in a report by Griffin, Flanders and Titterington (1970). No known individuals were identified. The 563 associated funerary objects are 28 pottery vessels, 8 clam shells, 22 lots of mussel shells and fragments, 13 Busycon shells dippers and fragments, 9 soil samples, 5 lots of pyrite, 6 lots of red ochre, 2 platform pipes, 2 slate artifacts and fragments, 54 lots of flakes and chert fragments, 40 lots of pottery shards, 1 porcelain fragment, 2 calcined bones, 119 bone awls and fragments, 16 lots of antler fragments, 36 lots of turtle shell carapaces and fragments, 7 bear canines and teeth, 8 animal mandibles and fragments, 33 lots of beaver incisors, 35 projectile points, 3 scrapers, 2 charcoal samples, 6 lots of mica sheets and fragments, 3 hammerstones, 1 lot of copper beads, 5 lots of shell beads, 11 talons, 1 lot of bobcat phalanges, 5 copper awls, 3 copper celts, 3 pearls, 1 lot of wolf claws, 1 carbon sample, 1 skunk skeleton, 1 historic ceramic, 1 lot of hematite, 18 lots of bone pins, 15 biface performs, 1 lot of copper fragments, 3 grinding stones, 4 animal bones, 1 conch shell, 1 celt, 1 drilled bear canine effigy, 1 lot of yellow ochre, 12 lots of unidentified shells and fragments, 1 lot of bird bones, 3 bird beaks, 1 chert drill, 1 unidentified canine, 1 unidentified claw, 2 antler points, and 3 silver brooches.

In 1931, human remains representing a minimum of one individual were removed from Wilcox Park, Kent County, MI, by the Grand Rapids Police Department. The circumstances of the removal are unclear, but the human remains appear to have been inadvertently discovered. In 1931, the human remains and associated funerary objects were donated to the Grand Rapids Public Museum by the Grand Rapids Police Department. No known individual was identified. The two associated funerary objects are a shell gorget and marine shell.

In 1965, human remains representing a minimum of seven individuals were removed from the Esler Site (20KT156), Kent County, MI. The human remains and associated funerary objects were inadvertently discovered during a construction project and subsequently excavated by the Grand Rapids Public Museum. No known individuals were identified. The 67 associated funerary objects are 1 lot of fire cracked rock, 1 lot of angular debris, 1 awl, 1 lot of flakes, 1 ground stone, 1 lot of projectile points, 1 lot of shell fragments, 1 lot of animal bone, 1 animal bone fragment, 3 lots of historic pottery shards, 13 historic bottles, 3 historic bottle bases, 2 lots of bottle fragments, 3 bottle necks, 1 lot of brick, 14 lots of glass fragments, 1 lot of historic ceramic handles, 1 hinge, 1 historic hook, 2 historic jars, 1 lot of nails, 1 reflector fragment, 9 lots of rim shards, 1 shell, 1 stoneware fragment, and 1 teacup.

In 1956, human remains representing a minimum of one individual were removed from the farm of August Knopf, Montcalm County, MI, by two hunters who observed the remains eroding from a sandy bank. The human remains and associated funerary objects were donated by the landowner, Mr. August Knopf, to the Wright L. Coffinberry chapter of the Michigan Archaeological Society. At an unknown date, Ruth Herrick acquired the human remains and associated funerary objects from the Michigan Archaeological Society. In 1974, Ruth Herrick donated the human remains and associated funerary objects to the museum by bequest. No known individual was identified. The 11 associated funerary objects are 1 lot of woven fiber fragments, 1 lot of shell beads, 1 lot of copper hair pipes, 1 lot of copper hair pipe fragments, 1 lot of bark and wood fragments, 1 lot of organic fiber and sand, 1 lot of wood fragments, 1 lot of sand, 2 lots of sand with bone fragments, and 1 lot of organic blanket fragments.

At an unknown date, human remains representing a minimum of five individuals were removed from an unknown site in Montcalm County, MI. At an unknown date, C.R. Sligh acquired the human remains. In 1893, the human remains were purchased by the museum from C.R. Sligh. No known individuals were identified. No associated funerary objects are present.

At an unknown date, a human remain representing a minimum of one individual was removed from an unknown site, possibly in Montcalm County, MI. At an unknown date, C.R. Sligh acquired the human remain. In 1893, the human remain was purchased by the museum from C.R. Sligh. The human remain is described as "Skull of Moundbuilder" in early museum records and was given the accession number 30185. While there is no documented provenience in early museum records, museum documentation indicates that the human remains described above from Montcalm County, MI, were acquired

from the donor in the same accession. The collecting history of the donor and the accession of the skull together with the accession of human remains from Montcalm County indicate that, more likely than not, the skull was removed from Montcalm County, MI. No known individual was identified. No associated funerary objects are present.

In 1942, human remains representing a minimum of two individuals were removed from the Lamont area, Ottawa County, MI, by Mr. A.E. Bonner. Museum documentation indicates the remains were inadvertently discovered during excavation of a basement. In 1942, Mr. A.E. Bonner gifted the remains to Ruth Herrick. In 1974, the museum acquired the human remains from Ruth Herrick through a bequest. No known individuals were identified. No associated funerary objects are present.

In 1969, human remains representing a minimum of one individual were removed from a burial at the Paggeot Site (20OT89), Ottawa County, MI, by the Grand Rapids Public Museum and Grand Valley State University. The Grand Rapids Public Museum and Grand Valley State University collaboratively excavated the burial, which was eroding from the banks of the Grand River. No known individual was identified. The 13 associated funerary objects are 1 lot of flint angular debris, 5 lots of prehistoric body pottery shards, 1 pottery vessel, 1 pottery vessel cast, 1 lot of prehistoric pottery fragments, 1 lot of prehistoric rim fragments, 1 lot of sand, and 2 lots of shell.

In 1879, human remains representing a minimum of seven individuals were removed from Scott Mounds (20SJ2), St. Joseph County, MI. At an unknown date, E.H. Crane acquired the human remains and artifacts. In 1917, the museum purchased the human remains and associated funerary objects from the E.H. Crane estate. No known individuals were identified. The 20 associated funerary objects are 1 lot of copper nuggets, 1 spear point, 2 bone fragments, 2 drills, 2 flakes, 3 knives, 2 scrapers, 1 lot of mica, 1 shell, 1 lot of turtle shell fragments, 1 pottery shard, 2 lots of red ochre, and 1 lot of fabric.

In 1879, human remains representing a minimum of two individuals were removed from Marantette Mounds (20SJ1), St. Joseph County, MI. At an unknown date, E.H. Crane acquired the human remains and artifacts. In 1917, the museum purchased the human remains and associated funerary objects from the E.H. Crane estate. No known individuals were identified. The 11 associated funerary objects are 1 scraper, 1 lot of mica fragments, 1 projectile point, 1 spear point, 3 awl fragments, 1 animal canine, 1 drilled bear tooth, and 2 animal mandibles.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown site in Wayne County, MI. Museum documentation indicates the remains came from an "Indian Village site" in Wayne County. At an unknown date, Ruth Herrick acquired the human remains. In 1974, the museum acquired the human remains from Ruth Herrick through a bequest. No known individual was identified. No associated funerary objects are present.

Officials of the Public Museum of West Michigan have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of 104 individuals of Native American ancestry. Officials of the Public Museum of West Michigan have determined that, pursuant to 25 U.S.C. 3001(3)(A), the 796 items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Lastly, officials of the Public Museum of West Michigan have determined that, pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. On July 29, 2009, the Public Museum of West Michigan requested that the Review Committee recommend disposition of the culturally unidentifiable human remains and associated funerary objects to the Bay Mills Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sac & Fox Nation, Oklahoma; and Sault Ste. Marie Tribe of Chippewa Indians of Michigan, as well as the Grand River Band of Ottawa Indians, a non-federally recognized tribe, because the human remains and associated funerary objects were found within their aboriginal territory. The Review Committee considered the proposal at its October 30–31, 2009, meeting and recommended disposition of the human remains and associated funerary objects to the Bay Mills Indian Community, Michigan; Grand River Band of Ottawa Indians, a non-federally recognized Indian group; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sac & Fox Nation, Oklahoma; and Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

The Secretary of the Interior concurred with the Review Committee's recommendation. A March 25, 2010, letter from the Designated Federal Official, writing on behalf of the Secretary of the Interior, transmitted the authorization for the museum to effect disposition of the physical remains of the culturally unidentifiable individuals to the Indian tribes listed above contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement. In the same letter, the Secretary recommended the transfer of the associated funerary objects to the Indian tribes listed above to the extent allowed by Federal, state, or local law.

Representatives of any other Indian tribe that wishes to claim ownership or control of the human remains and associated funerary objects should contact Marilyn Merdzinski, Director of Collections and Preservation, Public Museum, 272 Pearl St. NW, Grand Rapids, MI 49504, telephone (616) 929–1801, before July 28, 2010. Disposition of the human remains and associated funerary objects to the Bay Mills Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sac & Fox Nation, Oklahoma; Sault Ste. Marie Tribe of Chippewa Indians of Michigan; and the Grand River Band of Ottawa Indians, a

non-federally recognized Indian group, may proceed after that date if no additional claimants come forward.

The Public Museum of West Michigan is responsible for notifying the Bay Mills Indian Community, Michigan; Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan; Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band of Potawatomi Nation, Kansas; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sac & Fox Nation, Oklahoma; Sault Ste. Marie Tribe of Chippewa Indians of Michigan; and the following non-federally recognized Indian groups: Grand River Band of Ottawa Indians and the Burt Lake Band of Ottawa & Chippewa, that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15576 Filed 6–25–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Missouri Department of Natural Resources, Jefferson City, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the Missouri Department of Natural Resources, Jefferson City, MO. The human remains were removed from Oregon County, MO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

An assessment of the human remains was made by the Missouri Department of Natural Resources professional staff in consultation with representatives of the Osage Nation, Oklahoma.

The following tribes either requested additional information about the human remains, deferred to the Osage Nation, or stated that they did not have an interest in the human remains: Absentee Shawnee Tribe of Indians of Oklahoma; Caddo Nation of Oklahoma; Chickasaw Nation, Oklahoma; Delaware Nation, Oklahoma; Iowa Tribe of Kansas and Nebraska; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Muscogee (Creek) Nation, Oklahoma; Omaha Tribe of Nebraska; Ponca Tribe of Nebraska; Sac & Fox Nation, Oklahoma; and Wyandotte Nation, Oklahoma. The Osage Nation, Oklahoma, responded with interest, and has sent the Missouri Department of Natural Resources a request for repatriation.

In November 2008, human remains representing a minimum of four individuals were removed from the Thayer Site, in Oregon County, MO. No known individuals were identified. No associated funerary objects are present.

The human remains were removed following the initiation of a police investigation. In July 2008, local law enforcement was notified by a citizen that human remains were observed eroding from the cut bank of the Warm Fork of Spring River, and subsequently conducted excavations to determine if the site was a crime scene. A partial skull and other fragmentary remains were recovered, as well as unassociated prehistoric artifacts (possible Late Woodland potsherds and non-diagnostic lithic debitage) and one possible musket ball. Geomorphological data suggest a date of 1000 to 1200 BP for the human remains, which is consistent with the possible Late Woodland period. The police contacted the forensic anthropologist at the University of Missouri, Columbia, who in turn notified the Department of Natural Resources. After determining that stabilization of the bank and preservation in place was not a reasonable and prudent alternative, in November 2008, the human remains were removed from the site. The recovered remains were of partial burials, as an unknown portion of the burial site had already been lost to erosion. Observers from the Osage Nation, Oklahoma, were present throughout the excavation. In deference to the wishes of the tribe, analysis was confined to confirmation of Native American ancestry, and the human remains were put into a secure evidence locker at the Thayer Police Department.

Oregon County is listed on the NAGPRA database as associated with Indian Land Cessions 1784–1894. The Great and Little Osage are named in a treaty. Their descendants are the present-day Osage Nation, Oklahoma. Tribal history and archeological and linguistic studies suggest that the ancestral Dhegiha Sioux populations were present in southern Missouri at the approximate time period estimated for the Thayer burial. The Osage are descended from the Dhegihan Sioux. Other related Dhegihan Sioux language group tribes with an interest in Missouri - Kaw, Omaha, Ponca and Quapaw - have not expressed an interest in the Thayer burial or have deferred to the Osage and do not have a land cessions claim to Oregon County.

Officials of the Missouri Department of Natural Resources have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of a minimum of four individuals of Native American ancestry. Officials of the Missouri Department of Natural Resources also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Osage Nation, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Judith Deel, Missouri Department of Natural Resources, P.O. Box 179, Jefferson City, MO 65101, telephone (573) 751–7862, before July 28, 2010. Repatriation of the human remains to the Osage Nation, Oklahoma, may proceed after that date if no additional claimants come forward.

The Missouri Department of Natural Resources is responsible for notifying the Osage Nation, Oklahoma, that this notice has been published.

Dated: June 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–15574 Filed 6–25–10 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK990000 L13100000.XG0000; LLAK990000 L51060000.XG0000.LVAPFL070000]

Notice of Relocation/Change of Address for the Bureau of Land Management, Office of Pipeline Monitoring, Alaska State Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Office of Pipeline Monitoring, located at 411 West 4th Avenue, Suite 2, Anchorage, Alaska, is relocating to 188 West Northern Lights Boulevard, Suite 500, Anchorage, Alaska.

DATES: *Effective Date:* June 28, 2010.

SUPPLEMENTARY INFORMATION: The BLM Office of Pipeline Monitoring office at 411 West 4th Avenue, Suite 2, Anchorage, Alaska, will remain open during the move that will take place June 28 through June 30, 2010. The mailing address will change to 188 West Northern Lights Boulevard, Suite 500, Anchorage, Alaska 99503–3984. The main office telephone number will change to (907) 271–1309.

FOR FURTHER INFORMATION CONTACT: Marietta Houston, Supervisory Program Specialist, at (907) 271–1309, Bureau of Land Management, Office of Pipeline Monitoring, 188 West Northern Lights Boulevard, Suite 500, Anchorage, Alaska 99503–3984.

Joseph W. Correa,

Acting Authorized Officer.

[FR Doc. 2010–15621 Filed 6–25–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML00000 13300000.BY0000]

Temporary Closure to All Public Use on Public Land in Doña Ana County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: Notice is hereby given that effective immediately, the Las Cruces District Office is implementing the following closure to all public use, including casual use, to protect person, property, and public land and resources, and generally to provide for public safety. Specifically, the closure is needed in order to reduce or prevent the opportunity for damage to property, personal injury, or loss of life in the vicinity of the Community Pit No.1 in Doña Ana County, New Mexico.

DATES: This closure is effective on June 28, 2010 and shall remain in effect for no more than 2 years. In the interim, the Bureau of Land Management (BLM) will mitigate the safety issue in this area through reclamation of the site.

FOR FURTHER INFORMATION CONTACT: Edward Seum, Supervisory Lands/Minerals Resources Specialist, 1800 Marquess Street, Las Cruces, New Mexico 88005; or call (575) 525–4300.

SUPPLEMENTARY INFORMATION: The closure and restrictions applicable to the closure are as follows:

1. The public land to be closed under this notice is described as:

New Mexico Meridian

T. 22 S., R. 1 E.,
Sec. 19, SW¼NW¼SE¼, E½E½SW¼SW¼SE¼, E½SW¼SE¼, S½N½SE¼SE¼, S½SE¼SE¼.

Doña Ana County, New Mexico, totaling 67.5 acres.

All public use, including casual use, is prohibited on this 67.5-acre parcel. Casual use is defined as any short-term, non-commercial activity which does not noticeably damage or disturb the public land, resources, or improvements.

2. This closure does not affect the ability of local, State, or Federal officials in the performance of their duties in the area, including the discharge of firearms in the performance of their official duties.

3. This Notice will be posted along the public roads where this closure is in effect.

4. The following persons are exempt from this closure order:

a. Federal, State, or local law enforcement officers, while acting within the scope of their official duties; and

b. Any person who obtains, or currently is in possession of, an authorization or permit from the BLM for use of the land identified in this closure.

Violations of these closures and restrictions are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed one year. These actions are taken to protect public health and safety.

The Las Cruces District Office has completed an Environmental Assessment (EA) (DOI–BLM–NM–LCDO–2010–0086–EA) to close the pit to public use, evaluating the potential reclamation of the site and analyzing the hazards to public health and safety until such time as reclamation of the site would be completed.

Copies of this closure order and maps showing the location of the routes are available from the Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005.

Authority: 43 CFR 8364.1 and 18 U.S.C. 3551.

Bill Childress,

Las Cruces District Manager.

[FR Doc. 2010–15623 Filed 6–25–10; 8:45 am]

BILLING CODE 4310–VC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–711]

In the Matter of Certain Inkjet Ink Cartridges With Printheads and Components Thereof; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on a Withdrawal of the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 8) of the presiding administrative law judge ("ALJ") terminating the above-captioned investigation based on a withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3106. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation

on April 6, 2010, based on a complaint filed by Hewlett-Packard Company of Palo Alto, California ("HP"), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain inkjet ink cartridges with printheads and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,234,598; 6,309,053; 6,398,347; 6,412,917; 6,481,817; and 6,402,279. 75 FR 17435 (2010). The complainant named MicroJet Technology Co., Ltd., of Hsinchu City, Taiwan; Mipo Technology Limited, of Kwun Tong, Kowloon, Hong Kong; Mipo Science & Technology Co., Ltd., of Guangzhou, China; Mextec d/b/a Mipo America Ltd. of Miami, Florida; SinoTime Technologies, Inc. d/b/a All Colors, of Miami, and Florida; PTC Holding Limited, of Kwun Tong, Kowloon, Hong Kong, as the respondents.

On May 26, 2010, pursuant to 19 CFR 210.21(a)(1), complainant HP moved to terminate the investigation in its entirety based on a withdrawal of the complaint. No party to the investigation, including the Commission investigative attorney, opposed the motion.

On May 27, 2010, the ALJ issued an ID (Order No. 8) granting the motion. No party petitioned for review of the ID, and the Commission has determined not to review it.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 CFR 210.21, 210.42(h).

By order of the Commission.

Issued: June 21, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–15661 Filed 6–25–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–697]

In the Matter of Certain Authentication Systems, Including Software and Handheld Electronic Devices; Notice of Commission Decision Not to Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (Order No. 13) issued by the presiding administrative law judge ("ALJ") in the above-captioned investigation terminating the investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Paul M. Bartkowski, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5432. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 5, 2010, based on a complaint filed by Prism Technologies LLC of Omaha, Nebraska ("Prism"). The complaint as amended alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain authentication systems, including software and handheld electronic devices, by reason of infringement of certain claims of U.S. Patent No. 7,290,288. The complaint named Research in Motion, Ltd. of Ontario, Canada and Research in Motion Corp. of Irving Texas (collectively, "RIM") as Respondents.

The ID grants a joint motion to terminate the investigation based on a settlement agreement between Prism and RIM. No petitions for review were filed. The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: June 21, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–15665 Filed 6–25–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–464 and 731–TA–1160 (Final)]

Prestressed Concrete Steel Wire Strand From China; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of prestressed concrete steel wire strand (PC strand), provided for in subheading 7312.10.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Government of China and that have been found by Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective May 27, 2009, following receipt of a petition filed with the Commission and Commerce by American Spring Wire Corp. (Bedford Heights, OH); Insteel Wire Products Co. (Mt. Airy, NC); and Sumiden Wire Products Corp. (Dickson, TN). The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of PC strand from China were being subsidized and sold at LTFV within the meaning of sections 703(b) and 733(b) of the Act (19 U.S.C. 1671b(b) and 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 23, 2010 (75 FR 8113). The hearing was held in Washington, DC, on May 6, 2010, and all persons who requested the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 22, 2010. The views of the Commission are contained in USITC Publication 4162 (June 2010), entitled *Prestressed Concrete Steel Wire Strand from China: Investigation Nos. 701–TA–464 and 731–TA–1160 (Final).*

By order of the Commission.

Issued: June 23, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–15660 Filed 6–25–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1043–1045 (Review)]

Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty orders on polyethylene retail carrier bags from China, Malaysia, and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on July 1, 2009 (74 FR 31750, July 2, 2009) and determined on October 5, 2009 that it would conduct full reviews (74 FR 54069, October 21, 2009). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on November 23, 2009 (74 F.R. 61172). The hearing was held in Washington, DC, on April 27, 2010, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on June 22, 2010. The views of the Commission are contained in USITC Publication 4160 (June 2010), entitled *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand: Investigation Nos. 731–TA–1043–1045 (Review).*

By order of the Commission.

Issued: June 22, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–15664 Filed 6–25–10; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on June 22, 2010, a proposed Consent Decree in *United States and Commonwealth of Pennsylvania Department of Environmental Protection* v. *Williamsport Sanitary Authority,* Civil Action No. 4:10–cv–01304 was lodged with the United States District Court for the Middle District of Pennsylvania. The proposed Consent Decree, lodged on June 22, 2010, resolves the liability of defendant Williamsport Sanitary Authority ("WSA") for violations of the Clean Water Act, 42 U.S.C. and the Pennsylvania Clean Streams Act, 35 P.S. §§ 691.1 *et seq.* alleged in a Complaint filed on June 22, 2010. The Consent Decree requires WSA to expand the treatment capacity of its Central Wastewater Treatment Plant and to increase its storage capacity to cope with high flow during wet weather to guard against combined sewer overflows to the West Branch of the Susquehanna River. WSA has also agreed to pay a civil penalty of $160,000 to the United States and $160,000 to the Pennsylvania Department of Environmental Protection.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, by e-mail to *pubcomment-ees.enrd@usdoj.gov* or regular mail to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and refer to *United States and Commonwealth of Pennsylvania Department of Environmental Protection* v. *Williamsport Sanitary Authority,* D.J. Ref. 90–5–1–1–09293.

The Consent Decree may be examined at the Office of the United States Attorney for the Middle District of Pennsylvania, Harrisburg Federal Building and Courthouse, 228 Walnut Street, Suite 220, Harrisburg, PA,11754 and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/consent_decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. When requesting a copy from the Consent Decree Library, please enclose a check in the amount of $15.75 for the Consent Decree only or $262.00 for the Consent Decree and attachments (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the address above.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–15548 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 8, 2010, Lin Zhi International Inc., 670 Almanor Avenue, Sunnyvale, California 94085, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
3,4–Methylenedioxymethamphetamine (MDMA) (7405).	I
Cocaine (9041)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II

Drug	Schedule
Morphine (9300)	II

The company plans to manufacture the listed controlled substances as bulk reagents for use in drug abuse testing.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than August 27, 2010.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15516 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

This is notice that on March 31, 2010, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670).	II

The company imports the listed controlled substances in order to bulk manufacture controlled substances in Active Pharmaceutical Ingredient (API) form. The company distributes the manufactured APIs in bulk form only to its customers.

As explained in the Correction to Notice of Application pertaining to Rhodes Technologies, 72 FR 3417 (2007), comments and requests for hearings on applications to import narcotic raw material are not appropriate.

As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b),(c),(d),(e), and (f) are satisfied.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15522 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on April 20, 2010, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Methyl-2,5-dimethoxy-amphetamine (7395).	I
3,4-Methylenedioxy amphetamine (7400).	I
Codeine-N–Oxide (9053)	I
Heroin (9200)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
Alphaprodine (9010)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II

The company plans to import reference standards for sale to researchers and analytical labs.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration, and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 28, 2010.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15519 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 29, 2010, Alltech Associates Inc., 2051 Waukegan Road, Deerfield, Illinois 60015, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Methcathinone (1237)	I
N-ethylamphetamine (1475)	I
N,N-dimethylamphetamine (1480)	I
4-methylaminorex (cis isomer) (1590).	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
4-methylaminorex (cis isomer) (1590).	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
2,5-dimethoxy-4-(n)-propylthiophenethylamine (7348).	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-bromo-2,5-dimethoxy-amphetamine (7391).	I
4–Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-methyl-2,5-dimethoxy-amphetamine (7395).	I
2,5-dimethoxyamphetamine (7396).	I
2,5-dimethoxy-4-ethylamphetamine (7399).	I
3,4-methylenedioxy amphetamine (7400).	I
N-hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-methylenedioxy-N-ethylamphetamine (7404).	I
3,4-methylenedioxymethamphetamine (MDMA) (7405).	I
4-methoxyamphetamine (7411)	I
Alpha-methyltryptamine (7432)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-methoxy-N,N-diisopropyltryptamine (7439).	I
N-ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-phenylcyclohexyl)-pyrrolidine (7458).	I
1-[1-(2-thienyl)-cyclohexyl]-piperidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Methamphetamine (1105)	II
1-phenylcyclohexylamine (7460)	II
Phencyclidine (7471).	
Phenylacetone (8501)	II
1-piperidinocyclohexanecarbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Ecgonine (9180)	II
Meperidine intermediate-B (9233)	II
Noroxymorphone (9668)	II

The company plans to manufacture high purity drug standards used for analytical application only in clinical, toxicological, and forensic laboratories.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than August 27, 2010.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15517 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to Title 21 Code of Federal Regulations 1301.34(a), this is notice that on April 27, 2010, Research Triangle Institute, Kenneth H. Davis Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine (7473).	I
1-Methyl-4-phenyl-4-propionoxypiperidine (9661).	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine (9663).	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4,5-Trimethoxyamphetamine (7390).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxymethamphetamine (7405).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3-Methylfentanyl (9813)	I
3-Methylthiofentanyl (9833)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
4-Methylaminorex (cis isomer) (1590).	I
4-Methoxyamphetamine (7411)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401).	I
5-Methoxy-N,N-diisopropyltryptamine (7439).	I
Acetorphine (9319)	I
Acetyl-alpha-methylfentanyl (9815).	I
Acetyldihydrocodeine (9051)	I
Acetylmethadol (9601)	I
Allylprodine (9602)	I
Alphacetylmethadol except levo-alphacetylmethadol (9603).	I
Alpha-ethyltryptamine (7249)	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Alpha-methylfentanyl (9814)	I
Alpha-methylthiofentanyl (9832)	I
Alpha-methyltryptamine (7432)	I
Aminorex (1585)	I
Benzethidine (9606)	I
Benzylmorphine (9052)	I
Betacetylmethadol (9607)	I
Beta-hydroxy-3-methylfentanyl (9831).	I
Beta-hydroxyfentanyl (9830)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Bufotenine (7433)	I
Cathinone (1235)	I
Clonitazene (9612)	I
Codeine methylbromide (9070)	I
Codeine-N-Oxide (9053)	I
Cyprenorphine (9054)	I
Desomorphine (9055)	I
Dextromoramide (9613)	I
Diampromide (9615)	I
Diethylthiambutene (9616)	I

Drug	Schedule
Diethyltryptamine (7434)	I
Difenoxin (9168)	I
Dihydromorphine (9145)	I
Dimenoxadol (9617)	I
Dimepheptanol (9618)	I
Dimethylthiambutene (9619)	I
Dimethyltryptamine (7435)	I
Dioxaphetyl butyrate (9621)	I
Dipipanone (9622)	I
Drotebanol (9335)	I
Ethylmethylthiambutene (9623)	I
Etonitazene (9624)	I
Etorphine except HCl (9056)	I
Etoxeridine (9625)	I
Fenethylline (1503)	I
Furethidine (9626)	I
Gamma Hydroxybutyric Acid (2010).	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Hydroxypethidine (9627)	I
Ibogaine (7260)	I
Ketobemidone (9628)	I
Levomoramide (9629)	I
Levophenacylmorphan (9631)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Mecloqualone (2572)	I
Mescaline (7381)	I
Methaqualone (2565)	I
Methcathinone (1237)	I
Methyldesorphine (9302)	I
Methyldihydromorphine (9304)	I
Morpheridine (9632)	I
Morphine methylbromide (9305)	I
Morphine methylsulfonate (9306)	I
Morphine-N-Oxide (9307)	I
Myrophine (9308)	I
N,N-Dimethylamphetamine (1480)	I
N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (9834).	I
N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (9818).	I
N-Benzylpiperazine (7493)	I
N-Ethyl-3-piperidyl benzilate (7482).	I
N-Ethylamphetamine (1475)	I
N-Ethyl-l-phenylcyclohexylamine (7455).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
Nicocodeine (9309)	I
Nicomorphine (9312)	I
N-Methyl-3-piperidyl benzilate (7484).	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Normorphine (9313)	I
Norpipanone (9636)	I
Para-Fluorofentanyl (9812)	I
Parahexyl (7374)	I
Peyote (7415)	I
Phenadoxone (9637)	I
Phenampromide (9638)	I
Phenomorphan (9647)	I
Phenoperidine (9641)	I
Pholcodine (9314)	I
Piritramide (9642)	I
Proheptazine (9643)	I
Properidine (9644)	I
Propiram (9649)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Racemoramide (9645)	I
Tetrahydrocannabinols (7370)	I
Thebacon (9315)	I
Thiofentanyl (9835)	I
Tilidine (9750)	I
Trimeperidine (9646)	I
1-Phenylcyclohexylamine (7460)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Alfentanil (9737)	II
Alphaprodine (9010)	II
Amobarbital (2125)	II
Amphetamine (1100)	II
Anileridine (9020)	II
Bezitramide (9800)	II
Carfentanil (9743)	II
Coca Leaves (9040)	II
Cocaine (9041)	II
Codeine (9050)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Dihydrocodeine (9120)	II
Dihydroetorphine (9334)	II
Diphenoxylate (9170)	II
Ethylmorphine (9190)	II
Etorphine HCl (9059)	II
Fentanyl (9801)	II
Glutethimide (2550)	II
Hydrocodone (9193)	II
Hydromorphone (9150)	II
Isomethadone (9226)	II
Levo-alphacetylmethadol (9648)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Lisdexamfetamine (1205)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Metazocine (9240)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Metopon (9260)	II
Moramide intermediate (9802)	II
Morphine (9300)	II
Nabilone (7379)	II
Opium, raw (9600)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, granulated (9640)	II
Oxycodone (9143)	II
Oxymorphone (9652)	II
Pentobarbital (2270)	II
Phenazocine (9715)	II
Phencyclidine (7471)	II
Phenmetrazine (1631)	II
Phenylacetone (8501)	II
Piminodine (9730)	II
Powdered opium (9639)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II
Remifentanil (9739)	II
Secobarbital (2315)	II
Sufentanil (9740)	II
Thebaine (9333)	II

The company plans to import small quantities of the listed controlled substances for the National Institute on Drug Abuse (NIDA) for research activities.

No comments, objections, or requests for any hearings will be accepted on any application for registration or re-registration to import crude opium, poppy straw, concentrate of poppy straw, and coca leaves. As explained in the Correction to Notice of Application pertaining to Rhodes Technologies, 72 FR 3417 (2007), comments and requests for hearings on applications to import narcotic raw material are not appropriate.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule I or II, which fall under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952 (a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration, and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 28, 2010.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15524 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 11, 2010, Wildlife Laboratories Inc., 1401 Duff Drive, Suite 400, Fort Collins, Colorado 80524, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Carfentanil (9743), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the above listed controlled substance for sale to veterinary pharmacies, zoos, and for other animal and wildlife applications.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than August 27, 2010.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15527 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 15, 2010, Penick Corporation, 33 Industrial Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances as bulk controlled substance intermediates for distribution to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than August 27, 2010.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15559 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 29, 2010, Siegfried (USA), 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Gamma Hydroxybutyric Acid (2010), a basic class of controlled substance listed in schedule I.

The company plans to manufacture the listed controlled substance in bulk for sale to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than August 27, 2010.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15558 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on April 12, 2010, Boehringer Ingelheim Chemicals, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance to bulk manufacture amphetamine.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration, and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 28, 2010.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975,

(40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15528 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on March 22, 2010, Cerilliant Corporation, 811 Paloma Drive, Suite A, Round Rock, Texas 78665–2402, made application by letter to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I:

Drug	Schedule
Racemoramide (9645)	I
Tilidine (9750)	I

The company plans to import small quantities of the listed controlled substances for the manufacture of analytical reference standards.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43, and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 28, 2010.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance listed in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15523 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 27, 2010, Varian, Inc., 25200 Commercentre Drive, Lake Forest, California 92630–8810, made application by renewal to the Drug Enforcement Administration (DEA) as a bulk manufacturer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Phencyclidine (7471)	II
1-piperidinocyclohexanecarbonitrile (8603).	II
Benzoylecgonine (9180)	II

The company plans to manufacture small quantities of the listed controlled substances for use in diagnostic products.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than August 27, 2010.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15526 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–326R]

Proposed Revised Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2010

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed revised 2010 assessment of annual needs for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

SUMMARY: This notice proposes revised 2010 assessment of annual needs for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before July 28, 2010.

ADDRESSES: To ensure proper handling of comments, please reference "Docket No. DEA–326R" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* However, persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. DEA will accept attachments to electronic

comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 713 of the Combat Methamphetamine Epidemic Act of 2005 (CMEA) (Title VII of Pub. L. 109–177) amended Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) by adding ephedrine, pseudoephedrine, and phenylpropanolamine to existing language to read as follows: "The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks." Further, section 715 of the CMEA amended 21 U.S.C. 952 "Importation of controlled substances" by adding the same List I chemicals to the existing language in paragraph (a), and by adding a new paragraph (d) to read as follows:

(a) Controlled substances in schedule I or II and narcotic drugs in schedule III, IV, or V; exceptions

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, or ephedrine, pseudoephedrine, and phenylpropanolamine, except that—

(1) Such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves, and of ephedrine, pseudoephedrine, and phenylpropanolamine, as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes * * * may be so imported under such regulations as the Attorney General shall prescribe.

* * * * *

(d)(1) With respect to a registrant under section 958 who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, at any time during the year the registrant may apply for an increase in the amount of such chemical that the registrant is authorized to import, and the Attorney General may approve the application if the Attorney General determines that the approval is necessary to provide for medical, scientific, or other legitimate purposes regarding the chemical.

Editor's Note: This excerpt of the amendment is published for the convenience of the reader. The official text is published at 21 U.S.C. 952(a) and (d)(1).

The 2010 Assessment of Annual Needs (AAN) represents those quantities of ephedrine, pseudoephedrine, and phenylpropanolamine which may be manufactured domestically and/or imported into the United States to provide adequate supplies of each substance to meet the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks.

On November 20, 2009, DEA established the AAN for 2010 for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine (74 FR 60294). That Notice indicated that the Deputy Administrator of the DEA would adjust the AAN at a later date if necessary, as permitted by 21 CFR 1315.13.

DEA now proposes to revise the established assessments of annual needs for 2010 for these List 1 chemicals. In developing the proposed revisions, DEA has used the calculation methodology described in both the 2009 and 2010 AAN (74 FR 32954 and 74 FR 60294, respectively). These calculations take into account the criteria that DEA is required to consider in accordance with 21 U.S.C. 826 and its implementing regulations (21 CFR 1315.11).

In finalizing the revised assessments for these List I chemicals, DEA will consider the information contained in additional applications for 2010 import, manufacturing and procurement quotas from DEA registered manufacturers and importers that DEA receives after the date of drafting this notice, March 10, 2010, as well as the comments that DEA receives in response to this proposal.

Underlying Data and DEA's Analysis

In determining the proposed revisions to the 2010 assessments, DEA has considered the total net disposals (*i.e.,* sales) of the List I chemicals for the current and preceding two years, actual and estimated inventories, projected demand (2010), industrial use, and export requirements from data provided by DEA registered manufacturers and importers in procurement quota applications (DEA 250), from manufacturing quota applications (DEA 189), and from import quota applications (DEA 488).[1]

DEA further considered trends as derived from information provided in applications for import, manufacturing, and procurement quotas and in import and export declarations. DEA notes that the inventory, acquisitions (purchases) and disposition (sales) data provided by DEA registered manufacturers and importers reflects the most current information available.

Ephedrine (for Sale) Data

EPHEDRINE (FOR SALE) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Ephedrine	2007	2008	2009	2010 request
Sales * (DEA 250)	2,838	2,662	2,801	3,430
Imports ** (DEA 488)	9,595	1,690	2,165	2,268
Export Declarations (DEA 486)	168	18	64	n/a
Inventory * (DEA 250)	1,428	626	191	n/a
IMS *** (NSP)	1,235	1,460	1,401	n/a

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250).

** Reported imports from applications for 2010 import quotas (DEA 488).

*** IMS Health, IMS National Sales Perspectives™, January 2007 to December 2009, Retail and Non-Retail Channels, Data Extracted March 10, 2010.

[1] Applications and instructions for procurement, import and manufacturing quotas can be found at *http://www.deadiversion.usdoj.gov/quotas/quota_apps.htm.*

Ephedrine (for Sale) Analysis

DEA previously has established the 2010 AAN for ephedrine (for sale) at 3,600 kg (74 FR 60298).

As noted above, DEA developed the proposed revisions to the 2010 AAN for ephedrine (for sale) using the same calculation and methodology that DEA used to determine the 2009 and 2010 AAN.

As of March 10, 2010, DEA registered manufacturers of dosage form products containing ephedrine requested the authority to purchase a total of 3,430 kg ephedrine (for sale) in 2010. DEA registered manufacturers of ephedrine reported sales totaling approximately 2,662 kg in 2008 and 2,801 kg in 2009; this represents a 5 percent increase in sales reported by these firms from 2008 to 2009. Additionally, exports of ephedrine products from the United States as reported on export declarations (DEA 486) totaled 18 kg in 2008 and 64 kg in 2009; this represents a 72 percent increase from levels observed in 2008. The average of the 2008 and 2009 exports of ephedrine products is approximately 41 kg. DEA also considered information on trends in the national rate of net disposals from sales data provided by IMS Health's NSP database. IMS NSP data reported the average sales volume of ephedrine for the calendar years 2008 and 2009 to be approximately 1,431 kg. DEA notes that the 2009 sales figure reported by manufacturers (2,801 kg) is higher than the average sales reported by IMS for the previous two years (1,431 kg). This is expected because a manufacturer's reported sales include quantities which are necessary to provide reserve stocks for distributors and retailers. DEA, in considering the manufacturer's reported sales, thus believes that 2,801 kg fairly represents the United States sales of ephedrine for 2010 and that 41 kg fairly represents the export requirements of ephedrine.

For the establishment and maintenance of reserve stocks, DEA notes that 21 CFR 1315.24 allows for an inventory allowance (reserve stock) of 50 percent of a manufacturer's estimated sales. DEA also considered the estimated 2009 year end inventory as reported by DEA registrants in determining the inventory allowance.

DEA calculated the proposed revised ephedrine (for sale) assessment as follows:

2009 sales + reserve stock + export requirement − existing inventory = AAN

2,801 + (50%*2,801) + 41 − 191 = 4,052 kg ephedrine (for sale) for 2010

This calculation suggests that DEA's AAN for ephedrine should be 4,100 kg. Accordingly, DEA is proposing to increase the 2010 AAN for ephedrine (for sale) from 3,600 kg to 4,100 kg.

Phenylpropanolamine (for Sale) data

PHENYLPROPANOLAMINE (FOR SALE) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Phenylpropanolamine (for sale)	2007	2008	2009	2010 request
Sales * (DEA 250)	4,158	4,528	5,355	6,799
Imports ** (DEA 488)	5,787	3,425	6,626	7,266
Export Declarations (DEA 486)	1,002	0	3	n/a
Inventory * (DEA 250)	3,642	2,470	645	n/a

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) received as of March 10, 2010.
** Reported imports from applications for 2010 import quotas (DEA 488) received as of March 10, 2010.

Phenylpropanolamine (for Sale) Analysis

DEA previously has established the 2010 AAN for phenylpropanolamine (for sale) at 6,400 kg (74 FR 60298).

As noted above, DEA utilized the same general methodology and calculation to develop the proposed revised assessment for phenylpropanolamine (for sale) that DEA used to determine the 2009 and 2010 AAN.

As of March 10, 2010, DEA registered manufacturers of dosage form products containing phenylpropanolamine requested the authority to purchase 6,799 kg phenylpropanolamine (for sale) in 2010. DEA registered manufacturers of phenylpropanolamine reported sales totaling approximately 4,528 kg in 2008 and 5,355 kg in 2009; this represents a 15.5% increase in sales reported by these firms from 2008 to 2009. Additionally, exports of phenylpropanolamine products from the United States as reported on export declarations (DEA 486) totaled 0 kg in 2008 and 3 kg in 2009; this represents a 3 kg increase from levels observed in 2008. The average of the 2008 and 2009 exports of phenylpropanolamine products is approximately 2 kg. DEA thus believes that 5,355 kg fairly represents the United States sales of phenylpropanolamine for 2010 and that 2 kg fairly represents the export requirements of phenylpropanolamine. DEA notes that phenylpropanolamine is sold primarily as a veterinary product for the treatment for canine incontinence and is not approved for human consumption. IMS Health's NSP Data does not capture sales of phenylpropanolamine to veterinary channels and is therefore not included.

DEA calculated the proposed revised phenylpropanolamine (for sale) assessment by the following methodology:

2009 sales + reserve stock + export requirement − existing inventory = AAN

5,355+ (50%*5,355) + 2 − 645 = 7,390 kg phenylpropanolamine (for sale) for 2010

This calculation suggests that DEA's 2010 Assessment of Annual Needs for phenylpropanolamine (for sale) should be 7,400 kg. Accordingly, DEA is proposing to increase the 2010 AAN for phenylpropanolamine (for sale) from 6,400 kg to 7,400 kg.

Pseudoephedrine (for Sale) Data

PSEUDOEPHEDRINE (FOR SALE) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Pseudoephedrine (for sale)	2007	2008	2009	2010 request
Sales * (DEA 250)	239,121	223,813	287,756	239,646
Sales * (DEA 189)	100,300	64,781	33,600	32,760
Imports ** (DEA 488)	231,683	170,614	274,492	261,528

PSEUDOEPHEDRINE (FOR SALE) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)—Continued

Pseudoephedrine (for sale)	2007	2008	2009	2010 request
Export Declarations (DEA 486)	42,132	47,199	35,264	n/a
Inventory * (DEA 250)	135,727	120,869	54,173	n/a
IMS *** (NSP)	180,221	149,227	140,269	n/a

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) and manufacturing quotas (DEA 189) received as of March 10, 2010.
** Reported imports from applications for 2010 import quotas (DEA 488) received as of March 10, 2010.
*** IMS Health, IMS National Sales Perspectives™, January 2007 to December 2009, Retail and Non-Retail Channels, Data Extracted March 10, 2010.

Pseudoephedrine (for Sale) Analysis

DEA previously has established the 2010 AAN for pseudoephedrine (for sale) at 404,000 kg (74 FR 60298).

As noted above, DEA utilized the same general methodology and calculation to develop the proposed revised assessment for pseudoephedrine (for sale) that DEA used to determine the 2009 and 2010 AAN.

As of March 10, 2010, DEA registered manufacturers of dosage form products containing pseudoephedrine requested the authority to purchase 239,646 kg pseudoephedrine. DEA registered manufacturers of pseudoephedrine reported sales totaling approximately 223,813 kg in 2008 and 287,756 kg in 2009; this represents a 22 percent increase in sales reported by these firms from 2008 to 2009. During the same period exports of pseudoephedrine products from the U.S. as reported on export declarations (DEA 486) totaled 47,199 kg in 2008 and 35,264 kg in 2009; this represents a 25 percent decrease from levels observed in 2008. The average of the 2008 and 2009 exports is 41,232 kg. Additionally, DEA considered information on trends in the national rate of net disposals from sales data provided by IMS Health. IMS NSP data reported the average retail sales volume of pseudoephedrine for the calendar years 2008 and 2009 to be approximately 144,748 kg. DEA thus believes that 287,756 kg of sales reported by manufacturers fairly represents the U.S. sales of pseudoephedrine for 2010 and that 41,232 kg fairly represents the export requirements of pseudoephedrine. DEA notes that manufacturer reported sales for 2009 (287,756 kg) are higher than the average retail sales reported by IMS for the previous two years (144,748 kg). This is expected because a manufacturer's reported sales include quantities which are necessary to provide reserve stocks for distributors and retailers.

DEA calculated the revised pseudoephedrine (for sale) assessment by the following methodology:

2009 sales + reserve stock + export requirement − existing inventory = AAN

287,756 + (50%*287,756) + 41,232 − 54,173 = 418,693 kg pseudoephedrine (for sale) for 2010.

This calculation suggests that DEA's 2010 AAN for pseudoephedrine (for sale) should be 419,000 kg. Accordingly, DEA is proposing to increase the 2010 AAN for pseudoephedrine (for sale) from 404,000 kg to 419,000 kg.

Phenylpropanolamine (for Conversion) Data

PHENYLPROPANOLAMINE (FOR CONVERSION) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Phenylpropanolamine (for sale)	2007	2008	2009	2010 request
Sales * (DEA 250)	3,621	10,837	14,585	19,142
Imports ** (DEA 488)	8,250	12,019	11,373	33,698
Export Declarations (DEA 486)	0	0	0	n/a
Inventory * (DEA 250)	3,581	5,537	3,693	n/a
APQ Amphetamine ***	22,000	22,000	24,500	23,500

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) received as of March 10, 2010.
** Reported imports from applications for 2010 import quotas (DEA 488) received as of March 10, 2010.
*** Amphetamine Aggregate Production Quota History *http://www.deadiversion.usdoj.gov/quotas/quota_history.pdf*.

Phenylpropanolamine (for Conversion) Analysis

DEA previously has established the 2010 AAN for phenylpropanolamine (for conversion) at 16,500 kg (74 FR 60298). As noted above, DEA developed the proposed revisions to the 2010 AAN for phenylpropanolamine (for conversion) using the same calculation and methodology that DEA used to determine the 2009 and 2010 AAN.

As of March 10, 2010, DEA registered manufacturers of phenylpropanolamine (for conversion) requested the authority to purchase a total of 19,142 kg phenylpropanolamine for the manufacture of amphetamine. DEA registered manufacturers of phenylpropanolamine reported sales of phenylpropanolamine totaling approximately 10,837 kg in 2008 and 14,585 kg in 2009; this represent a 26 percent increase in sales reported by these firms from 2008 to 2009. There were no reported exports of phenylpropanolamine (for conversion). DEA has not received any requests to synthesize phenylpropanolamine in 2010. DEA has concluded that the 2009 sales of phenylpropanolamine (for conversion), 14,585 kg fairly represents U.S. requirements for 2010 and zero kg fairly represents the export requirements of phenylpropanolamine (for conversion).

Phenylpropanolamine (for conversion) is used for the manufacture of legitimate amphetamine products. DEA notes, most legitimate amphetamine is manufactured by the conversion of the schedule II controlled substance phenylacetone to amphetamine, rather than the conversion of phenylpropanolamine. DEA believes that the data provided in procurement, manufacturing, and import quota applications best represents the legitimate need for

phenylpropanolamine (for conversion) rather than total Aggregate Production Quota (APQ) for amphetamine.

DEA calculated the phenylpropanolamine (for conversion) needed for the manufacture of amphetamine as follows:

(2009 sales) + reserve stock + export requirement − inventory = AAN

(14,585) + 50%*(14,585) + 0 − 3,693 = 18,185 kg PPA (for conversion) for 2010

This calculation suggests that DEA's 2010 AAN for phenylpropanolamine (for conversion) should be 18,200 kg. Accordingly, DEA is proposing to increase the 2010 AAN for phenylpropanolamine (for conversion) from 16,500 kg to 18,200 kg.

Ephedrine (for Conversion) Data

EPHEDRINE (FOR CONVERSION) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Ephedrine (for conversion)	2007	2008	2009	2010 request
Sales * (DEA 250)	99,622	64,522	40,403	40,600
Imports ** (DEA 488)	99,594	64,128	39,897	40,000
Inventory * (DEA 250)	13	160	254	n/a
APQ Methamphetamine ***	3,130	3,130	3,130	3,130

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) and manufacturing quotas (DEA 189) received as of March 10, 2010.

** Reported imports from applications for 2010 import quotas (DEA 488) received as of March 10, 2010.

*** Methamphetamine Aggregate Production Quota History *http://www.deadiversion.usdoj.gov/quotas/quota_history.pdf*.

Ephedrine (for Conversion) Analysis

DEA previously has established the 2010 AAN for ephedrine (for conversion) at 75,000 kg (74 FR 60298). As noted above, DEA developed the proposed revisions to the 2010 AAN for ephedrine (for conversion) using the same calculation and methodology that DEA used to determine the 2009 and 2010 AAN.

As of March 10, 2010, DEA registered manufacturers of ephedrine (for conversion) requested the authority to purchase a total of 40,600 kg ephedrine (for conversion) for the manufacture of two substances: Methamphetamine and pseudoephedrine.

DEA considered the ephedrine (for conversion) requirements for the manufacture of methamphetamine and pseudoephedrine. DEA has determined that the established assessments for the manufacture of these two substances are the best indicators of the need for ephedrine (for conversion). The assessment of need for methamphetamine was determined by DEA as the Aggregate Production Quota (APQ) for methamphetamine. DEA determined that the estimated sales of pseudoephedrine, as referenced in the AAN for pseudoephedrine, represents the need for pseudoephedrine. Reported sales of ephedrine (for conversion) are included as reference to DEA's methodology.

DEA further considered the reported conversion yields of these substances. DEA registered manufacturers reported a conversion yield of 39 percent for the synthesis of methamphetamine from ephedrine. DEA cannot disclose the conversion yield for the synthesis of pseudoephedrine because this information is proprietary to the one manufacturer involved in this type of manufacturing.

Thus, DEA calculated the ephedrine (for conversion) requirement for the manufacture of methamphetamine as follows:

(2009 APQ methamphetamine/39% yield) + reserve stock − inventory = ephedrine (for manufacture of methamphetamine)

(3,130/39% yield) + 50%*(3,130/39% yield) − 254 = 11,785 kg

The calculation for the ephedrine (for conversion) requirement for the manufacture of pseudoephedrine leads to a result of 63,157 kg. DEA cannot provide the details of the calculation because this would reveal the conversion yield for the synthesis of pseudoephedrine, which is proprietary to the one manufacturer involved in this type of manufacturing.

Therefore, DEA determined the proposed revised assessment for ephedrine (for conversion) by summing the amounts required for the manufacture of methamphetamine and pseudoephedrine:

methamphetamine requirement + pseudoephedrine requirement = AAN

11,785 + 63,157 = 74,942 kg ephedrine (for conversion) for 2010

This calculation suggests that DEA's 2010 AAN for ephedrine (for conversion) should be 75,000 kg. Accordingly, DEA is proposing that the 2010 AAN for ephedrine (for conversion) remain unchanged at 75,000 kg.

Conclusion

In finalizing the revised 2010 assessments for these List I chemicals, DEA will use the methodology and calculations presented above. The numbers used in the calculations may be adjusted upwards or downwards based on the additional applications for 2010 import, manufacturing and procurement quotas received after March 10, 2010, in accordance with 21 CFR part 1315.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), and delegated to the Administrator of the DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby proposes the following revised 2010 AAN for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine:

List I chemicals	Previously established initial 2010 assessment	Proposed revised 2010 assessment
Ephedrine (for sale)	3,600 kg	4,100 kg
Phenylpropanolamine (for sale)	6,400 kg	7,400 kg
Pseudoephedrine (for sale)	404,000 kg	419,000 kg
Phenylpropanolamine (for conversion)	16,500 kg	18,200 kg
Ephedrine (for conversion)	75,000 kg	No Change

All interested persons are invited to submit their comments in writing or electronically regarding this proposal following the procedures in the **ADDRESSES** section of this document. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief. Persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. In the event that comments or objections to this proposal raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing as per 21 CFR 1315.13(e).

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this action will not have a significant economic impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601–612. The establishment of the AAN for ephedrine, pseudoephedrine and phenylpropanolamine is mandated by law. The assessments are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for lawful export requirements, and the establishment and maintenance of reserve stocks. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Executive Order 12866

The Office of Management and Budget has determined that notices of AAN are not subject to centralized review under Executive Order 12866.

Executive Order 13132

This action does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

Executive Order 12988

This action meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Unfunded Mandates Reform Act of 1995

This action will not result in the expenditure by state, local, and tribal governments in the aggregate, or by the private sector, of $120,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: June 19, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–15525 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States, et al. v. Election Systems & Software, Inc.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comments received on the proposed Final Judgment in *United States, et al.* v. *Election Systems & Software Inc.,* Case No. 1:10–00380–JDB, which were filed in the United States District Court for the District of Columbia on June 17, 2010, together with the response of the United States to the comments.

Copies of the comments and the response are available for inspection at the Department of Justice Antitrust Division, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

J. Robert Kramer II,

Director of Operations and Civil Enforcement.

United States District Court for the District of Columbia

United States of America, et al., Plaintiffs, v. Election Systems and Software, Inc., Defendant.
Case No.: 1:10-cv-00380
Judge: Bates, John D.
Deck Type: Antitrust
Date Stamp:
Response of Plaintiff United States to Public Comments on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) ("APPA" or "Tunney Act"), the United States hereby responds to the public comments received regarding the proposed Final Judgment in this case. After careful consideration of the comments, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comments and this response have been published in the Federal Register, pursuant to 15 U.S.C. § 16(d).

The United States and the States of Arizona, Colorado, Florida, Maine, Maryland, New Mexico, Tennessee, and Washington, and the Commonwealth of Massachusetts (the "Plaintiff States"), filed a civil antitrust Complaint on March 8, 2010, seeking injunctive and other relief to remedy the likely anticompetitive effects arising from the acquisition of Premier Election Solutions, Inc. and PES Holdings, Inc. (collectively, "Premier"), by Defendant Election Systems and Software, Inc. ("ES&S"). The Complaint alleged that ES&S's acquisition of Premier likely would result in higher prices, a reduction in quality, and less innovation in the U.S. voting equipment systems market, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment and an Asset Preservation Stipulation and Order ("APSO") signed by the plaintiffs and the defendant, consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act, 15 U.S.C. § 16. Pursuant to those requirements, the United States filed its Competitive Impact Statement

("CIS") with the Court on March 8, 2010; published the proposed Final Judgment and CIS in the Federal Register on March 15, 2010, see United States, et al. v. Election Systems and Software, Inc., 75 Fed. Reg. 12256; and published summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, in The Washington Post for seven days beginning on March 19, 2010 and ending on March 25, 2010. The sixty-day period for public comments ended on May 24, 2010; three comments were received as described below and attached hereto.

I. THE INVESTIGATION AND PROPOSED RESOLUTION

On September 2, 2009, ES&S executed a Purchase Agreement to acquire Premier from Diebold, Inc. ("Diebold") in exchange for $5 million in cash and 70 percent of certain receivables. ES&S consummated the acquisition on the same day the agreement was executed. Because the purchase price for this transaction fell below the reporting thresholds of the Hart Scott-Rodino ("HSR") Antitrust Improvements Act of 1976, ES&S was not required to report the acquisition to the Department of Justice or the Federal Trade Commission before consummation. See 15 U.S.C. § 18a(a)(2)(B)(i) (2000); 75 Fed. Reg. 3468 (Jan. 21, 2010). As soon as the United States Department of Justice ("Department") became aware of the acquisition, it opened an investigation into the likely competitive effects of the transaction that spanned nearly six months. As part of this investigation, the Department obtained substantial documents and information from ES&S and Diebold, took oral testimony from ES&S and Diebold executives, and issued several Civil Investigative Demands to third parties. In total, the Department received and considered more than 500,000 electronic documents. The Department also conducted over 100 primary interviews and multiple follow-up interviews with customers, competitors, regulators, industry groups and other individuals with knowledge of the voting equipment system industry. The investigative staff carefully analyzed the information provided and thoroughly considered all of the issues presented. The Department considered the potential competitive effects of the transaction on the development, sale and service of voting equipment systems in the United States, and concluded that ES&S's acquisition of Premier substantially lessened competition in the development, sale and service of voting equipment systems.

A voting equipment system consists of the integrated collection of customized hardware, software, firmware and associated services used to electronically record, tabulate, transmit and report votes in an election. The number, variety, and operation of electronic components within a voting equipment system vary depending on the needs of the jurisdiction responsible for administering elections, which may be the state, county or local government, depending on state law. Voting equipment systems typically are sold to state, county and municipal jurisdictions pursuant to request for proposals, and a winning bid is selected after a public procurement process. Jurisdictions evaluate vendors based on a wide variety of technical and commercial criteria, including compliance with state law, technical standards, certification standards, experience in other jurisdictions and commercial standards such as price, delivery schedule, financial wherewithal, and other terms of sale. Vendors typically provide multi-year service agreements.

As explained more fully in the Complaint and CIS, the acquisition of Premier by ES&S combined two firms that many customers considered the two closest competitors in the provision of voting equipment systems, as well as the two largest providers of U.S. voting equipment systems. As a result of ES&S's acquisition of its closest competitor, ES&S has a reduced incentive both to compete as aggressively for bids and to invest in new products, thereby likely increasing the price and reducing the quality of the voting equipment systems available to most jurisdictions. Therefore, the Complaint alleged that the acquisition of Premier likely would substantially lessen competition in the United States market for voting equipment systems, which likely would lead to higher prices, lower quality and less innovation, in violation of Section 7 of the Clayton Act. The proposed Final Judgment will restore competition by making available to an independent entity the Premier assets necessary to equip an economically viable competitor to ES&S in the provision of voting equipment systems in the United States.

II. SUMMARY OF PUBLIC COMMENTS AND THE UNITED STATES'S RESPONSE

During the sixty-day comment period, the United States received three comments, all of which addressed only the proposed Final Judgment provision that released current and former Premier employees from noncompete agreements. The comments, all submitted anonymously, are attached hereto in the Appendix to this Response.[1]

The proposed Final Judgment requires that ES&S "waive all nondisclosure and noncompete agreements for all of the current and former employees of Premier for a period of six (6) months following the date of the divestiture of the Divestiture Assets, for the exclusive purpose of allowing those employees to seek employment with the Acquirer." Section IV(D). This clause is intended to give the Acquirer an opportunity to recruit employees with experience serving current Premier customers and to obtain expertise related to the development, sale, repair and service of Premier voting equipment system products. The commenters argue that ES&S should be required to void or waive all Premier noncompete agreements for a much broader period of time and for any purpose, in order to allow Premier employees to avoid legal liability for violating those agreements. In response, the United States contends that the limited waiver of noncompete agreements in the proposed Final Judgment will allow the Acquirer to collect the expertise it needs to replace the competition lost when Premier was purchased by ES&S, and that the commenters' proposed modifications would not serve that purpose and might even undermine the Acquirer's ability to build a competitive work force.

The United States has reviewed the comments submitted and has determined that the proposed Final Judgment remains in the public interest.

A. Summary of Public Comments

The commenters argue that the proposed Final Judgment's requirement that ES&S waive Premier noncompete agreements should be modified to excuse all current and former employees from noncompete agreements that were breached in the past, agreements that might be breached more than six months following the divestiture, and agreements that are breached by an employee's defection to a competitor other than the Acquirer. The comments submitted by "The Public" state that (1) ES&S should not be permitted to enforce noncompete agreements against former employees who already have begun working for other vendors because

[1] The first comment was submitted without signature, see Appendix at 1; the other two comments were signed "The Public," and are identical in every respect. See Appendix at 2 and 3.

"these former employees would be subject to legal action from ES&S"; (2) the six-month period is unnecessary because "the agreements are already set to expire in September 2011," and (3) "these former employees should also be able to go to work for any company in the election industry, not just the acquirer." See Appendix at 2 and 3. The unsigned comment likewise argues that noncompete agreements should be waived retroactively to the date that ES&S acquired Premier, to "prevent ES&S from filing suit against any former Premier employees prior to this judgment." See Appendix at 1. The comments provide no further explanation of the proposed modifications, nor do they identify any link between the proposed modifications and the competitive harm arising from the acquisition of Premier by ES&S.

B. The United States's Response

The proposed Final Judgment requires that ES&S waive noncompete agreements for current and former employees for a period of six months following the divestiture, to allow the Acquirer to develop the expertise necessary to develop, sell, repair and service voting equipment systems for current Premier customers. As the Acquirer becomes able to offer the experience and expertise that Premier enjoyed before its acquisition by ES&S, that acquirer will be better able to restore competition in the sale of voting equipment systems. The requirement that ES&S waive noncompetes is limited to six months in order to encourage the Acquirer to solicit staff expeditiously and to minimize the disruption to ES&S customers preparing for upcoming elections, which otherwise might result from significant staff turnover.

The commenters do not suggest that their proposed modification will have any effect on the remedial impact of the proposed Final Judgment. Indeed, if the provision were modified as they suggest, employees would have no more incentive to seek a position with the Acquirer than with any other vendor, which actually might undermine the competitive efficacy of the proposed Final Judgment by reducing the pool of expertise from which the Acquirer could successfully recruit. Further, if the six-month limitation on the noncompete waiver were removed, as "The Public" suggests, the Acquirer's incentive to recruit a complete work force quickly, so as to be prepared to compete immediately, would be sharply reduced. Likewise, because significant employee attrition will unavoidably disrupt vendor support of the installation, service and repair of Premier voting equipment systems, limiting the waiver to six months minimizes the impact of that disruption on upcoming elections.[2]

The commenters do not suggest that the proposed Final Judgment itself would cause current or former employees any injury. Instead, the comments appear to seek a form of amnesty for employees who already have left ES&S's employ, and may have violated their noncompete agreements long before the Complaint and proposed Final Judgment were filed. See Appendix at 2 and 3 ("* * * some of these former employees have already started working with other vendors.") The proposed Final Judgment does not create new liability for Premier employees, but merely removes the disincentive of potential liability for employees who are otherwise willing to bring their expertise to the Acquirer, helping to ameliorate the anticompetitive impact of ES&S's acquisition of Premier.

In sum, the United States continues to believe that the proposed Final Judgment will remedy the competitive harm arising from ES&S's acquisition of Premier, and that the commenters' proposed modifications to the noncompete waiver provision not only would fail to serve that goal, but also could well undermine it.

III. Standard of Judical Review

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. § 16(e)(l). In making that determination in accordance with the statute, the court is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A)–(B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." United States v. Microsoft Corp., 56 F.3d 1448, 1461 (D.C. Cir. 1995); see generally United States v. SBC Commc'ns, Inc., 489 F. Supp. 2d I (D.D.C. 2007) (assessing public interest standard under the Tunney Act); United States. InBev N.V./S.A., 2009–2 Trade Cas. (CCH) ¶76,736, No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the Final Judgment are clear and manageable").

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See Microsoft, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." United States v. BNS, Inc., 858 F.2d 456, 462 (9th Cir. 1988) (citing United States v. Bechtel Corp., 648 F.2d 660, 666 (9th Cir. 1981)); see also Microsoft, 56 F.3d at 1460–62; United States v. Alcoa, Inc., 152 F. Supp. 2d 37, 40 (D.D.C. 2001); InBev, 2009 U.S. Dist. LEXIS 84787, at *3 Courts have held that:

"[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not

[2] "The Public" argues that all Premier noncompete agreements expire on September 2011, but offers no support for this contention. Indeed, the Department's information is that the expiration of these agreements varies. Even if it were true that all agreements terminate in September 2011, extending the waiver for nearly a year past the six months provided in the proposed Final Judgment could disrupt an additional calendar year of election services, and could reduce the Acquirer's readiness to compete for new procurements that are expected to issue in late 2010 and early 2011.

breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree."

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[3] In determining whether a proposed settlement is in the public interest, the court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." SBC Commc'ns, 489 F. Supp. 2d at 17; see also Microsoft, 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); United States v. Archer-Daniels-Midland Co., 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. "{A} proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is "within the reaches of public interest." United States v. Am. Tel. & Tel. Co., 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting United States v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975)), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983); see also United States v. Alcan Aluminum Ltd., 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). Therefore, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." SBC Commc'ns, 489 F. Supp. 2d at 17.

In its 2004 amendments to the Tunney Act,[4] Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, stating "[nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. § 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." SBC Commc'ns, 489 F. Supp. 2d at ii.[5]

IV. Conclusion

The issues raised in the public comments were among the many considered by the United States when it evaluated the sufficiency of the proposed remedy. The United States has determined that the proposed Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint, and is therefore in the public interest. The United States will move this Court to enter the proposed Final Judgment after the comments and this response are published in the **Federal Register**.

Dated: June 17, 2010.

Respectfully submitted, /s/

Stephanie A. Fleming, Esq.
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Appendix: Public Comments

April 5, 2010.

Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530.

Dear Ms. Petrizzi: As an interested third party to the court case involving Election Systems & Software's purchase of Premier Election Solutions, I would like to request that the judgment stipulate that the signed employment and non-compete agreements of former Premier employees be waived as of the purchase date of Premier by ES&S, up to a period of six months following the judgment date. The reason for this request is to prevent ES&S from filing suit against any former Premier employees prior to this judgment based on those agreements.

I am aware that ES&S is not shy in bringing legal action against current or former employees for any reason and without regard to the facts surrounding the incidents. I am writing this letter anonymously to prevent the possible legal entanglements with ES&S should they find out who wrote it. You may think this is paranoid, but I have had first-hand experience dealing with their frivolous and destructive lawsuits.

I thank you for your consideration of this matter and hope my letter is taken seriously, for that is how it is intended.

Attention: Maribeth Petrizzi, Chief, Litigation III Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW.; Suite 8700, Washington, DC 20530.

United States of America, et al., Plaintiff, v. Election Systems & Software, Inc., Defendant

As a friend of a former employee of Premier Election Solutions who was terminated as a result of this illegal acquisition by Election Systems & Software (ES&S), I would like to file a suggestion to the court. The former employees of Premier Elections should not be restricted to continue working their trade in elections or be prevented from earning a living for their families as a result of a noncompetition agreement and Separation Agreement in this illegal purchase. The agreements

[3] Cf BNS, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); United States v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"). See generally Microsoft, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest').

[4] The 2004 amendments substituted the word "shall" for "may" when directing the courts to consider the enumerated factors and amended the list of factors to focus on competitive considerations and address potentially ambiguous judgment terms. Compare 15 U.S.C. § 16(e) (2004), with 15 U.S.C. § 16(e)(l) (2006); see also SBC Commc'ns, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

[5] See United States v. Enova Corp., 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); United States v. Mid-Am. Dairymen, Inc., 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.")

should be considered null and void. Election Systems & Software (ES&S) should not have the right to ever pursue former Premier Associates in legal matters with respect to those Agreements. The Agreements should not be void as of the Date of the Final Judgment as some of these former employees have already started working with other vendors. These former employees would be subject to legal action from ES&S since they wouldn't fall within the window set forth in the Final Judgment. These Agreements should be considered void as of the date of the employee's termination date. Also the agreements are already set to expire in September 2011 so there is no reason to have a 6 month window for any acquirer to hire these former employees. These former employees should also be able to go to work for any company in the election industry, not just the acquirer, without fear or threat from ES&S. Below is my consideration to the wording set forth in the Final Judgment.

All restrictive covenants contained within any employment agreement or separation agreement entered into between Premier Election Solutions, Inc., its parent corporation, subsidiaries, officers, directors, supervisors and/or representatives (collectively referred to as "Premier") and any individuals formerly employed by Premier who were terminated in 2009 are declared void. Premier may not institute or maintain a cause of action or any claim based on a restrictive covenant against any individual formerly employed by Premier who was terminated in 2009. Premier has consented to waive all such claims and causes of action throughout the United States of America.

Thanks for your consideration.

The Public

Attention: Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW.; Suite 8700, Washington, DC 20530.

United States of America, et al., Plaintiff, v. Election Systems & Software, Inc., Defendant

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Thanks for your consideration.

The Public.

[FR Doc. 2010–15368 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 16, 2010, and published in the **Federal Register** on March 24, 2010 (75 FR 14188), Sigma Aldrich Manufacturing LLC., 3500 Dekalb Street, St. Louis, Missouri 63118, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Gamma Hydroxybutyric Acid (2010).	I
Methaqualone (2565)	I
Alpha-ethyltryptamine (7249)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
N-Benzylpiperazine (BZP) (7493)	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium, powdered (9639)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances for sale to

research facilities for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Sigma Aldrich Manufacturing LLC. to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Sigma Aldrich Manufacturing LLC. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15557 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated December 17, 2009, and published in the **Federal Register** on January 4, 2010 (75 FR 160), Mylan Technologies Inc., 110 Lake Street, Saint Albans, Vermont 05478, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Methylphenidate (1724)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances for analytical research and clinical trials.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Mylan Technologies Inc. to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Mylan Technologies Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15556 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 16, 2010, and published in the **Federal Register** on March 24, 2010 (75 FR 14187), Meridian Medical Technologies, 2555 Hermelin Drive, St. Louis, Missouri 63144, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Morphine (9300), a basic class of controlled substance listed in schedule II.

The company manufactures a product containing morphine in the United States. The company exports this product to customers around the world, including in Europe. The company has been asked to ensure that its product sold to European customers meets standards established by the European Pharmacopeia, which is administered by the Directorate for the Quality of Medicines (EDQM). In order to ensure that its product will meet European specifications, the company seeks to import morphine supplied by EDQM to use as reference standards. This is the sole purpose for which the company will be authorized by DEA to import morphine.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Meridian Medical Technologies to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Meridian Medical Technologies to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and § 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15555 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 16, 2010, and published in the **Federal Register** on March 24, 2010 (75 FR 14186), Roche Diagnostics Operations Inc., *Attn:* Regulatory Compliance, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Alphamethadol (9605)	I
Cocaine (9041)	II
Ecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to import the listed controlled substances for the manufacture of diagnostic products for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Roche Diagnostics Operations Inc. to

import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Roche Diagnostics Operations to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: June 17, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–15530 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: Meetings of the Institutional Corrections Research Network and Two Subject Matter Experts Meetings on Correctional Research

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups, or individuals to enter into a cooperative agreement for an 18-month period to begin in September 2010. Work under this cooperative agreement will involve organizing four meetings—two annual meetings of the Institutional Corrections Research Network (ICRN) and two other meetings, one focusing on the research needs of jails and the other on a combined research agenda for prisons, jails, and community corrections.

NIC established ICRN in 2007 to promote the development of a stronger research infrastructure in corrections by bringing together agency-based researchers to discuss issues and share insights on the conduct of research in agencies that operate correctional institutions. The network members met annually from 2007–2009 to show examples of the research they were conducting for their agencies, identify new research directions, discuss how they make research relevant to their agency's mission, and share information and concerns about doing research in a correctional environment. ICRN is modeled after similar efforts sponsored by NIC that bring together corrections professionals from different sectors of corrections and by the Community Corrections Research Network, sponsored by the National Institute of Justice, which is made up of researchers working in community corrections agencies. ICRN represents NIC's ongoing commitment to assist correctional agencies as they work to become more evidence-based in their policies and practices, make greater use of outcome measures and performance standards, and incorporate data-driven approaches in their strategic planning and organizational development.

While the ICRN meetings have been very helpful to its members, two issues have emerged from their discussions and the meetings of other similar groups. One is the network's relative absence of researchers working in jails. Under this cooperative agreement, NIC will address this issue by (1) making a concerted effort to recruit jail researchers to participate in ICRN meetings and (2) hold a separate meeting focusing on the research needs of jails. A second issue concerns the lack of cross-discipline discussions among researchers working in state departments of corrections, in jails or jail systems, and in different parts of community corrections, such as pretrial, probation, and parole. The final meeting to be organized under this cooperative agreement will bring together researchers who focus on different aspects of corrections to have them develop a combined research agenda to address the problems that are common to them all.

DATES: Applications must be received by 4 p.m. (EDT) on Friday, July 23, 2010. Selection of the successful applicant and notification of review results to all applicants: September 30, 2010.

ADDRESSES: Mailed applications must be sent to Director, National Institute of Corrections, 320 First Street, NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, call (202) 307–3106, extension 0 for pickup.

Faxed or e-mailed applications will not be accepted. Electronic applications can be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION: A copy of this announcement can be downloaded from the NIC Web site at *http://www.nicic.gov/cooperativeagreements.*

All technical or programmatic questions concerning this announcement should be directed to Pamela Davison. She can be reached by calling 1–800–995–6423 ext 0484 or by e-mail at *pdavison@bop.gov.*

SUPPLEMENTARY INFORMATION: The recipient of the award under this cooperative agreement will organize and coordinate all logistical details for all four meetings—the two annual meetings of the Institutional Corrections Research Network (ICRN), plus the two other meetings on the research needs of jails and the combined research agenda for corrections. All expenses for these meetings will be provided out of the funding awarded under this agreement. The two ICRN meetings are each expected to last up to two days for up to 24 participants. The two additional meetings are expected to last one and a half days for up to 10 participants. NIC will identify the participants for each meeting, and it will also identify the location of the meetings based on the geographic distribution of the participants. The meetings will take place in the contiguous 48 states.

The recipient of this award will assist NIC in locating an appropriate venue and coordinating local arrangements at the site, including meeting rooms, food, and beverage services. The recipient will also assist participants in arranging travel and lodging and in reimbursing costs in conformity with Federal guidelines.

With input from NIC, the recipient will prepare each meeting agenda, participant lists, white papers, handouts, and supplementary materials; duplicate them in sufficient quantities; and deliver them to the venue. The recipient will also provide a note taker for each meeting.

Deliverables: By the end of the project, the recipient of this award will deliver the following products: (1) Each of the four meetings, (2) detailed notes of the proceedings of each meeting, including transcriptions of any other written material produced during the meeting, such as the contents of flip charts, (3) a summary report providing an overview of the meetings, their major themes, and any recommendations for the field.

Required Expertise: Successful applicants should have the

organizational capacity to carry out all the tasks listed above, including demonstrated experience in organizing meetings of the size and type described. Preference will be given to applicants with a record of working with similar groups in criminal justice.

Application Requirements: Applications should be concisely written, typed double spaced and reference the "NIC Opportunity Number" and Title provided in this announcement. Please limit the program narrative text to 20 double spaced, numbered pages. The application package must include a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.,* July 1 through June 30), a program narrative responding to the requirements in this announcement, a description of the qualifications of the applicant(s), an outline explaining projected costs, and the following forms: OMB Standard Form 424, Application for Federal Assistance, OMB Standard Form 424A, Budget Information—Non Construction Programs, OMB Standard Form 424B, Assurances—Non Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (available at *http://www.nicic.org/Downloads/PDF/certif-frm.pdf*).

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov.* If submitted in hard copy, there must be one, unbound original plus three copies of the full proposal (program and budget narratives, application forms, and assurances). The original should have the applicant's signature in blue ink.

Authority: Public Law 93–415.

Funds Available: Up to $150,000 is available for this project, subject to available funding, but preference will be given to applicants who provide the most cost efficient solutions in accomplishing the scope of work. Determination will be made based on best value to the Government, not necessarily the lowest bid. Funds may only be used for the activities that are directly related to the project.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual or team with expertise in the described areas.

This project will be a collaborative venture with the NIC Research and Evaluation Division.

Review Considerations: Applications received under this announcement will be subject to the NIC Review Process. The criteria for the evaluation of each application will be as follows:

Organizational (75%)

Does the applicant have the necessary capacity and staff with the skills, knowledge, and expertise to demonstrate a high level of competency to carry out the tasks? Are the proposed project management and staffing plans realistic and sufficient to complete the project? Has the organization had past experience in organizing similar events in criminal justice?

Budget (25%)

Is the proposed budget realistic, sufficient in cost detail/narrative, and representative of good value relative to the anticipated results? Is there evidence that the applicant has proposed the most cost-effective way of performing the work? Are there any innovative strategies proposed to contain costs?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1).

Registration in the CCR can be done online at the CCR Web site: *http://www.ccr.gov.* A CCR Handbook and work sheet can also be reviewed at the Web site.

Number of Awards: One

NIC Opportunity Number: 10PEI37. This number should appear as a reference line in the cover letter, where the opportunity number is requested on the Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.602.

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2010–15288 Filed 6–25–10; 8:45 am]

BILLING CODE 4410–36–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–070)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license worldwide to practice the inventions described and claimed in U.S. patent 7,156,189, entitled "Self Mountable and Extractable Ultrasonic/Sonic Anchor" and U.S. patent 7,740,088, entitled "Ultrasonic/Sonic Rotary-Hammer Drill" to the California Institute of Technology, having its principal place of business in Pasadena, California. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective exclusive license may be submitted to Patent Counsel, NASA Management Office, Jet Propulsion Laboratory, Mail Code 180–200, 4800 Oak Grove Drive, Pasadena, CA 91109; or via facsimile at (818) 393–3160.

FOR FURTHER INFORMATION CONTACT: Mark Homer, Patent Counsel, NASA Management Office, Jet Propulsion Laboratory, Mail Code 180–200, 4800 Oak Grove Drive, Pasadena, CA 91109; (818) 354–7770; (818) 393–3160 [facsimile]. Information about other NASA inventions available for licensing

can be found online at *http://technology.nasa.gov/.*

Dated: June 22, 2010.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. 2010–15662 Filed 6–25–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–071)]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announce a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Friday, July 16, 2010, 1 p.m. to 3 p.m.

ADDRESSES: Langley Research Center (LaRC), Building 1250, Room 116, Hampton, VA 23681.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Aerospace Safety Advisory Panel Executive Director, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0732.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will hold its 3rd Quarterly Meeting for 2010. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include LaRC Overview; LaRC Safety Overview; Aviation Safety Program Activities at LaRC; Constellation Safety Risk Tolerance; Commercial Human Rating Plan; Infrastructure Funding Issues Update; NASA Engineering and Safety Center Update.

The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come basis. Visitors will be requested to sign a visitor's register. Photographs will only be permitted during the first 10 minutes of the meeting. During the first 30 minutes of the meeting, members of the public may make a 5-minute verbal presentation to the Panel on the subject of safety in NASA. To do so, please contact Ms. Susan Burch at *susan.burch@nasa.gov* at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. All U.S. citizens desiring to attend the Aerospace Safety Advisory Panel meeting at the LaRC must provide their full name, company affiliation (if applicable), citizenship, place of birth, and date of birth no later than close of business on July 14, 2010. All non-U.S. citizens must submit their name; current address; citizenship; company affiliation (if applicable) to include address, telephone number, and title; place of birth; date of birth; U.S. visa information to include type, number, and expiration date; U.S. Social Security Number (if applicable); Permanent Resident Alien card number and expiration date (if applicable); place and date of entry into the U.S.; and Passport information to include Country of issue, number, and expiration date no later than close of business on July 6, 2010. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will be required to process in through LaRC's Badge and Pass Office located to the right of the main entrance gate. Please provide the appropriate data, via e-mail, to *cheryl.w.cleghorn@nasa.gov* or fax to the attention of Cheryl Cleghorn at (757) 864–6521, noting at the top of the page "Public Admission to the ASAP Meeting at LaRC." It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Kathy Dakon,

Acting Director, Advisory Committee Management Division, National Aeronautics and Space Administration.

[FR Doc. 2010–15666 Filed 6–25–10; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by August 27, 2010 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You may obtain a copy of the data collection instruments and instructions from Ms. Anderson.

SUPPLEMENTARY INFORMATION:

Title of Collection: Graduate Research Fellowship Program Follow-up Survey.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not Applicable.

Type of request: New.

Abstract: The purpose of this study is to provide evidence on the impact of the GRPF on individuals' educational decision, career preparations, aspirations and progress, as well as professional productivity. This includes the study design and data collection as well as subsequent analysis and report writing. As part of NSF's commitment to graduate student education in the U.S., the GRFP seeks to promote and maintain advanced training in science, technology, engineering, and mathematics (STEM) field by annually awarding roughly 1,000 fellowships to graduate student in research-based programs. As the first program evaluation since 2002, the GRFP evaluation comes on the heels of increased funding by NSF to supporting additional fellowship awards.

NSF contracts with the National Opinion Research Center (NORC) at the University of Chicago to design, implement, and assess a study that will address relevant procedures and components of the GRFP in regards to the application and award process and support for Fellows and sponsoring institutions with an aim towards measuring and increasing the program's effectiveness.

There are four goals of the GRFP evaluation. The first goal is to maintain a high quality evaluation through consultation with an advisory group of

national experts. The second goal is to assess impacts of the GRFP on graduate school experiences through a follow-up study of GRFP award recipients and other applicants. The third goal is to assess impacts of the GRFP on career and professional outcomes through analysis of GRFP participants and comparable national populations. The fourth goal is to assess the benefits of the GRFP on institutions that enroll GRFP Fellows. The evaluation is designed to address research questions that explore the influences of the GRFP on the following broad sets of variables:

- Educational decisions, experiences, and graduate degree attainment of STEM graduate students.
- Career preparation and aspirations.
- Career activities, progress, and job characteristics following graduate school.
- Professional productivity.
- Workforce participation and career outcomes.
- Graduate school institutions and student recruitment at GRFP-sponsoring institutions.
- Faculty attitudes at GRFP-sponsoring institutions.
- Diversity of students participating in STEM fields at GRFP-sponsoring institutions.

This survey would address two separate components of the planned GRPF evaluation. First, this component will assess the influence of GRFP awards on recipients' graduate school experience and outcomes, which includes program of study and institution attended, professional productivity (*e.g.,* publishes papers, conference presentations, etc.) during graduate schools and career aspirations. Second, the survey will evaluate the impact of participation in the in the GRPF on subsequent career options, progress and contributions to respondents' professional fields. This will be conducted as a web-based survey.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes for current graduate students and 40 minutes per graduates.

Respondents: Individuals.

Estimated Number of Responses per Form: 2,826 graduate students; 6,429 graduates.

Estimated Total Annual Burden on Respondents: 5,699 hours (2,826 graduate student respondents at 30 minutes per response = 1,413 hours + 6,429 graduate respondents at 40 minutes per response = 4,286 hours).

Frequency of Response: One time.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Dated: June 22, 2010.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2010–15569 Filed 6–25–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee Management Renewals

The NSF management officials having responsibility for the advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committees

Committee on Equal Opportunities in Science and Engineering, 1173
Advisory Committee for Computer and Information Science and Engineering, 1115
Advisory Committee for GPRA Performance Assessment, 13853
Advisory Committee for Mathematical and Physical Sciences, 66
Advisory Committee for Social, Behavioral, and Economic Sciences, 1171
Business and Operations Advisory Committee, 9556
Proposal Review Panel for Astronomical Sciences, 1186
Proposal Review Panel for Chemical, Bioengineering, Environmental, and Transport Systems, 1189
Proposal Review Panel for Chemistry, 1191
Proposal Review Panel for Civil, Mechanical, and Manufacturing Innovation, 1194
Proposal Review Panel for Computer and Network Systems, 1207
Proposal Review Panel for Computing & Communication Foundations, 1192
Proposal Review Panel for Cyberinfrastructure, 1185
Proposal Review Panel for Electrical Communications and Cyber Systems, 1196
Proposal Review Panel for Engineering Education and Centers, 173
Proposal Review Panel for Experimental Programs to Stimulate Competitive Research, 1198
Proposal Review Panel for Graduate Education, 57
Proposal Review Panel for Human Resource Development, 1199
Proposal Review Panel for Information and Intelligent Systems, 1200
Proposal Review Panel for Materials Research, 1203
Proposal Review Panel for Mathematical Sciences, 1204
Proposal Review Panel for Physics, 1208
Proposal Review Panel for Polar Programs, 1209
Proposal Review Panel for Undergraduate Education, 1214

Effective date for renewal is July 1, 2010. For more information, please contact Susanne Bolton, NSF, at (703) 292–7488.

Dated: June 23, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–15565 Filed 6–25–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0229]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–1216, "Plant-Specific Applicability of Transition Break Size Specified in 10 CFR 50.46a."

FOR FURTHER INFORMATION CONTACT: Robert L. Tregoning, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7662, e-mail *Robert.Tregoning@nrc.gov,* or, Richard Jervey, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7404, e-mail *Richard.Jervey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled "Plant-Specific Applicability of Transition Break Size Specified in 10 CFR 50.46a," is temporarily identified by its task number, DG–1216, which should be mentioned in all related correspondence. DG–1216 is a proposed new regulatory guide written to support implementation of proposed rulemaking setting forth an alternate approach for evaluating the performance of an emergency core cooling system (ECCS). The proposed rule, 10 CFR 50.46a, "Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements," was published in the **Federal Register** on August 10, 2009, (74 FR 40006). The NRC regulatory framework for nuclear power plants consists of a number of regulations and supporting guidelines, including, but not limited to, General Design Criterion (GDC) 35, "Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Nuclear Power Reactors," as set forth in Appendix A, "General Design Criteria for Nuclear Power Plants," to 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities" and 10 CFR 50.46a. GDC 35 states, in part, that the licensee must calculate ECCS cooling performance in accordance with an acceptable evaluation model. Furthermore, the licensee must calculate ECCS cooling performance for a number of postulated loss-of-coolant accidents (LOCAs) of different sizes, locations, and other properties sufficient to provide assurance that the evaluation considered the most severe postulated LOCAs. The proposed 10 CFR 50.46a would provide an alternative to the existing, conservatively-set deterministic requirements for evaluating the performance of ECCS systems.

Section 50.46a would contain alternative requirements for ECCS at nuclear power reactors established by using risk information based on the likelihood of pipe breaks of different sizes. The rule would divide all coolant piping breaks currently considered in emergency core cooling requirements into two size groups: breaks up to and including a "transition break size," and breaks larger than the transition size up to the largest pipe in the reactor coolant system. Selection of the transition size was based upon pipe break frequency estimates, the associated uncertainties, and the need to provide regulatory stability to guard against changes resulting from any future increases in the LOCA frequency estimates. Because pipe breaks smaller than the transition break size are considered more likely they would be analyzed using existing criteria for ensuring the reactor core stays cool during and after an accident. Larger breaks are considered less likely and would be analyzed with less conservative methods, but plants would still have to mitigate the effects of failure of the largest pipe and maintain core cooling. After the final rule is issued, power plant operators could make plant design changes that could enhance safety and/or provide operational benefits. The rule also specifies risk acceptance criteria to ensure that modified designs would continue to provide adequate protection of public health and safety.

This draft guide describes a method that the staff of the NRC considers acceptable for demonstrating that the generic transition break size (TBS) specified in the proposed 10 CFR 50.46a is applicable to a specific plant. The proposed rule would require a licensee to conduct the evaluation described herein either before, or as part of, the initial application to modify a nuclear power plant under the proposed rule. The proposed rule would also require a more limited evaluation to demonstrate the continued applicability of the TBS after each subsequent plant modification. The entire evaluation is greatly simplified for plants that the NRC has approved for license renewal. The evaluation is also simplified for plants that the NRC has approved for leak before break (LBB) or that have applied for license renewal.

This guide only applies to light-water reactor designs that have received a construction permit or operating license prior to January 1, 2000. This guide does not apply to new light-water (*i.e.,* evolutionary and passive) or to non-light water (*i.e.,* high temperature gas or liquid metal) reactor designs. Supplemental guidance for applying 10 CFR 50.46a to these reactor designs will be developed at a later date as needed.

The NRC staff is currently soliciting feedback on whether a pilot program should be conducted to demonstrate the use of this draft guide. Information gained from a pilot program would be used in the development of the final regulatory guide and the final 10 CFR 50.46a rule. The NRC staff is also seeking one or more pilot plants to participate in such a program. One or more public meetings may be arranged to discuss a possible pilot program and support public input to the guidance development process. Comments related to the need for, or suggestions for, pilot plants are encouraged at this time.

II. Further Information

The NRC staff is soliciting comments on DG–1216. Comments may be accompanied by relevant information or supporting data and should mention DG–1216 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any of the following methods:

1. *Mail comments to:* Rules, Announcements, and Directives Branch Mail Stop: TWB–05–B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

2. *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2010–0229] Address questions about NRC dockets to Carol Gallagher, 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

3. *Fax comments to:* Rules, Announcements, and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492–3446.

Comments would be most helpful if received by August 25, 2010. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in

connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Requests for technical information about DG–1216 may be directed to the NRC contact: Robert L. Tregoning, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7662, e-mail *Robert.Tregoning@nrc.gov,* or, Richard Jervey, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7404, e-mail *Richard.Jervey@nrc.gov.*

Electronic copies of DG–1216 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML100430356. The regulatory analysis may be found in ADAMS under Accession No. ML101530472.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, June 17, 2010.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–15629 Filed 6–25–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289; NRC–2010–0221]

Exelon Generation Company, LLC; Three Mile Island Nuclear Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix R, Section III.G, "Fire Protection of Safe Shutdown Capability," for the use of an operator manual action in lieu of the requirements specified in Appendix R, Section III.G.2, for Renewed Facility Operating License No. DPR–50, issued to Exelon Generation Company, LLC (the licensee), for operation of Three Mile Island Nuclear Station, Unit 1 (TMI–1), located in Dauphin County, Pennsylvania. Therefore, as required by 10 CFR 51.21, the NRC performed an environmental assessment. Based on the results of the environmental assessment, the NRC is issuing a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption to the requirements of 10 CFR part 50, appendix R, section III.G.2, based on an operator manual action contained in the licensee's Fire Hazards Analysis Report (FHAR), which is part of the TMI–1 Updated Final Safety Analysis Report. The licensee's FHAR requires that the identified operator manual action be performed outside of the control room to achieve safe shutdown following a fire in Fire Zone AB–FZ–6 (Demineralizer and "A" Motor Control Center Area). The licensee states that the manual action was subjected to a manual action feasibility review for TMI–1 that determined that the manual action is feasible and can be reliably performed.

The proposed action is in accordance with the licensee's application dated March 3, 2009, as supplemented by letter dated March 15, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML090630134 and ML100750093, respectively).

The Need for the Proposed Action

The proposed exemption modifies an existing exemption which was granted by letter dated December 30, 1986 (ADAMS Accession No. 8701090216). The proposed modified exemption involves an operator manual action to open the supply breaker for the motor control center which powers valve MU–V–36, and then locally ensure that MU–V–36 is open. The proposed exemption specifies a reduced (40 minute) time frame to perform these actions as compared to one hour in the original exemption. The reduced timeframe is being specified because recent plant testing has shown that the backup air supply to seal injection valve MU–V–20 would only allow the valve to stay open for approximately 75 minutes under the postulated conditions. With MU–V–20 closed, ensuring that valve MU–V–36 is open provides a minimum recirculation flow path for the makeup pumps. By maintaining a minimum recirculation flow path, the makeup pumps will not be susceptible to pump damage from operation in a "deadheaded" condition. The recent test results on MU–V–20 necessitate a time reduction for the specified operator manual action to maintain sufficient time margin in order to prevent potential operation of the makeup pumps in a "deadheaded" condition.

The proposed exemption is necessary because the crediting of operator manual actions to achieve and maintain hot shutdown is not addressed in 10 CFR part 50 appendix R, section III.G.2, and an exemption is therefore required in accordance with 10 CFR 50.12.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation for the proposed action and concludes that the operator manual action addressed in the application is feasible and can be reliably performed. Further, the NRC concludes that there is sufficient defense-in-depth within the fire protection program to ensure that a redundant train necessary to achieve and maintain safe shutdown of the plant will remain free of fire damage in the event of a fire in the postulated area.

The details of the staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to 10 CFR part 50, appendix R, section III.G.2.

As described in the staff's safety evaluation that will be provided to the licensee with the exemption, the proposed action will not significantly increase the probability or consequences of accidents. Since the change being evaluated in this assessment involves only a change to the time allotted to accomplish a previously approved operator manual action, no changes are being made in the types of effluents that may be released off-site. Likewise, there is no significant increase in the amount of any effluent released off-site because the time change has no impact on any effluent release path or duration. There is no significant increase in occupational radiation exposure because, as described in the staff's safety evaluation, the areas of consideration for the operator manual action are expected to have dose rates of less than 10 millirem per hour. Since there is no impact to any radiological effluents or in-plant dose rates from the operator manual action time change, there is no impact to public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

The operator manual action described in the proposed exemption involves ensuring recirculation flow within the plant makeup system such that it continues to operate as designed. It does not have any impact to water usage or impact plant systems that contribute to non-radiological effluent releases from the plant. Therefore, the proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. Likewise, no changes to the National Pollution Discharge Elimination System permit are needed and no effects on the aquatic or terrestrial habitat in the vicinity or the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. For the same reasons, there are no impacts to the air or ambient air quality, nor are there impacts to historical and cultural resources. With no impact of the proposed exemption beyond the site boundary, there would be no noticeable effect on socioeconomic conditions in the region. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would not result in a decrease in current environmental impacts. If the proposed action was denied, the licensee would have to perform plant modifications and/or reroute or wrap cables to achieve compliance. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement Related to the Operation of Three Mile Island Nuclear Station, Units 1 and 2, NUREG–0552, dated December 1972, and Generic Environmental Impact Statement for License Renewal of Nuclear Plants (NUREG–1437, Supplement 37), dated June 2009.

Agencies and Persons Consulted

In accordance with its stated policy, on March 29, 2010, the NRC staff consulted with the Pennsylvania State official, Dennis Dyckman, of the Pennsylvania State Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 3, 2009, as supplemented on March 15, 2010 (ADAMS Accession Nos. ML090630134 and ML100750093, respectively). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 15th day of June 2010.

For the Nuclear Regulatory Commission.

Peter Bamford,

Project Manager, Plant Licensing Branch I–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–15626 Filed 6–25–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0440; Docket No. 40–8989]

Issuance of Environmental Assessment and Finding of No Significant Impact for Modification of Exemption From Certain U.S. Nuclear Regulatory Commission Licensing Requirements for Special Nuclear Material for Energy Solutions LLC, Clive, UT

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Final Finding of No Significant Impact.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has prepared an Environmental Assessment for the issuance of an Order as authorized by Section 274f of the Atomic Energy Act that would modify an Order issued to Energy*Solutions,* LLC (formerly Envirocare of Utah, Inc.) on May 7, 1999 (64 FR 27826; May 21, 1999). In accordance with 10 CFR 51.33, the NRC prepared a draft Finding of No Significant Impact (FONSI) for this amendment, which was published for public review and comment on October 7, 2009 (74 FR 51622). The public comment period closed on November 6, 2009. NRC received 12 comments from 4 commenters. The Order responds to a request by Energy*Solutions* dated September 26, 2006, to amend the package mass limits contained in Condition 4 of their 2006 Order, and to add or revise other conditions. The May 7, 1999, Order exempted Energy*Solutions* from certain NRC regulations and permitted Energy*Solutions,* under specified conditions, to possess waste containing special nuclear material (SNM), in greater quantities than specified in 10 CFR Part 150 at its facility located in Clive, Utah, without obtaining an NRC license under 10 CFR Part 70. As discussed below, the Order has been amended four times since it was issued in 1999.

ADDRESSES: You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available

electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2009–0440.

FOR FURTHER INFORMATION CONTACT: Nishka Devaser, Project Manager, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–5196; Fax number: (301) 415–5369; E-mail: *Nishka.Devaser@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Energy*Solutions* is licensed by the State of Utah, an NRC Agreement State, to operate a disposal facility for LLW. Energy*Solutions* is also licensed by Utah to dispose of mixed waste, hazardous waste, and 11(e).2 byproduct material.

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a fifth amendment to an Order that was initially issued to Envirocare of Utah, Inc. on May 7, 1999 (64 FR 27826; May 21, 1999). NRC previously amended the Order on January 30, 2003 (68 FR 7399; February 13, 2003), December 16, 2003 (68 FR 74986; December 29, 2003), July 22, 2005 (70 FR 44123; August 1, 2005), and May 30, 2006 (71 FR 34165; June 13, 2006). The amended Order would continue to grant Energy*Solutions* an exemption from the requirements for an NRC license under 10 CFR part 70. The amendment is necessary if Energy*Solutions* is to receive steel piping waste containing residual special nuclear material (SNM) without first obtaining a 10 CFR part 70 license. The steel piping waste will be generated by the Department of Energy as it decommissions the K–25 gaseous diffusion uranium enrichment facility in Oak Ridge, Tennessee.

The 1999 Order exempted Envirocare (now Energy*Solutions*) from certain NRC regulations and permitted the company, under specified conditions, to possess waste containing SNM in greater quantities than specified in 10 CFR part 150, at the Envirocare low-level waste (LLW) disposal facility located in Clive, Utah, without obtaining an NRC license under 10 CFR part 70. The 1999 Order permitted Envirocare to possess SNM below specified concentrations, without regard for the mass of the SNM in the waste. The January 2003 amendment to the Order addressed certain waste treatment processes; a change in the homogeneous contiguous mass limit from 145 kg to 600 kg; clarified certain language of the Order; and removed the confirmatory testing requirements for debris waste. The December 2003 amendment to the Order: Amended Condition 1 to include criticality-based concentration limits without magnesium oxide; modified the units of the table in Condition 1 from picocuries of SNM per gram of waste material to gram of SNM per gram of waste material; and revised the language of Condition 5 to be consistent with the revised units in the table in Condition 1. The July 2005 amendment to the Order: Modified the table in Condition 1 to include criticality-based limits for uranium-233 and plutonium isotopes in waste containing up to 20 percent of materials listed in Condition 2 (*e.g.,* magnesium oxide); included criticality-based limits in the table in Condition 1 for plutonium isotopes in waste with unlimited materials in Condition 2 and in waste with unlimited quantities of materials in Conditions 2 and 3 (*e.g.,* beryllium); provided criticality-based limits for uranium-235 as a function of enrichment in waste containing up to 20 percent of materials listed in Condition 2 and in waste containing none of the materials listed in Condition 2; and authorized additional mixed waste treatment technologies under the Order. The May 2006 amendment made an administrative change to accommodate a change in the name of the company from Envirocare of Utah, Inc. to Energy*Solutions* LLC.

The NRC has prepared an Environmental Assessment (EA) in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate for the proposed action, as modified.

II. Environmental Assessment (EA)

Proposed Action

By letters dated September 26, 2006 (ML063040029), December 4, 2006 (ML0735321280), July 16, 2007 (ML073520212), September 13, 2007 (ML073440260), and January 15, 2009 (ML090510588), Energy*Solutions* requested an amendment to its 2006 Order. Energy*Solutions* requested an amendment of the package mass limits contained in Condition 4 of the Order, and the addition or revision of other conditions. As described in its September 2007 nuclear criticality safety evaluation, Energy*Solutions* requested these additional changes to the Order so that it can receive and dispose of Oak Ridge K–25 gaseous diffusion plant piping from the Department of Energy (DOE) in larger containers than would be allowable under the 2006 Order. Under the amended Order Energy*Solutions* would receive piping waste from the decommissioning of the K–25 facilities in gondola railcars, each containing up to 3.6 kg (7.9 lbs) of uranium-235 in the form of highly water soluble uranyl fluoride. Energy*Solutions* also proposed the addition of other conditions to the Order to ensure criticality safety during receipt, on-site storage, movement, emplacement, and disposal of K–25 waste. Upon consideration of Energy*Solutions'* request, the NRC is considering conditions that would restrict: The areal density of highly water soluble SNM in disposal embankments at the Clive, UT site; and the amount of water that should be present during receipt, on-site storage, movement, emplacement, and disposal of K–25 waste. The amended Order would only allow Energy*Solutions* to receive and dispose of the plant piping and would not exempt Energy*Solutions* from other applicable laws. Energy*Solutions* or any other entity transporting the waste will have to obtain any necessary permits or authorizations at the time of transport.

Site and Facility Description

The Energy*Solutions* LLW disposal facility in Clive, UT is located 128 kilometers (80 miles) west of Salt Lake City, UT. The site is arid and receives about 20 centimeters (8 inches) of precipitation annually. A description of the site and its history is available in the Utah Division of Radiation Control safety evaluation report for the Energy*Solutions* license renewal.[1]

All low-level radioactive waste received at the Clive facility must contain radioactive constituents. The low-level radioactive waste embankment is constructed from materials native to the site or available in close proximity to the site. Due to

[1] Utah Division of Radiation Control, EnergySolutions (Formerly Envirocare of Utah) LLRW Disposal Facility Radioactive Material License Renewal: Safety Evaluation Report." June 14, 2007.

requirements regarding the long-term stability of the embankment, the principal design features of the embankment do not rely upon synthetic materials to provide stability and isolation of the wastes from the environment. The principal construction materials are the naturally low-permeability clay taken from between the ground surface and the unconfined aquifer and the rock riprap and filter material taken from pits located within 16 kilometers (10 miles) of the facility. The vertical minimum separation between the bottom of the disposed LLW and the historic high water table is 4 meters (13 feet).[2]

After a liner is constructed over a specific area of the Class A LLW disposal embankment, at least 30 centimeters (12 inches) of debris-free soil is placed on top of the liner; followed by another 30 centimeters (12 inches) of waste as a protection to the integrity of the liner.[3] Both of these layers of protective soil are compacted with rubber tired equipment. Thereafter, the area is available for placement of waste containers and materials. Waste that is removed from the shipping container is typically compacted into 61 centimeter (24 inch) waste lifts. Waste that consists of debris that does not have a dimension less than 25 centimeters (10 inches) is disposed of using controlled low strength material (CLSM) in a different disposal area.

Need for the Proposed Action

Condition 4 of the 2006 Order limits the mass of highly water soluble SNM that may be contained in individual waste packages. For example, the 2006 Order limits the amount of highly water soluble uranium-235 in each waste package to 350 grams. Relatively small waste packages that contain highly water soluble uranium compounds in which the uranium-235 concentration limits of Condition 1 are met (*e.g.,* 6.2 x 10^{-4} grams uranium-235 per gram of waste), would normally contain small mass quantities of uranium-235, which would not exceed the 350 gram package mass limit. But Energy*Solutions* believes that the K–25 waste must be processed in larger quantities to be cost effective. This would be accomplished by shipping the waste in large capacity 100-ton gondola railcars, which could result in shipments that exceed the current package mass limits in Condition 4 of the 2006 Order; the concentration of residual uranyl fluoride in the K–25 piping waste in the railcars would likely remain a fraction of the concentration limits in Condition 1 of the 2006 Order. Therefore, Energy*Solutions* requested an amendment to Condition 4 of the 2006 Order to allow the receipt of K–25 steel piping waste in large gondola railcars. Energy*Solutions* also proposed additional conditions to ensure the criticality safety of this waste during receipt, unloading, on-site storage, emplacement, and disposal of the waste.

Alternatives to the Proposed Action

The NRC staff considered one alternative to the proposed action. The alternative to the proposed action is denial of the request to amend the 2006 Order (no-action alternative).

Affected Environment

The NRC prepared an environmental impact statement (EIS) (NUREG–1476) for its previous licensing action at the Energy*Solutions* site to authorize disposal of 11e.(2) byproduct material. The affected environment is discussed in detail in NUREG–1476. (ML100820353)

Environmental Impacts of the Alternatives

No Action Alternative

For the no-action alternative, the environmental impacts would be the same as evaluated in the Environmental Assessments that supported the issuance of original Order (64 FR 26463; May 14, 1999) and its amendments (68 FR 3281; January 23, 2003, 68 FR 59645; October 16, 2003, 70 FR 41241; July 18, 2005) In these prior EAs, the staff concluded that the issuance of the Order would have no significant adverse environmental impacts.

Proposed Action

For the proposed action, the environmental impacts would be similar to those described in the previous EAs noted above, with the exception of environmental impacts associated with: Receipt and unloading of 100-ton capacity gondola railcars containing K–25 piping waste, each of which contains residual deposits of highly water soluble uranyl fluoride in quantities in excess of the limits in Condition 4 of the 2006 Order (*i.e.,* up to 3.6 kilograms of uranium-235); and placement in disposal embankments of piping waste containing highly water soluble uranyl fluoride at areal densities of up to 1 kilogram uranium-235 per square meter.

The proposed action would not significantly alter land or water usage at the Clive facility, or result in new construction. Facility effluents would remain essentially unchanged, since this action would not alter the types or quantities of waste that Energy*Solutions* is currently authorized to receive and dispose of. Disposal of Class A LLW is currently licensed by the State of Utah, for which no significant changes are anticipated other than incorporation into the radioactive materials license of a revision to Condition 4 to impose an areal density limit for highly water soluble SNM, including requirements to minimize water intrusion into the waste containing highly water soluble forms of uranium during receipt, unloading, onsite storage, and waste emplacement operations.

The proposed action, which allows the use of large waste packages, would result in a reduction of the use of waste packaging, which would generate less packaging waste. Also, fewer transportation consignments would be required to transport waste from Oak Ridge, TN to the Clive, UT disposal facility, which would reduce transportation-related impacts. The proposed action would also further reduce the risk of accidental nuclear criticality, and the resulting worker and public radiation doses from the proposed action by imposing an areal density limit on disposal of highly water soluble forms of uranium, which is not currently required by the 2006 Order.

The proposed action would not significantly alter available disposal capacity at the Clive facility, or significantly change the performance of disposed waste. The radiation dose rates from K–25 decommissioning waste, which contains uranium and trace amounts of other radioactive material, are low compared to other forms of Class A waste, which may contain source, byproduct, and special nuclear material up to the limits allowed by the State of Utah radioactive materials license. Therefore, the proposed action is not likely to significantly change worker and public doses resulting from waste operations.

Preferred Alternative

The staff concluded in the June 2010 safety evaluation report that the proposed action provides sufficient protection of public health and safety, and the environment, and is not inimical to common defense and security, and is otherwise in the public interest. Therefore, staff's preferred alternative is to amend the 2006 Order.

Agencies and Persons Consulted

Officials from the State of Utah, Department of Environmental Quality, Division of Radiation Control were consulted about this EA and had no comments. Because the proposed action is not expected to have any impact on

[2] *Ibid,* pg 82.

[3] *Ibid,* pg 80.

threatened or endangered species or historic resources, the Fish and Wildlife Service and State of Utah Historic Preservation Officer were not consulted.

Public Comments

During a 30-day public comment period that ended November 6, 2009, 4 comment letters offered 12 comments that covered various topics concerning the exemption request. These commenters included:

- Arnold L. Dalton, Resident of Utah, (ADAMS Acc. Number ML093270217).
- Judy M. Mallory-McCorvey, Resident of Utah, (ADAMS Acc. Number ML093270218).
- Christopher Thomas, Representing HEAL Utah, (ADAMS Acc. Number ML093140560).
- Michael L. West, Representing Bechtel-Jacobs, (ADAMS Acc. Number ML093100207).

NRC staff reviewed each of the comments received. Some of the comments were very similar to other comments; the staff has provided one response to each of these comments. The staff did not address comments that were outside the scope of the EA.

Public Opposition

Two commenters expressed general opposition to radioactive waste disposal in the State of Utah.

Response: The NRC recognizes that some members of the public do not support radioactive waste disposal; however, these comments are beyond the scope of the EA.

One commenter expressed specific concern about the possibility of health risks and unintended exposure. This commenter suggested that the waste would get "hotter and hotter," and that climatic events might "scatter" these wastes creating an unsafe environment for the public.

Response: The NRC staff considered the effects of variability in climate and weather and the effects of radioactive decay and ingrowth when assessing environmental impact and concluded under the constraints of disposal listed in the revised Order, public health and safety are preserved.

One commenter suggested that the NRC should deny Energy*Solutions'* request on the grounds that the requested exemption is not "in the public interest" as required under 10 CFR 70.17(a).

Response: NRC's mission is to protect public health and safety, and to provide for the common defense and security. NRC has established rules and procedures for licensees and license applicants to, among other things, receive, possess, use, and dispose of radioactive materials and waste in a manner that protects public health and safety and security. It is in the public interest that NRC adhere to these rules and procedures. In addition, this specific action would provide for permanent disposal of the K–25 piping, rather than its storage onsite. This action would help facilitate decommissioning of the K–25 facility and eliminate worker exposures from having to monitor waste in storage. Both of these outcomes are in the public interest.

Further Public Input

One commenter requested that the NRC provide the public the opportunity to comment on the exact language used in the draft Order.

Response: The public is encouraged to provide input during the public comment period of the EA and draft FONSI to ensure the staff has considered all alternatives and environmental impacts while drafting the Order. It is not the practice of the NRC to invite public comment on the exact text used in an Order.

Inadequate Permission

One commenter noted that Energy*Solutions* required additional permitting from the U.S. Department of Transportation to transport the waste.

Response: The comment is correct; NRC's licensing of this facility does not excuse compliance with other applicable laws. Energy*Solutions* or any other entity transporting the waste will have to obtain any necessary permits or authorizations at the time of transport.

Reconcentration

One commenter provided comments suggesting potential reconcentration of SNM under conditions not considered by either the EA or Energy*Solutions'* Nuclear Criticality Safety Evaluation.

Response: The NRC staff considered various aspects of material mobility over time and considered various conditions under which reconcentration might take place. See pages 6 and 7 of the SER (ADAMS Acc. Number ML090750109). The NRC acknowledges that reconcentration is possible and has accounted for this by requiring areal density limits within the disposal embankments.

Technical Evaluation

One comment requested that Energy*Solutions'* Nuclear Criticality Safety Evaluation be independently evaluated, and that the evaluation be made available to the public.

Response: The EA and Order are an independent evaluation of the Nuclear Criticality Safety Evaluation.

Scope of Proposed Action

One comment suggested that the NRC's NEPA analysis did not consider a sufficient number of alternatives to the proposed action. The commenter suggested that the NRC consider the decontamination of the material prior to shipment as another alternative.

Response: Since the waste generator and current owner are the DOE, NRC's alternatives are then only to allow or not allow the receipt and disposal of these wastes by Energy*Solutions.* Alternatives considered must be reasonably commensurate with the scope of the requested action; imposing decontamination requirements on waste generators (DOE) is outside the scope of the requested action.

10 CFR Part 70 License

One comment suggested that the NRC require Energy*Solutions* to apply for a 10 CFR part 70 license instead of amending the Order.

Response: NRC cannot require Energy*Solutions* to apply for a license. Section 70.17(a) allows the Commission to grant an exemption from the requirements in part 70 in response to an application from any interested person. In this case, Energy*Solutions* submitted an application for an exemption, which the NRC staff reviewed. The NRC staff has concluded that the Commission should grant the exemption because it is authorized by law and will not endanger life or property or the common defense and security and is in the public interest.

III. Conclusion

The environmental impacts of the proposed action have been reviewed in accordance with the requirements in 10 CFR part 51. Based upon the foregoing EA, the NRC finds that amending the 2006 Order will not significantly impact the quality of the human environment. As required by 10 CFR 70.17, the NRC also concludes that the proposed action to grant a modification to Energy*Solutions'* exemption from the requirements of 10 CFR part 70 is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. On this basis of this EA, NRC concludes that there are no significant environmental impacts and that the issuance of a modified Order does not warrant the preparation of an Environmental Impact Statement. Accordingly, the NRC has determined

that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the letter requesting the amendment and supporting documentation will be available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

1. September 29, 2006, authorization request (ML063040029);

2. July 16, 2007, letter response to request for additional information (ML073520212); and

3. September 13, 2007, letter response to request for additional information (ML073440260).

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 18th day of June 2010.

For the U.S. Nuclear Regulatory Commission.

Larry W. Camper,

Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2010–15599 Filed 6–25–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–326; Facility Operating License No. R–116; NRC–2010–0217]

Regents of the University of California; Notice of Acceptance for Docketing and Opportunity for Hearing on the Application Regarding Renewal of Facility Operating License for An Additional 20-Year Period for University of California Irvine Nuclear Reactor Facility and Order Imposing Procedures for Access to Safeguards Information and Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of acceptance for docketing.

FOR FURTHER INFORMATION CONTACT: Linh Tran, Senior Project Manager, Research and Test Reactors Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. Telephone: (301) 415–4103; fax number: (301) 415–1032; e-mail: *Linh.Tran@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U. S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Facility Operating License No. R–116 ("Application"), which currently authorizes the Regents of the University of California (the licensee) to operate the University of California Irvine Nuclear Reactor Facility (UCINRF) at a maximum steady-state thermal power of 250 kilowatts (kW) thermal power. The renewed license would authorize the applicant to operate the UCINRF up to a steady-state thermal power of 250 kW for an additional 20-years from the date of issuance.

On October 18, 1999, as supplemented by letters dated October 23, 1999, and January 27, 2010, the NRC received an application from the licensee filed pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Section 50.51(a), to renew Facility Operating License No. R–116 for the UCINRF.

The application contains sensitive unclassified non-safeguards information (SUNSI) and Safeguards Information (SGI).

Based on its initial review of the application and the supplemental information, the Commission's staff determined that the licensee submitted sufficient information in accordance with 10 CFR 50.33 and 10 CFR 50.34 so that the application is acceptable for docketing. The current Docket No. 50–326 for Facility Operating License No. R–116 will be retained. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

II. Opportunity To Request a Hearing or Petition To Intervene

Within 60 days of this notice, any person(s) whose interest may be affected may file a request for hearing/petition to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner/requestor in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment

under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by August 27, 2010. The petition must be filed in accordance with the filing instructions in section IV, and should meet the requirements for petitions for leave to intervene set forth in section III.A, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by August 27, 2010.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and

Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as Social Security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from June 28, 2010. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the documents NUREG–1537, entitled "Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors" and the "Interim Staff Guidance on the Streamlined Review Process for License Renewal for Research Reactors" (ISG), which can be obtained from the Commission's public document room (PDR). The detailed review guidance (NUREG–1537 and the ISG) may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML042430055 for part one of NUREG–1537, ADAMS Accession No. ML042430048 for part two of NUREG–1537 and ADAMS Accession No. ML092440244 for the ISG. Copies of the application to renew the facility license from the licensee are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852–2738. The initial application and other related documents may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS Accession Nos.: ML083110112, ML101340023, and ML100290365. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or (301) 415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including SUNSI and SGI). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's "need to know" the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of "need to know" as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, "Questionnaire for Non-Sensitive Positions" for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR Part 2, Subpart G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at (301) 492–3524.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 0555–0001, by calling (301) 415–7232 or (301) 492–7311, or by e-mail to *Forms.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check;

(d) A check or money order payable in the amount of $ 200.00[4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted, and

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: Office of Administration, U.S. Nuclear Regulatory Commission, Personnel Security Branch, Mail Stop TWB–05–B32M, Washington, DC 20555–0001.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required above.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[5] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but not be limited to, the signing of a on Disclosure Agreement or Affidavit, or Protective Order[6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 18th day of June 2010.

For the Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," no "need to know," or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

Day	Event/activity
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2010–15515 Filed 6–25–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–128; NRC–2010–0220; Facility Operating License No. R–83]

The Texas Engineering Experiment Station/Texas A&M University System; Notice of Acceptance for Docketing and Opportunity for Hearing on the Application Regarding Renewal for An Additional 20-Year Period for the Nuclear Science Center Reactor and Order Imposing Procedures for Access To Safeguards Information and Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of acceptance for docketing.

FOR FURTHER INFORMATION CONTACT: Christian Cowdrey, Project Manager, Research and Test Reactors Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. Telephone: (301) 415–2758; fax number: (301) 415–3031; e-mail: *Christian.Cowdrey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Facility Operating License No. R–83 ("Application"), which currently authorizes the Texas Engineering Experiment Station/Texas A&M University System (TEES, the licensee) to operate the Nuclear Science Center (NSC) Reactor at a maximum steady-state thermal power of 1,000 kilowatts (kW) thermal power. The renewed license would authorize the applicant to operate the NSC reactor up to a steady-state thermal power of 1,000 kW for an additional 20 years from the date of issuance.

On February 27, 2003, as supplemented by letters dated March 30, 2005, and July 2, 2009, the NRC received an application from the licensee filed pursuant to Title 10 of the Code of Federal Regulations (10 CFR) section 50.51(a), to renew Facility Operating License No. R–83 for the NSC reactor.

The application contains sensitive unclassified non-safeguards information (SUNSI) and Safeguards Information (SGI).

Based on its initial review of the application, the NRC staff determined that TEES submitted sufficient information in accordance with 10 CFR 50.33 and 10 CFR 50.34 so that the application is acceptable for docketing. The current Docket No. 50–128 for Facility Operating License No. R–83 will be retained. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

II. Opportunity To Request a Hearing or Petition To Intervene

Within 60 days of this notice, any person(s) whose interest may be affected may file a request for hearing/petition to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner/requestor in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). A State, county, municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the

Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by August 27, 2010. The petition must be filed in accordance with the filing instructions in section IV, and should meet the requirements for petitions for leave to intervene set forth in section III.A, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by August 27, 2010.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://*

ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from June 28, 2010. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the documents NUREG–1537, entitled "Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors" and the "Interim Staff Guidance on the Streamlined Review Process for License Renewal for Research Reactors" (ISG) which can be obtained from the Commission's public document room (PDR). The detailed review guidance (NUREG–1537 and the ISG) may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML042430055 for part one of NUREG–1537, Accession No. ML042430048 for part two of NUREG–1537 and Accession No. ML092440244 for the ISG. Copies of the application to renew the facility license from the licensee are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852–2738. The initial application and other related documents may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS Accession Nos.: ML072210846, ML050970255, and ML092530306. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including SUNSI and SGI). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's "need to know" the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of "need to know" as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, "Questionnaire for Non-Sensitive Positions" for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at (301) 492–3524.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, D.C. 0555–0001, by calling (301) 415–7232 or (301) 492–7311, or by e-mail to *Forms.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check;

(d) A check or money order payable in the amount of $ 200.00[4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted, and

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: Office of Administration, U.S. Nuclear Regulatory Commission, Personnel Security Branch, Mail Stop TWB–05–B32M, Washington, DC 20555–0001. These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required above.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[5] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 21st day of June 2010.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in this Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," no "need to know," or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

[FR Doc. 2010–15506 Filed 6–25–10; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0657]

Final Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Regulatory Guide, RG 1.62.

FOR FURTHER INFORMATION CONTACT: Karl J. Sturzebecher, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7494 or e-mail to *Karl.Sturzebecher@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing a revision of a guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 1 of RG 1.62, "Manual Initiation of Protective Actions," was issued with a temporary identification as Draft Regulatory Guide, DG–1190. This regulatory guide applies to operating power reactors licensed in accordance with title 10 of the Code of Federal Regulations part 50, "Domestic Licensing of Production and Utilization Facilities" (10 CFR part 50), and with 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." New applicants should consider this guidance in preparing an application for a combined license under 10 CFR part 52.

II. Further Information

In December, DG–1190 was published for public comment. The staff's responses to the public comments received are located in the NRC's Agencywide Documents Access and Management System under Accession Number ML092580016. The regulatory analysis may be found in ADAMS under Accession No. ML101540348. Electronic copies of RG 1.62 are available through the NRC's public Web site under "Regulatory Guides" at *http://www.nrc.gov/reading-rm/doc-collections/.*

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 17th day of June 2010.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–15592 Filed 6–25–10; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 13, 2010, Room T2B–3, at 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, July 13, 2010, 12 p.m.–1 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Jorge Cruz-Ayala (Telephone 301–415–0269 or E-mail (*Jorge.Cruz-Ayala@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2009, (74 FR 58268–58269).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

Dated: June 16, 2010.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. 2010–15511 Filed 6–25–10; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on July 14–16, 2010, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 14, 2009 (74 FR 52829–52830).

Wednesday, July 14, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make

opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m: Safety Evaluation Report With Open Items Associated With the South Texas Project Combined License Application (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the South Texas Project Nuclear Operating Company regarding the Safety Evaluation Report with Open Items associated with the South Texas Project Combined License Application.

Note: A portion of this session may be closed in order to discuss and protect proprietary information pursuant to 5 U.S.C. 552b(c)(4).

10:45 a.m.–12:15 p.m.: Draft Final Regulatory Guide (RG) 3.74, "Guidance for Fuel Cycle Facility Change Processes" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft final RG 3.74, "Guidance for Fuel Cycle Facility Change Processes," and the staff's resolution of public comments.

1:15 p.m.–3 p.m.: Meeting With Representatives of the Nuclear Energy Institute (NEI): (Open)—The Committee will hold discussions with representatives of NEI on items of mutual interest.

3:15 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

Thursday, July 15, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Interim Staff Guidance DC/COL–ISG–017, "Ensuring Hazard-Consistent Seismic Input for Site Response and Soil Structure Interaction Analyses" (Open)—The Committee will hold discussions with representatives of the NRC staff regarding DC/COL–ISG–017, "Ensuring Hazard-Consistent Seismic Input for Site Response and Soil Structure Interaction Analyses."

9:30 a.m.–10:30 a.m.: Interim Staff Guidance (ISG) DC/COL–ISG–020, "*Implementation of Seismic Margin Analysis for New Reactors Based on PRA*" (Open)—The Committee will hold discussions with representatives of the NRC staff regarding DC/COL–ISG–020, "Implementation of Seismic Margin Analysis for New Reactors Based on PRA".

10:45 a.m.–12:15 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hold discussions of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments.

Note: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

12:15 p.m.–12:30 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

1:30 p.m.–2:30 p.m.: Assessment of the Quality of Selected NRC Research Projects (Open)—The Committee will discuss with members of the ACRS performing the quality assessment of the NRC research projects on: NUREG/CD–6947, "Human Factors Consideration With Respect to Emerging Technology in Nuclear Power Plants," and NUREG/CR–6997, "Modeling a Digital Feedwater Control System Using Traditional Probabilistic Risk Assessment Methods."

2:30 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Friday, July 16, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

12 p.m.–2 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2 p.m.–2:30 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2009 (74 FR 52829–52830). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Mr. Derek Widmayer, Cognizant ACRS Staff (Telephone: 301–415–7366, e-mail: *Derek.Widmayer@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the Cognizant ACRS Staff one day before the meeting. If an electronic copy can not be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. e.t., at least 10 days before the meeting to ensure the availability of this service.

Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: June 21, 2010.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2010–15509 Filed 6–25–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–27; Facility Operating License No. R–76; NRC–2010–0218]

Washington State University; Notice of Acceptance for Docketing and Opportunity for Hearing on the Application Regarding Renewal of Facility Operating License for an Additional 20-Year Period for The Washington State University Research Reactor and Order Imposing Procedures for Access to Safeguards Information and Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of acceptance for docketing.

FOR FURTHER INFORMATION CONTACT: A. Francis DiMeglio, Project Manager, Research and Test Reactors Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. Telephone: (301) 415–0894; fax number: (301) 415–1032; e-mail: *Francis.DiMeglio@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Facility Operating License No. R–76 (''Application''), which currently authorizes the Washington State University (the licensee, WSU) to operate the Washington State University Modified TRIGA Nuclear Radiation Center Reactor (WSU Reactor) at a maximum steady-state thermal power of 1000 kilowatts (kW) thermal power. The renewed license would authorize the applicant to operate the WSU Reactor up to a steady-state thermal power of 1000 kW for an additional 20-year from the date of issuance.

The application contains sensitive unclassified non-safeguards information (SUNSI) and Safeguards Information (SGI).

On June 24, 2002, as supplemented by two letters dated April 7, 2010, the NRC received an application from the licensee filed pursuant to Title 10 of the Code of Federal Regulations (10 CFR) section 50.51(a), to renew Facility Operating License No. R–76 for the WSU Reactor.

Based on its initial review of the application and the supplemental information, the Commission's staff determined that WSU submitted sufficient information in accordance with 10 CFR 50.33 and 10 CFR 50.34 so that the application is acceptable for docketing. The current Docket No. 50–27 for Facility Operating License No. R–76 will be retained. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

II. Opportunity To Request a Hearing or Petition To Intervene

Within 60 days of this notice, any person(s) whose interest may be affected may file a request for hearing/petition to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner/requestor in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by August 27, 2010. The petition must be filed in accordance with the filing instructions in section IV, and should meet the requirements for petitions for leave to intervene set forth in section III.A, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the

Secretary of the Commission by August 27, 2010.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from June 28, 2010. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the documents NUREG–1537, entitled "Guidelines for

Preparing and Reviewing Applications for the Licensing of Non-Power Reactors" and the "Interim Staff Guidance on the Streamlined Review Process for License Renewal for Research Reactors" (ISG) which can be obtained from the Commission's public document room (PDR). The detailed review guidance (NUREG–1537 and the ISG) may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML042430055 for part one of NUREG–1537, ADAMS Accession No. ML042430048 for part two of NUREG–1537 and ADAMS Accession No. ML092440244 for the ISG. Copies of the application to renew the facility license from the licensee are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852–2738. The initial application and other related documents may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS Accession Nos.: ML092390202, ML101031097, and ML101030215. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or (301) 415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including SUNSI and SGI). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] *The request must include the following information:*

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's "need to know" the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of "need to know" as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, "Questionnaire for Non-Sensitive Positions" for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at (301) 492–3524.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–7232 or (301) 492–7311, or by e-mail to *Forms.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check;

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

(d) A check or money order payable in the amount of $200.00 [4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted, and

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: Office of Administration, U.S. Nuclear Regulatory Commission, Personnel Security Branch, Mail Stop TWB–05–B32M, Washington, DC 20555–0001. These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required above.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [5] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but

H. Not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

I. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

J. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

K. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

L. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

M. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 18th day of June 2010.

For the Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," no "need to know," or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2010–15514 Filed 6–25–10; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Proposed Collection Renewal

ACTION: 60-day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following three information collection requests to the Office of Management and Budget (OMB) for extension, without change, of currently approved information collections. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Peace Corps invites the general public to comment on the renewal of three information collections: World Wise Schools

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

Conference Online Registration Form (OMB 0420–0514); Speakers Match: Online Request for a Speaker Form (OMB 0420–0539); and Correspondence Match Educator Online Enrollment Form: Educator Sign Up Form (OMB 0420–0540). This process is conducted in accordance with 5 CFR 1320.10.

DATES: Comments must be submitted on or before August 27, 2010.

ADDRESSES: Comments should be addressed to Marjorie Anctil, Director of World Wise Schools, Peace Corps, 1111 20th Street, NW., Washington, DC 20526. Marjorie Anctil can be contacted by telephone at 202–692–1461 or e-mail at *manctil@peacecorps.gov.* E-mail comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Marjorie Anctil, at Peace Corps address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. *Title:* World Wise Schools Conference—Online Registration Form.

OMB Control Number: 0420–0514.

Respondents: Educators and employees of governmental and nongovernmental organizations interested in promoting global education in the classroom.

Estimated annual number of respondents: 300.

Estimated average time to respond: 10 minutes.

Frequency of response: Annually.

Estimated total annual burden hours: 50 hours.

General description of collection: The information collected is used to officially register attendees to the annual World Wise Schools Conference. The information is used as a record of attendance.

2. *Title:* Speakers Match: Online Request for a Speaker Form.

OMB Control Number: 0420–0539.

Type of Review: Regular—extension, without change, currently approved collection.

Respondents: Educators interested in promoting global education in the classroom.

Estimated annual number of responses: 300.

Estimated average time to respond: 10 minutes.

Frequency of response: Annually.

Estimated annual burden hours: 50 hours.

General description of collection: The information collected is used to make suitable matches between the educators and returned Peace Corps Volunteers for the Speakers Match program.

3. *Title:* Correspondence Match Educator Online Enrollment Form: Educator Sign Up Form.

OMB Control Number: 0420–0540

Respondents: Educators interested in promoting global education in the classroom.

Estimated annual number of responses: 10,000.

Estimated average time to respond: 10 minutes.

Frequency of response: Annually.

Estimated annual burden hours: 1667 hours.

General description of collection: The information collected is used to make suitable matches between the educators and currently serving Peace Corps Volunteers.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps and the Paul D. Coverdell World Wise Schools, 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 is issued in Washington, DC, on June 18, 2010.

Earl W. Yates,

Associate Director for Management.

[FR Doc. 2010–15584 Filed 6–25–10; 8:45 am]

BILLING CODE 6051–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Aeronautics Science and Technology Subcommittee; Committee on Technology; National Science and Technology Council

ACTION: Notice of Meeting—Public input is requested to assist in the development of the draft National Aeronautics Research, Development, Test and Evaluation (RDT&E) Infrastructure Plan.

SUMMARY: The Aeronautics Science and Technology Subcommittee (ASTS) of the National Science and Technology Council's (NSTC) Committee on Technology will hold a public meeting. At this meeting, ASTS members will present highlights of the recently published 2010 National Aeronautics Research and Development Plan. The proposed structure and draft content (to date) of the National Aeronautics RDT&E Infrastructure Plan will then be discussed, and participants will be invited to provide input to help inform further development of the draft National Aeronautics RDT&E Infrastructure Plan.

Dates and Addresses: The meeting will be held in conjunction with the 46th AIAA/ASME/SAE/ASEE Joint Propulsion Conference & Exhibit, Nashville Convention Center, 601 Commerce Street, Nashville, TN 37203 on Wednesday, July 28, 2010, from 2:30 p.m. to 4:30 p.m., in Room 201. Information regarding the 46th AIAA/ASME/SAE/ASEE Joint Propulsion Conference & Exhibit is available at the: *http://www.aiaa.org* Web site.

Note: Persons solely attending this ASTS public meeting do not need to register for the 46th Joint Propulsion Conference and Exhibit to attend this public meeting. There will be no admission charge for persons solely attending the public meeting. Seating is limited and will be on a first come, first served basis.

FOR FURTHER INFORMATION CONTACT: Additional information and links to E.O. 13419, the National Aeronautics Research and Development Policy, and the 2010 National Aeronautics Research and Development Plan are available by visiting the Office of Science and Technology Policy's NSTC Web site at: *http://www.whitehouse.gov/administration/eop/ostp/nstc/aero* or by calling 202–456–6012.

SUPPLEMENTARY INFORMATION: E.O. 13419 and the National Aeronautics Research and Development Policy call for executive departments and agencies conducting aeronautics research and development (R&D) to engage industry, academia, and other non-Federal stakeholders in support of government planning and performance of aeronautics R&D. The desired outcomes of the meeting are to relay highlights of the 2010 National Aeronautics Research and Development Plan and to solicit comments and information from individuals on the aeronautics RDT&E infrastructure necessary for inclusion in the draft National Aeronautics RDT&E Infrastructure Plan to support achievement of the goals and objectives contained in the 2010 National Aeronautics Research and Development Plan.

Ted Wackler,

Deputy Chief of Staff.

[FR Doc. 2010–15581 Filed 6–25–10; 8:45 am]

BILLING CODE 3170–W0–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on June 30, 2010 at 10 a.m., in the Auditorium, room L–002.

The Commission will consider whether to adopt a new rule and related rule amendments under the Investment Advisers Act of 1940 to address "pay to play" practices by investment advisers. The new rule is designed to prohibit advisers from seeking to influence the award of advisory contracts by public entities by making or soliciting political contributions to or for those officials who are in a position to influence the awards.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: June 23, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15706 Filed 6–24–10; 11:15 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62348; File No. 600–23]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Order Approving an Extension of Temporary Registration as a Clearing Agency

June 22, 2010.

The Securities and Exchange Commission ("Commission") is publishing this notice and order to solicit comments from interested persons and to extend the Fixed Income Clearing Corporation's ("FICC") temporary registration as a clearing agency through June 30, 2011.[1]

On February 2, 1987, pursuant to Sections 17A(b) and 19(a) of the Securities Exchange Act of 1934 ("Act")[2] and Rule 17Ab2–1 promulgated thereunder,[3] the Commission granted the MBS Clearing Corporation ("MBSCC") registration as a clearing agency on a temporary basis for a period of eighteen months.[4] The Commission subsequently extended MBSCC's registration through June 30, 2003.[5]

On May 24, 1988, pursuant to Sections 17A(b) and 19(a) of the Act[6] and Rule 17Ab2–1 promulgated thereunder,[7] the Commission granted the Government Securities Clearing Corporation ("GSCC") registration as a clearing agency on a temporary basis for a period of three years.[8] The Commission subsequently extended GSCC's registration through June 30, 2003.[9]

On January 1, 2003, MBSCC was merged into GSCC, and GSCC was renamed FICC.[10] The Commission subsequently extended FICC's temporary registration through June 30, 2010.[11]

On April 27, 2010, FICC requested that the Commission grant FICC permanent registration as a clearing agency or in the alternative extend FICC's temporary registration until such time as the Commission is prepared to grant FICC permanent registration.[12]

On March 12, 2008, FICC filed a proposed rule change pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder to introduce central counterparty ("CCP") and guarantee settlement services to its MBS Division.[13] Currently, FICC acts as the CCP and provides guarantee settlement services for its Government Securities Division members' eligible U.S. Government securities transactions but does not act as the CCP or provide guarantee settlement services for its MBS Division members' eligible mortgage-backed securities transactions.

Pursuant to this Notice and Order, the Commission is extending FICC's temporary registration as a clearing agency in order that FICC may continue to operate as a registered clearing agency and may continue to provide uninterrupted clearing and settlement services to its users. The Commission will consider permanent registration of FICC at a future date after the Commission has acted upon FICC's proposed rule change to introduce CCP and guarantee settlement services to its MBS Division.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 e-mail to *rule-comments@sec.gov.* Please include File Number 600–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number 600–23. This file number should be included on the subject line if e-mail 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

[1] FICC is the successor to MBS Clearing Corporation and Government Securities Clearing Corporation.

[2] 15 U.S.C. 78q–1(b) and 78s(a).

[3] 17 CFR 240.17Ab2–1.

[4] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

[5] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; 41211 (March 24, 1999), 64 FR 15854; 42568 (March 23, 2000), 65 FR 16980; 44089 (March 21, 2001), 66 FR 16961; 44831 (September 21, 2001), 66 FR 49728; 45607 (March 20, 2002), 67 FR 14755; 46136 (June 27, 2002), 67 FR 44655.

[6] *Supra* note 2.

[7] *Supra* note 3.

[8] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839.

[9] Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19639; 29236 (May 24, 1991), 56 FR 24852; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; 41104 (February 24, 1999), 64 FR 10510; 41805 (August 27, 1999), 64 FR 48682; 42335 (January 12, 2000), 65 FR 3509; 43089 (July 28, 2000), 65 FR 48032; 43900 (January 29, 2001), 66 FR 8988; 44553 (July 13, 2001), 66 FR 37714; 45164 (December 18, 2001), 66 FR 66957; 46135 (June 27, 2002), 67 FR 44655.

[10] Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 (December 24, 2002) [File Nos. SR–GSCC–2002–07 and SR–MBSCC–2002–01].

[11] Securities Exchange Act Release Nos. 48116 (July 1, 2003), 68 FR 41031; 49940 (June 29, 2004), 69 FR 40695; 51911 (June 23, 2005), 70 FR 37878; 54056 (June 28, 2006), 71 FR 38193; 55920 (June 18, 2007), 72 FR 35270; 57949 (June 11, 2008), 73 FR 34808; and 60189 (June 29, 2009), 74 FR 32198.

[12] Letter from Nikki Poulos, Managing Director and General Counsel, FICC (April 27, 2010).

[13] The filed proposed rule change can be viewed at *http://www.dtcc.com/downloads/legal/rule_filings/2008/ficc/2008-01.pdf. See also* FICC White Paper: "A Central Counterparty For Mortgage-Backed Securities: Paving The Way" at *http://www.dtcc.com/downloads/leadership/whitepapers/ccp.pdf.*

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 Section, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.ficc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 600–23 and should be submitted on or before July 19, 2010.

It is therefore ordered that FICC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended through June 30, 2011.

For the Commission by the Division of Trading and Markets pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15537 Filed 6–25–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62329; File No. SR–OCC–2010–09]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Sprott Physical Gold Shares

June 21, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on June 7, 2010, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. 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 the Substance of the Proposed Rule Change

The proposed rule change would add an interpretation following the definition of "fund share" in Article I, Section 1(F)(8), of OCC's By-Laws to clarify that OCC will clear and treat as options on securities any option contract on Sprott Physical Gold Shares that are traded on a securities exchange and will clear and treat as security futures any futures contracts on Sprott Physical Gold Shares.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify OCC's treatment of options and security futures on Sprott Physical Gold Shares. To accomplish this purpose, OCC is proposing to amend the interpretation following the definition of "fund share" in Article I, Section 1, of OCC's By-Laws to make clear that OCC will (i) clear and treat as securities options any option contracts on Sprott Physical Gold Shares that are traded on securities exchanges and (ii) clear and treat as security futures any futures contracts on Sprott Physical Gold Shares. The Commission has approved rule filings where OCC amended or added other interpretations with respect to its treatment and clearing of options and security futures on SPDR Gold Shares; iShares®-COMEX Gold Shares and iShares® Silver Shares; ETFS Physical Swiss Gold Shares and ETFS Physical Silver Shares; and ETFS Palladium Shares and ETFS Platinum Shares.[2]

In its capacity as a "derivatives clearing organization" registered as such with the Commodities Futures Trading Commission ("CFTC"), OCC is filing this proposed rule change for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act ("CEA") in order to foreclose any potential liability under the CEA based on an argument that the clearing by OCC of such options as securities options, or the clearing of such futures as security futures, constitutes a violation of the CEA. The products for which approval is requested are essentially the same as the options and security futures on SPDR Gold Shares, iShares® COMEX Gold Shares and iShares® Silver Shares that OCC currently clears pursuant to the rule changes referred to above and exemptions issued by the CFTC.[3] The underlying Sprott Physical Gold Shares, however, are structured differently from the gold and silver ETFs underlying the currently cleared products.[4]

Sprott Physical Gold Trust is described by the issuer as a closed-end mutual fund trust organized under the laws of the Province of Ontario, Canada. Sprott Physical Gold Shares are redeemable for physical gold on a monthly rather than a daily basis and have redemption terms that are different from the fund shares underlying the contracts that were the subject of the previous filings. In addition, unlike the underlying ETFs referred to in the previous filings, Sprott Physical Gold Shares cannot be created through the deposit of gold in "creation unit" size transactions, and therefore the outstanding number of shares in the trust therefore cannot be increased through such a mechanism. OCC believes that these differences do not have jurisdictional significance for purposes of this filing. OCC believes that this filing raises no new regulatory or policy issues with respect to the options and security futures, notwithstanding the differences between the two products.

OCC states that the proposed interpretation of OCC's By-Laws is consistent with the purposes and

[14] 17 CFR 200.30–3(a)(50)(i).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities and Exchange Commission Release Nos. 57895 (May 30, 2008), 73 FR 32066 (June 5, 2008) (SPDR Gold Trust); 59054 (Dec. 4, 2008), 73 FR 75159 (Dec. 10, 2008) (iShares COMEX Gold Shares and iShares Silver Shares); 61591 (Feb. 25, 2010), 75 FR 9979 (Mar. 4, 2010) (ETFS Physical Gold Shares and ETFS Physical Silver Shares); 61958 (Apr. 22, 2010), 75 FR 22673 (Apr. 29, 2010) (ETFS Palladium Shares And ETFS Platinum Shares).

[3] CFTC Order Exempting the Trading and Clearing of Certain Products Related to SPDR Gold Trust Shares, 73 FR 31981 (June 5, 2008); CFTC Order Exempting the Trading and Clearing of Certain Products Related to iShares® COMEX Gold Trust Shares and iShares® Silver Trust Shares, 73 FR 79830 (Dec. 3, 2008).

[4] Sprott Physical Gold Trust May 26, 2010 Prospectus, available at *http://www.sec.gov/edgar/searchedgar/companysearch.html.*

requirements of Section 17A of the Act [5] because it is designed to promote the prompt and accurate clearance and settlement of transactions in securities options and security futures, to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. It accomplishes this purpose by making clear its treatment of options and security futures on Sprott Physical Gold Shares. The proposed rule change is not inconsistent with the By-Laws and Rules of OCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

OCC has not solicited or received written comments relating to the proposed rule change. OCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–OCC–2010–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC, 20549–1090.

All submissions should refer to File No. SR–OCC–2010–09. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jsp.* 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 submission should refer to File No. SR–OCC–2010–09 and should be submitted on or before July 19, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15539 Filed 6–25–10; 8:45 am]

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[5] 15 U.S.C. 78q–1.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62330; File No. SR–ISE–2010–62]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Clearly Erroneous Executions

June 21, 2010.

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 17, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. On June 18, 2010, the Exchange filed Amendment No. 1. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 2128 governing clearly erroneous executions. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[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 hereby submits this Amendment No. 1 to its rule filing SR–ISE–2010–62, which replaces and supersedes the original in its entirety. The Exchange is proposing modifications to its Rule 2128, entitled Clearly Erroneous Executions. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 2128, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange is proposing to replace existing paragraph (c)(4) of Rule 2128, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 2128 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3) and (e) of Rule 2128 consistent with the proposed changes to paragraphs (c)(2) and (c)(4). As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.17, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.17 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 2128 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in Rule 2102.[3] As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of ISE Rule 2128 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Circuit Breaker Securities

[3] *See* Securities Exchange Act Release No. 62271 (June 10, 2010) (SR–ISE–2010–58).

as defined in Interpretation and Policy .05 of Rule 11.14. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in ISE Rule 2128(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion, pursuant to paragraph (g) of the rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within the Regular Market Session,[4] an execution would be eligible for review as potentially clearly erroneous as follows:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Market Session Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides an officer of the Exchange or other senior level employee designee the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances * * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the first sentence of paragraph (f) to make clear that the provision only applies to a disruption of malfunction of the Exchange's system—(and not of an Exchange user's systems).

Paragraph (g) gives an officer of the Exchange or other senior level employee designee the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any officer of the Exchange or other senior level employee reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (g) to state that an officer must rely on paragraphs (c)(1)–(4) of Rule 2128 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1), (c)(3) and (e)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1), (c)(3) and (e) of the existing Rule, as described below.

Under current ISE Rule 2128, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of ISE Rule 2128. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the

[4] The Regular Market Session is defined in ISE Rule 2102 as the time between 9:30 a.m. and 4 p.m. Eastern Time. According to the rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Eastern Time. *See* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (c)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, the Exchange proposes amending paragraph (e)(2), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (c)(3), the Exchange proposes adding such language back in to paragraph (e)(2) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2010–62 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–ISE–2010–62. This file number should be included on the subject line if e-mail 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,[8] 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–ISE–2010–62 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15540 Filed 6–25–10; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

[8] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62355; File No. SR–NYSE–2010–46]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Adopting New Rule 0 To Provide That Certain References in Exchange Rules Should Be Understood to Also Include FINRA, as Applicable.

June 22, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 14, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new Rule 0 to provide that certain references in Exchange rules should be understood to also include FINRA, as applicable. The text of the proposed rule change is available at the Exchange, the Commission's Web site at *http://www.sec.gov,* the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to add a new Rule 0 in connection with the FINRA Consolidation, to provide that certain references in Exchange rules should be understood to also include FINRA, as applicable. Specifically, proposed Rule 0 sets forth that the Exchange and FINRA are parties to a Regulatory Services Agreement ("RSA") pursuant to which FINRA has agreed to perform certain of the Exchange's member regulatory functions on behalf of the Exchange[4] and that Exchange rules that refer to NYSE Regulation, Inc., NYSE Regulation staff or departments, Exchange staff, and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA, as applicable. The proposed new rule further provides that notwithstanding that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's member regulatory functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

Background

NYSE Group, NYSE Regulation, Inc. ("NYSE Regulation"), NYSE, NYSE Arca, Inc. ("NYSE Arca"), and NYSE Amex LLC ("NYSE Amex") (collectively, the "NYSE Group Exchanges") anticipate entering into an RSA and an allocation plan pursuant to Section 17(d)(1) of the Securities Exchange Act of 1934 and Rule 17d–2 thereunder that together, when effective, will result in consolidating with FINRA essentially all member regulatory functions that are currently performed by NYSE Regulation on behalf of the Exchange and the other NYSE Group Exchanges.[5] The evolution and increasing fragmentation of the securities markets has heightened the need for effective cross-market, cross-product oversight, and the Exchange believes that as a centralized regulatory utility, FINRA is well positioned to perform such consolidated regulatory services. Among other things, FINRA will conduct examinations and surveillance of member and member firm conduct under Exchange rules, investigate and enforce violations of Exchange rules, and conduct disciplinary proceedings arising out of such enforcement actions. NYSE Regulation currently performs the Exchange's regulatory functions pursuant to delegated authority.[6]

Proposed Rule

In connection with the FINRA Consolidation, the Exchange proposes to add new Rule 0. As proposed, Rule 0 sets forth that (i) the Exchange and FINRA are parties to an RSA pursuant to which FINRA has agreed to perform certain of the Exchange's member regulatory functions on behalf of the Exchange; and (ii) Exchange rules that refer to NYSE Regulation, Inc., NYSE Regulation staff or departments, Exchange staff, and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA, as applicable. Additionally, proposed Rule 0 would set forth that notwithstanding that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's member regulatory functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

As noted above, the Exchange will be consolidating essentially all member regulatory functions with FINRA, in order to enhance cross-market, cross-product regulatory oversight and address the increasing market fragmentation. In connection therewith, FINRA is hiring substantially all the management and staff from NYSE Regulation who do market surveillance and enforcement for the NYSE Group Exchanges, so that the expertise related to those functions will reside with FINRA. Thus, the Exchange will necessarily rely on FINRA to determine the manner by which the regulatory services will be provided and the appropriate regulatory action to be taken to address particular matters. While the Exchange will have oversight rights with respect to FINRA's performance under the RSA, it will not exercise day to day control of such functions.

The proposed rule text is substantially identical to Nasdaq Rule 0130.

2. Statutory Basis

The Exchange believes that the proposed rule changes [sic] are consistent with Section 6(b) of the

[4] The Exchange and FINRA are also party to an allocation plan pursuant to Section 17(d)(1) of the Securities Exchange Act of 1934 and Rule 17d–2 thereunder.

[5] NYSE Regulation will continue to have ultimate authority (as between itself and FINRA) regarding the proper interpretation of the rules of the NYSE Group Exchanges. NYSE Regulation will also continue to be responsible for listing regulation at the NYSE Exchanges.

[6] NYSE Regulation currently performs the regulatory functions of NYSE Arca and NYSE Amex pursuant to RSAs.

Act,[7] in general, and further the objectives of Section 6(b)(5) of the Act,[8] in particular, in that they [sic] are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule changes [sic] support the objectives of the Act by providing greater transparency to members and member organizations that FINRA will be providing regulatory services on behalf of the Exchange and that therefore the entity contacting members and member organization in connection with such regulation may be FINRA, even if an Exchange rule specifies that NYSE Regulation or the Exchange will be performing such function.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because such waiver will enable the Exchange to implement new Rule 0 commensurate with its entering into the RSA. In addition, as noted by the Exchange, the proposal is consistent with the rules of other self-regulatory organizations previously approved by the Commission.[11] For these reasons, the Commission designates the proposed rule change as operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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 e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2010–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2010–46. This file number should be included on the subject line if e-mail 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, on official business days between the hours of 10 a.m. and 3 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–NYSE–2010–46 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15650 Filed 6–25–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62354; File No. SR–NYSEAmex–2010–5]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending Rule 0 To Provide That Certain References in Exchange Rules Should Be Understood To Also Include FINRA, as Applicable

June 22, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 14, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] *See* Nasdaq Rule 0130 and BATS Rule 8.1(d).

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 0 to provide that certain references in Exchange rules should be understood to also include FINRA, as applicable. The text of the proposed rule change is available at the Exchange, the Commission's Web site at *http://www.sec.gov,* the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Rule 0 to provide that certain references in Exchange rules should be understood to also include FINRA, as applicable. Specifically, proposed Rule 0(c) sets forth that the Exchange and FINRA are parties to a Regulatory Services Agreement ("RSA") pursuant to which FINRA has agreed to perform certain of the Exchange's member regulatory functions on behalf of the Exchange [4] and that Exchange rules that refer to NYSE Regulation, Inc., NYSE Regulation staff or departments, Exchange staff, and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA, as applicable. The proposed new rule further provides that notwithstanding that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's member regulatory functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

Background

NYSE Group, NYSE Regulation, Inc. ("NYSE Regulation"), NYSE Amex, New York Stock Exchange LLC ("NYSE"), and NYSE Arca, Inc. ("NYSE Arca") (collectively, the "NYSE Group Exchanges") anticipate entering into an RSA and an allocation plan pursuant to Section 17(d)(1) of the Securities Exchange Act of 1934 and Rule 17d–2 thereunder that together, when effective, will result in consolidating with FINRA essentially all member regulatory functions that are currently performed by NYSE Regulation on behalf of the Exchange and the other NYSE Group Exchanges.[5] The evolution and increasing fragmentation of the securities markets has heightened the need for effective cross-market, cross-product oversight, and the Exchange believes that as a centralized regulatory utility, FINRA is well positioned to perform such consolidated regulatory services. Among other things, FINRA will conduct examinations and surveillance of member and member firm conduct under Exchange rules, investigate and enforce violations of Exchange rules, and conduct disciplinary proceedings arising out of such enforcement actions. NYSE Regulation currently performs the Exchange's regulatory functions pursuant to a regulatory services agreement.[6]

Proposed Rule

In connection with the FINRA Consolidation, the Exchange proposes to amend Rule 0 to add section (c) to the Rule. As proposed, Rule 0(c) sets forth that (i) the Exchange and FINRA are parties to an RSA pursuant to which FINRA has agreed to perform certain of the Exchange's member regulatory functions on behalf of the Exchange; and (ii) Exchange rules that refer to NYSE Regulation, Inc., NYSE Regulation staff or departments, Exchange staff, and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA, as applicable. Additionally, proposed Rule 0(c) would set forth that notwithstanding that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's member regulatory functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions. As noted above, the Exchange will be consolidating essentially all member regulatory functions with FINRA, in order to enhance cross-market, cross-product regulatory oversight and address the increasing market fragmentation. In connection therewith, FINRA is hiring substantially all the management and staff from NYSE Regulation who do market surveillance and enforcement for the NYSE Group Exchanges, so that the expertise related to those functions will reside with FINRA. Thus, the Exchange will necessarily rely on FINRA to determine the manner by which the regulatory services will be provided and the appropriate regulatory action to be taken to address particular matters. While the Exchange will have oversight rights with respect to FINRA's performance under the RSA, it will not exercise day to day control of such functions.

The proposed rule text is substantially identical to Nasdaq Rule 0130.

2. Statutory Basis

The Exchange believes that the proposed rule changes [sic] are consistent with Section 6(b) of the Act,[7] in general, and further the objectives of Section 6(b)(5) of the Act,[8] in particular, in that they [sic] are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule changes [sic] support the objectives of the Act by providing greater transparency to members and member organizations that FINRA will be providing regulatory services on behalf of the Exchange and that therefore the entity contacting members and member organization in connection with such regulation may be FINRA, even if an Exchange rule specifies that NYSE Regulation or the Exchange will be performing such function.

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

[4] The Exchange and FINRA are also party to an allocation plan pursuant to Section 17(d)(1) of the Securities Exchange Act of 1934 and Rule 17d–2 thereunder.

[5] NYSE Regulation will continue to have ultimate authority (as between itself and FINRA) regarding the proper interpretation of the rules of the NYSE Group Exchanges. NYSE Regulation will also continue to be responsible for listing regulation at the NYSE Exchanges.

[6] NYSE Regulation currently performs the regulatory functions of NYSE Amex and NYSE Arca pursuant to RSAs and of NYSE pursuant to delegated authority.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) [10] thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because such waiver will enable the Exchange to implement new Rule 0(c) commensurate with its entering into the RSA. In addition, as noted by the Exchange, the proposal is consistent with the rules of other self-regulatory organizations previously approved by the Commission.[11] For these reasons, the Commission designates the proposed rule change as operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] *See* Nasdaq Rule 0130 and BATS Rule 8.1(d).

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2010–57 on the subject line.

Paper Comments:

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2010–57. This file number should be included on the subject line if e-mail 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, on official business days between the hours of 10 a.m. and 3 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–NYSEAmex–2010–57 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15649 Filed 6–25–10; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62334; File No. SR–NASDAQ–2010–076]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NASDAQ Rule 11890 Governing Clearly Erroneous Executions

June 21, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2010, The NASDAQ Stock Market LLC (the "Exchange" or "Nasdaq") 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 substantially prepared by the Exchange. On June 18, 2010, the Exchange submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Commission to amend NASDAQ Rule 11890, entitled Cleary Erroneous Transactions.

The text of the proposed rule change is available from Nasdaq's Web site at *http://nasdaq.cchwallstreet.com/Filings/*, at Nasdaq's principal office, 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing modifications to its Rule 11890, entitled Clearly Erroneous Transactions. First, NASDAQ proposes replacing existing paragraph (C)(2) of Rule 11890, entitled "*Unusual Circumstances and Joint Market Rulings*" with a new paragraph, entitled "*Multi-Stock Events Involving Twenty or More Securities*." Second, NASDAQ replacing existing paragraph (C)(4) of Rule 11890, entitled "*Numerical Guidelines Applicable to Volatile Market Opens*" with a new paragraph, entitled "*Individual Stock Trading Pauses*." Third, NASDAQ is proposing changes to existing paragraph (b) of Rule 11890 to eliminate the ability of NASDAQ to deviate from the Numerical Guidelines contained in paragraph (C)(1) (other than under limited circumstances set forth in paragraph (b)(i)) when deciding which transactions will be reviewed by NASDAQ as potentially clearly erroneous. Finally, NASDAQ proposes modifications to paragraphs (C)(1) and (C)(3) of Rule 11890 consistent with the proposed changes to paragraphs (C)(2) and (C)(4). As proposed, the provisions of paragraphs (C), (c)(1), (b)(i), and (b)(ii) of Rule 11890 as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (C), (c)(1), and (b) of Rule 11890 would be in effect.

NASDAQ is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on NASDAQ. NASDAQ has also proposed additional changes to Rule 11890 that reduce the ability of NASDAQ to deviate from the objective standards set forth in the Rule. In addition, NASDAQ is modifying certain defined terms in the rule to match definitions used by other exchanges in order to avoid the risk of confusion. The proposed changes are described in further detail below.

Revised Paragraph (C)(2) Related to Multi-Stock Events Involving Twenty or More Securities

NASDAQ proposes to eliminate the majority of existing paragraph (C)(2), which provides flexibility to NASDAQ to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." NASDAQ proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by NASDAQ in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, NASDAQ may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (C)(4), and to ensure consistent application across market centers when proposed paragraph (C)(2) is invoked, NASDAQ will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (C)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. NASDAQ will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by NASDAQ and other markets consistent with the proposed paragraph (C)(2).

Because NASDAQ and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, NASDAQ proposes deletion of paragraph (C)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. NASDAQ believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (C)(4) Related to Individual Stock Trading Pauses

NASDAQ and other primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, NASDAQ recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause triggered pursuant to Rule 4120(a)(11), as approved.[3] As described above, NASDAQ is proposing to eliminate existing paragraph (C)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). NASDAQ proposes adopting a rule, numbered as (C)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on NASDAQ. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by NASDAQ from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on NASDAQ, especially under highly volatile and active market conditions.

NASDAQ proposes to revise paragraph (C)(4) of NASDAQ Rule 11890 to allow NASDAQ to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on NASDAQ. As proposed, the phrase

[3] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–NASDAQ–2010–061).

"Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Securities as defined in NASDAQ Rule 4120(a)(11). The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. NASDAQ will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. NASDAQ proposes to make clear in the text that the proposed standards in paragraph (C)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (C)(1) and (C)(2).

As proposed, the Numerical Guidelines set forth in NASDAQ Rule 11890(C)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. Nasdaq proposes to review, on its own motion pursuant to paragraph (b)(ii) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on NASDAQ. NASDAQ has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[4] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

Revisions to Paragraph (b)

NASDAQ to be consistent with other exchanges is eliminating paragraph (b) and adding new paragraphs (b)(i) and (b)(ii) to separate the System Disruptions from Own Motion situations. Consistent with other proposals made in this filing, NASDAQ proposes modifying paragraph (b)(ii) to eliminate the ability of a Senior Official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (C)(3).

New paragraph (b)(i) provides a Senior Official of NASDAQ the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the operation of any electronic communications and trading facilities of NASDAQ, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist."

New paragraph (b)(ii) is similar to existing Rule 11890(b) and covers other situations where NASDAQ may act on its own motion. Without modification, the language "extraordinary market conditions or other circumstances* * *" in current Rule 11890(b) would leave NASDAQ with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (C)(1). Thus, NASDAQ proposes narrowing the scope of paragraph (b) so that it only permits NASDAQ to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the use of NASDAQ's system covered by proposed Rule 11890(b)(i).

For the same reason, NASDAQ proposes eliminating the words "use or" from the language in paragraph (b) to make clear that the provision only applies to a disruption or malfunction of the NASDAQ's system (and not of an NASDAQ user's systems).

Paragraph (b)(ii) gives a Senior Official of NASDAQ the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, NASDAQ proposes deleting language in existing paragraph (b) that would allow NASDAQ to deviate from the Numerical Guidelines contained in paragraph (C)(1). In addition, NASDAQ proposes to make clear that any Senior Official reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (C)(4), if applicable. Accordingly, NASDAQ proposes to modify paragraph (b)(ii) to state that an officer must rely on paragraphs (C)(1)–(4) of Rule 11890 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (C)(1) and (C)(3)

Based on proposed paragraph (C)(2), NASDAQ has proposed certain conforming changes to paragraphs (C)(1) and (C)(3) of the existing Rule, as described below.

Under current NASDAQ Rule 11890, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (C)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (C)(2)" of NASDAQ Rule 11890. NASDAQ proposes modifying paragraph (C)(1) consistent with the changes described above such that NASDAQ shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (C)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (C)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (C)(4), in which case the Reference Price shall be determined in accordance with that

[4] The term "Regular Trading Hours" is being renamed from "Core Session" in NASDAQ Rule 11890 (a)(2)(B) as the time between 9:30 a.m. and 4 p.m. Eastern Time. According to rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Eastern Time. *See* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

paragraph (C)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. NASDAQ also proposes modifying paragraph (C)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included n paragraph (C)(3). Moreover, NASDAQ proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, NASDAQ proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

NASDAQ proposes clarifying paragraph (C)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an NASDAQ official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, NASDAQ proposes amending paragraph (c)(1), related to appeals of clearly erroneous execution decisions by NASDAQ, to preserve non-appealability of all joint rulings between NASDAQ and one or more other market centers. NASDAQ believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although NASDAQ has proposed deletion of such language from existing paragraph (C)(3), NASDAQ proposes adding such language back in to paragraph (c)(1) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NASDAQ–2010–076 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NASDAQ–2010–076. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NASDAQ–2010–076 and should be submitted on or before July 19, 2010.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15543 Filed 6–25–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62357; File No. SR–NYSEAmex—2010–54]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Equities Rule 1000 Regarding Order Size Eligible for Automatic Execution

June 22, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 17, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Amex Equities Rule 1000 regarding order size eligible for automatic execution. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, the Commission's Web site at *http://www.sec.gov,* and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1000 to state that the order size eligible for automatic execution is 1,000,000 shares and to provide that upon advance notice to market participants, the Exchange may increase the order size eligible for automatic executions up to 5,000,000 shares on a security-by-security basis. In addition, the Exchange proposes to raise the maximum order size accepted by Exchange systems to 25,000,000 shares.

Background

Currently, the maximum order size eligible for automatic execution is 1,000,000 shares. This limit is reflected in Exchange and New York Stock Exchange LLC ("NYSE") rule filings that have been approved by the Commission, but it is not specifically stated in Rule 1000. In 2006, as part of the approval of the NYSE Hybrid Model, the NYSE amended NYSE Rule 1000 to provide for a phased-in increase of order size eligibility for automatic execution to a maximum size of 3,000,000, but noted that the then-current order size eligibility for automatic execution was 1,000,000 shares.[4] The NYSE determined not to raise the 1,000,000 share maximum in order to avoid any possible issues resulting from routing orders in excess of 1,000,000 shares to another market as other markets also do not offer automatic execution in size greater than 1,000,000 shares.

In 2008, the NYSE implemented on a pilot basis its New Model structure, which is also the model that governs trading at the Exchange.[5] Among other things, the NYSE's New Model filing included amendments to Rule 1000 to provide for a phased-in increase of order size eligibility for automatic execution from 3,000,000 shares to a maximum of 6,500,000 shares. At that time, the NYSE intended to raise the maximum order size accepted by NYSE systems to 6,500,000 shares. While the rule text states that the order size eligibility is 3,000,000 shares, the New Model filing indicates that the maximum order size eligible for automatic execution is 1,000,000 shares and states that the purpose of the amendment to Rule 1000 was to provide for a new potential maximum order "size eligibility" of 6,500,000 shares.

Proposed Amendment to NYSE Amex Equities Rule 1000

The Exchange proposes three amendments to NYSE Amex Equities Rule 1000. First, the Exchange proposes to amend Rule 1000 to state specifically that orders up to 1,000,000 shares are eligible for automatic execution. Second, the Exchange proposes that upon at least 24 hours advance notice to market participants, the execution size of automatic executions may be increased up to 5,000,000 shares on a security-by-security basis. Determination of such securities will be based on factors including the basis of average daily volume and price over a calendar quarter. A list of such securities will be posted on the Exchange Web site. Third, the Exchange proposes to amend Rule 1000 to state that Exchange systems shall accept a maximum order size of 25,000,000 shares.

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE.[6]

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act")[7] for this proposed rule change is the requirement under Section 6(b)(5)[8] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 54820 (November 26 [sic], 2006), 71 FR 70824 (December 6, 2006) (SR–NYSE–2006–65).

[5] The NYSE Amex Equities Rules, which became operative on December 1, 2008, are substantially identical to the current NYSE Rules 1–1004 and the Exchange continues to update the NYSE Amex Equities Rules as necessary to conform with rule changes to corresponding NYSE Rules filed by the NYSE. *See* Securities Exchange Act Release Nos. 58705 (Oct. 1, 2008), 73 FR 58995 (Oct. 8, 2008) (SR–Amex–2008–63); No. 58833 (Oct. 22, 2008), 73 FR 64642 (Oct. 30, 2008) (SR–NYSE–2008–106); No. 58839 (Oct. 23, 2008), 73 FR 64645 (October 30, 2008) (SR–NYSEALTR–2008–03); No. 59022 (Nov. 26, 2008), 73 FR 73683 (Dec. 3, 2008) (SR–NYSEALTR–2008–10); and No. 59027 (Nov. 28, 2008), 73 FR 73681 (Dec. 3, 2008) (SR–NYSEALTR–2008–11). Among the rule changes that the Exchange has proposed to adopt is the NYSE's New Model structure. *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46); *See also* Securities Exchange Act Release Nos. 60758 (October 1, 2009), 74 FR 51639 (October 7, 2009) (SR–NYSEAmex–2009–65) (extending the operation of the New Model Pilot until the earlier of Securities and Exchange Commission approval to make such pilot permanent or November 30, 2009); 61030 (November 19, 2009), 74 FR 62365 (November 27, 2009) (SR–NYSEAmex–2009–83) (extending Pilot to March 30, 2010); and 61725 (March 17, 2010), 75 FR 14223 (May [sic] 24, 2010) (SR–NYSEAmex–2010–28) (extending the operation of the NMM Pilot until the earlier of Securities and Exchange Commission approval to make such pilot permanent or September 30, 2010).

[6] *See* SR–NYSE–2010–44.

[7] 15 U.S.C. 78a.

[8] 15 U.S.C. 78f(b)(5).

impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change accomplishes these goals by providing transparency regarding the order size eligible for automatic execution, while providing for a mechanism to increase that execution size on a security-by-security basis.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. The proposed rule change clarifies the maximum order size accepted by the Exchange's systems and the maximum order size eligible for automatic execution. The proposed rule change also specifies that any increases in the order size eligible for automatic execution will require advance notice to Exchange members. In addition, the Exchange represented that a list of such securities will be posted on its Web site. For these reasons, the Commission believes that the proposed rule change is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSEAmex–2010–54 on the subject line.

Paper Comments:

Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEAmex–2010–54. This file number should be included on the subject line if e-mail 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,[14] 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEAmex–2010–54 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–15597 Filed 6–25–10; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62356; File No. SR–NYSE–2010–44]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 1000 Regarding Order Size Eligible for Automatic Execution

June 22, 2010.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 17, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1000 regarding order size eligible for automatic execution. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, the Commission's Web site at *http://www.sec.gov,* and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1000 to state that the order size eligible for automatic execution is 1,000,000 shares and to provide that upon advance notice to market participants, the Exchange may increase the order size eligible for automatic executions up to 5,000,000 shares on a security-by-security basis. In addition, the Exchange proposes to raise the maximum order size accepted by Exchange systems to 25,000,000 shares.

Background

Currently, the maximum order size eligible for automatic execution is 1,000,000 shares. This limit is reflected in Exchange rule filings that have been approved by the Commission, but it is not specifically stated in Rule 1000. In 2006, as part of the approval of the NYSE Hybrid Model, the Exchange amended Rule 1000 to provide for a phased-in increase of order size eligibility for automatic execution to a maximum size of 3,000,000, but noted that the then-current order size eligibility for automatic execution was 1,000,000 shares.[4] The Exchange determined not to raise the 1,000,000 share maximum in order to avoid any possible issues resulting from routing orders in excess of 1,000,000 shares to another market as other markets also do not offer automatic execution in greater size than 1,000,000 shares.

In 2008, the Exchange implemented on a pilot basis its New Model structure.[5] Among other things, the Exchange's New Model filing included amendments to Rule 1000 to provide for a phased-in increase of order size eligibility for automatic execution from 3,000,000 shares to a maximum of 6,500,000 shares. At that time, the Exchange intended to raise the maximum order size accepted by Exchange systems to 6,500,000 shares. While the rule text states that the order size eligibility is 3,000,000 shares, the New Model filing indicates that the maximum order size eligible for automatic execution is 1,000,000 shares and states that the purpose of the amendment to Rule 1000 was to provide for a new potential maximum order "size eligibility" of 6,500,000 shares.

Proposed Amendment to NYSE Rule 1000

The Exchange proposes three amendments to Rule 1000. First, the Exchange proposes to amend Rule 1000 to state specifically that orders up to 1,000,000 shares are eligible for automatic execution. Second, the Exchange proposes that upon at least 24 hours advance notice to market participants, the execution size of automatic executions may be increased up to 5,000,000 shares on a security-by-security basis. Determination of such securities will be based on factors including the basis of average daily volume and price over a calendar quarter. A list of such securities will be posted on the Exchange Web site. Third, the Exchange proposes to amend Rule 1000 to state that Exchange systems shall accept a maximum order size of 25,000,000 shares.

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Amex LLC.[6]

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act")[7] for this proposed rule change is the requirement under section 6(b)(5)[8] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change accomplishes these goals by providing transparency regarding the order size eligible for automatic execution, while providing for a mechanism to increase that execution size on a security-by-security basis.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

[4] *See* Securities Exchange Act Release No. 54820 (November 26 [sic], 2006), 71 FR 70824 (December 6, 2006) (SR–NYSE–2006–65).

[5] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46); *See also* Securities Exchange Act Release Nos. 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending the operation of the New Model Pilot until the earlier of Securities and Exchange Commission approval to make such pilot permanent or November 30, 2009); 61031 (November 19, 2009), 74 FR 62368 (November 27, 2009) (SR–NYSE–2009–113) (extending Pilot to March 30, 2010); and 61724 (March 17, 2010), 75 FR 14221 (May [sic] 24, 2010) (SR–NYSE–2010–25) (extending the operation of the NMM Pilot until the earlier of Securities and Exchange Commission approval to make such pilot permanent or September 30, 2010).

[6] *See* SR–NYSEAmex–2010–54.

[7] 15 U.S.C. 78a.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change,

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. The proposed rule change clarifies the maximum order size accepted by the Exchange's systems and the maximum order size eligible for automatic execution. The proposed rule change also specifies that any increases in the order size eligible for automatic execution will require advance notice to Exchange members. In addition, the Exchange represented that a list of such securities will be posted on its Web site. For these reasons, the Commission believes that the proposed rule change is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSE–2010–44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2010–44. This file number should be included on the subject line if e-mail 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,[14] 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2010–44 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

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at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov*.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62337; File No. SR–CBOE–2010–056]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to the CBSX Clearly Erroneous Policy

June 21, 2010.

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 18, 2010, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend CBOE Stock Exchange's ("CBSX", the CBOE's stock trading facility) clearly erroneous policy . The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing modifications to its Rule 52.4, entitled "Clearly Erroneous Executions." First, the Exchange proposes replacing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

existing paragraph (c)(2) of Rule 52.4, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange proposes replacing existing paragraph (c)(4) of Rule 52.4, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 52.4 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3) and (e) of Rule 52.4 consistent with the proposed changes to paragraphs (c)(2) and (c)(4). As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 52.4, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 52.4 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (i) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (ii) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 52.4 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than the consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to halt/pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Stocks, as defined in Interpretation and Policy .03 of Rule 6.3C.[3] As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of Rule 52.4 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Circuit Breaker Stocks as defined in Interpretation and Policy .03 of Rule 6.3C. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at

[3] *See* Rule 6.3C; *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–CBOE–2010–047).

issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in Rule 52.4(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to paragraph (g) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[4] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2×).

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides that an Official[5] of this Exchange has the ability, on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of CBSX, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist * * * ". Without modification, the language "extraordinary market conditions or other circumstances * * * " would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (f) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (g) gives an Official of the Exchange the ability, on his or her own motion, to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Official of the Exchange reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (g) to state that an officer must rely on paragraphs (c)(1)–(4) of Rule 52.4 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1), (c)(3) and (e)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1), (c)(3) and (e) of the existing Rule, as described below.

Under current Rule 52.4, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of Rule 53.4. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (i) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (ii) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (iii) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (c)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In

[4] Regular Trading Hours are defined in Rule 51.2 as the time between 8:30 a.m. and 3 p.m. Central Time. According to the rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 8:45 a.m. and 2:35 p.m. Central Time. *See* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

[5] For purposes of Rule 52.4, an "Official" is defined as one or more senior level officials of CBSX designated by the President. *See* Rule 52.4(b).

addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange Official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses. The Exchange also proposes to add Extended Trading Hours executions as an additional factor that may be considered to determine whether an execution is clearly erroneous under paragraph (c)(3).[6]

Finally, the Exchange proposes amending paragraph (e)(2), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (c)(3), the Exchange proposes adding such language back in to paragraph (e)(2) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[8] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2010–056 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2010–056. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CBOE–2010–056 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

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[6] This change would conform the list of additional factors identified in paragraph (c)(3) of the Exchange's Rule 52.4 to the list of additional factors identified in other markets' clearly erroneous rules. *See, e.g.,* BATS Rule 11.17(c)(3).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62336; File No. SR–CHX–2010–13]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Amend Article 20, Rule 10 Regarding Clearly Erroneous Transactions

June 21, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on June 17, 2010, the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. On June 21, 2010, the Exchange submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend Article 20, Rule 10 to amend its rules regarding clearly erroneous transactions. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com* and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 Changes

1. Purpose

The CHX is proposing to amend Article 20, Rule 10 regarding is handling of clearly erroneous trade executions. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 10, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange is replacing existing paragraph (c)(4) of Rule 10, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 10 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3) and (e) of Rule 10 consistent with the proposed changes to paragraphs (c)(2) and (c)(4). As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.17, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.17 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 10 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in Interpretation and Policy .06 of Rule 2 of Article 20.[3] As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of Rule 10 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Circuit Breaker Securities as defined in Interpretation and Policy .06 of Rule 2 of Article 20. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in Rule 10(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to paragraph (g) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within the Regular Trading Session,[4] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Session Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides an officer of the Exchange or other senior level employee designee the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances * * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (f) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (g) gives an officer of the Exchange or other senior level employee designee the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Officer of the Exchange or other senior level employee reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable.

[3] *See,* CHX Article 20, Rule 2; *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–CHX–2010–10).

[4] The Regular Trading Session operates from 8:30 a.m. CT to 3:00 p.m. CT. Article 20, Rule 1(b). According to rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 8:45 a.m. and 2:35 p.m. CT. *See,* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

Accordingly, the Exchange proposes to modify paragraph (g) to state that an officer must rely on paragraphs (c)(1)–(4) of Rule 10 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1) and (c)(3) and (e)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1), (c)(3) and (e) of the existing Rule, as described below. Under current Rule 10, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of Rule 10. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (c)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, the Exchange proposes amending paragraph (e)(2), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (c)(3), the Exchange proposes adding such language back in to paragraph (e)(2) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement of 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.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–CHX–2010–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

All submissions should refer to File No. SR–CHX–2010–13. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CHX–2010–13 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15590 Filed 6–25–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62331; File No. SR–NSX–2010–07]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend Rule 11.19, Entitled "Clearly Erroneous Executions"

June 21, 2010.

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 17, 2010, National Stock Exchange, Inc. filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

National Stock Exchange, Inc. ("NSX" or the "Exchange") is proposing to amend Rule 11.19, entitled "Clearly Erroneous Executions."

The text of the proposed rule change is available on the Commission's Web Site at *http://www.sec.gov*, the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing modifications to its Rule 11.19, entitled Clearly Erroneous Executions. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 11.19, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange replacing existing paragraph (c)(4) of Rule 11.19, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (g) and (h) of Rule 11.19 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (g)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3) and (e) of Rule 11.19 consistent with the proposed changes to paragraphs (c)(2) and (c)(4). As proposed, the provisions of paragraphs (c), (e)(2), (g), and (h) of Rule 11.19, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (g), and (h) of Rule 11.17 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 11.19 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in Commentary .05 to Rule 11.20.[3] As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of Rule 11.19 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Circuit Breaker Security as defined in Commentary .05 of Rule 11.20. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. If the Exchange is not the primary listing market, the Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in Rule 11.19(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to Rule 11.19(h), all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[4] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

Revisions to Paragraphs (g) and (h)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (g) and (h) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (g).

[3] *See* NSX Rule 11.20; *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–NSX–2010–05).

[4] Regular Trading Hours are defined in Rule 1.5(R) as the time between 8:30 a.m. and 3:00 p.m. Central Time. According to rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Eastern Time. *See* NSX Rule 11.20B(a). *See also* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

Current paragraph (g) provides an officer of the Exchange or other senior level employee designee the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances* * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (g) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (g) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (h) gives an officer of the Exchange or other senior level employee designee the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (h) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Officer of the Exchange or other senior level employee reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (h) to state that an officer must rely on paragraphs (c)(1)–(4) of Rule 11.19 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1), (c)(3) and (e)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1), (c)(3) and (e) of the existing Rule, as described below.

Under current Rule 11.19, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of Rule 11.19. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (c)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, the Exchange proposes amending paragraph (e)(2), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (c)(2), the Exchange proposes adding such language back in to paragraph (e)(2) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NSX–2010–07 on the subject line.

Paper Comments

Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NSX–2010–07. This file number should be included on the subject line if e-mail 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,[8] 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NSX–2010–07 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15588 Filed 6–25–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62332; File No. SR–NYSEAmex–2010–60]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Proposed Rule Change Amending NYSE Amex Equities Rule 128 Relating to Clearly Erroneous Executions

June 21, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 17, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Amex Equities Rule 128 relating to clearly erroneous executions. The text of the proposed rule change is available at the Exchange, the Commission's Web site at *http://www.sec.gov,* the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend NYSE Amex Equities Rule 128, entitled Clearly Erroneous Executions for NYSE Amex Equities. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 128, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange proposes replacing existing paragraph (c)(4) of Rule 128, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Security Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 128 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3), and (e) of Rule 128

[8] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

consistent with the proposed changes to paragraphs (c)(2) and (c)(4).

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual security trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 128 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule in those circumstances. The proposed changes are described in further detail below.

As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 128, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 128 would be in effect.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities, the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed.

Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual security trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Security Trading Pauses

The Commission has just approved the Exchange's filing to adopt Rule 80C permitting the primary listing market to invoke a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period.[4] This rule is currently a pilot and is applicable to securities included in the S&P 500 Index.

As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual security trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of NYSE Amex Equities Rule 128 to allow the Exchange to use the price that triggered a trading pause in an individual security (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any security subject to Rule 80C. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

Revision to Paragraph (e)

As proposed, the Numerical Guidelines set forth in NYSE Amex Equities Rule 128(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to paragraph (g) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[5] an execution would be reviewed and

[4] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–NYSEAmex–2010–46).

[5] Regular Trading Hours are defined in NYSE Amex Equities Rule 51 as the time 9:30 a.m. and 4 p.m. Eastern Time. An individual stock trading pause could be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Pacific Eastern Time. *See* NYSE Amex Equities Rule 80C.

nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

As further proposed, in conducting this review, and notwithstanding anything to the contrary contained in paragraph (c)(1), where a trading pause was triggered by a price decline (rise), the Exchange would limit its review to transactions that executed at a price lower (higher) than the Trading Pause Trigger Price.

The Exchange further proposes to amend paragraph (e) to provide that when rulings are made in conjunction with one or more market centers, the number of the affected transactions is similarly such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest and, hence, are also non-appealable. This provision ensures that in the case of joint market rulings, even for situations involving less than 20 securities, such rulings are not appealable. This is consistent with current paragraph (c)(2) of the Rule, which is proposed to be deleted.

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides an officer of the Exchange the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances * * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (f) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (g) gives an officer of the Exchange the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Officer of the Exchange reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (g) to state that an officer must rely on paragraphs (c)(1)–(4) of Rule 128 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1) and (c)(3)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1) and (c)(3) of the existing Rule, as described below.

Under current NYSE Amex Equities Rule 128, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of Rule 128. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject to the Additional Factors included in paragraph (c)(3). Finally, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but fewer than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

In addition, the Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange

official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual security trading pauses.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[6] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSEAmex–2010–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEAmex-2010–60. This file number should be included on the subject line if e-mail 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,[8] 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEAmex–2010–60 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

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[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

[8] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62342; File No. SR–BX–2010–040]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendments Nos. 1 and 2, To Amend NASDAQ OMX BX Rule 11890 Governing Clearly Erroneous Executions

June 21, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2010, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") 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 substantially prepared by the Exchange. On June 18, 2010, the Exchange submitted Amendment No. 1 to the proposed rule change. On June 21, 2010, the Exchange submitted Amendment No. 2 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Commission to amend BX Rule 11890, entitled Clearly Erroneous Transactions.

The text of the proposed rule change is available from BX's Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/,* at the Exchange's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing modifications to its Rule 11890, entitled Clearly Erroneous Transactions. First, the Exchange proposes replacing existing paragraph (C)(2) of Rule 11890, entitled "*Unusual Circumstances and Joint Market Rulings*" with a new paragraph, entitled "*Multi-Stock Events Involving Twenty or More Securities.*" Second, the Exchange is replacing existing paragraph (C)(4) of Rule 11890, entitled "*Numerical Guidelines Applicable to Volatile Market Opens*" with a new paragraph, entitled "*Individual Stock Trading Pauses.*" Third, the Exchange is proposing changes to existing paragraph (b) of Rule 11890 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (C)(1) (other than under limited circumstances set forth in paragraph (b)(i)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (C)(1) and (C)(3) of Rule 11890 consistent with the proposed changes to paragraphs (C)(2) and (C)(4). As proposed, the provisions of paragraphs (C), (c)(1), (b)(i), and (b)(ii) of Rule 11890 as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (C), (c)(1), and (b) of Rule 11890 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 11890 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. In addition, the Exchange is modifying certain defined terms in the rule to match definitions used by other exchanges in order to avoid the risk of confusion. The proposed changes are described in further detail below.

Revised Paragraph (C)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (C)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (C)(4), and to ensure consistent application across market centers when proposed paragraph (C)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (C)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (C)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (C)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (C)(4) Related to Individual Stock Trading Pauses

The Exchange and other primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause triggered pursuant to Rule 4120(a)(11), as approved.[3] As described above, the Exchange is proposing to eliminate existing paragraph (C)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (C)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the

[3] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BX–2010–037).

Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (C)(4) of BX Rule 11890 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Securities as defined in BX Rule 4120(a)(11). The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (C)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (C)(1) and (C)(2).

As proposed, the Numerical Guidelines set forth in BX Rule 11890(C)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to paragraph (b)(ii) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[4] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

Revisions to Paragraph (b)

The Exchange to be consistent with other exchanges is eliminating paragraph (b) and adding new paragraphs (b)(i) and (b)(ii) to separate the System Disruptions from Own Motion situations. Consistent with other proposals made in this filing, the Exchange proposes modifying paragraph (b)(ii) to eliminate the ability of a Senior Official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (C)(3).

New paragraph (b)(i) provides a Senior Official of the Exchange the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist."

New paragraph (b)(ii) is similar to existing Rule 11890(b) and covers other situations where the Exchange may act on its own motion. Without modification, the language "extraordinary market conditions or other circumstances * * *" in current Rule 11890(b) would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (C)(1). Thus, the Exchange proposes narrowing the scope of paragraph (b) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the use of the Exchange's system covered by proposed Rule 11890(b)(i).

For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (b) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (b)(ii) gives a Senior Official of the Exchange the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (b) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (C)(1). In addition, the Exchange proposes to make clear that any Senior Official reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (C)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (b)(ii) to state that an officer must rely on paragraphs (C)(1)–(4) of Rule 11890 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (C)(1) and (C)(3)

Based on proposed paragraph (C)(2), the Exchange has proposed certain conforming changes to paragraphs (C)(1) and (C)(3) of the existing Rule, as described below.

Under current BX Rule 11890, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (C)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (C)(2)" of BX Rule 11890. The Exchange proposes modifying paragraph (C)(1) consistent with the changes described above such that the Exchange shall use the

[4] The term "Regular Trading Hours" is being renamed from "Core Session" in BX Rule 11890(a)(2)(B) as the time between 9:30 a.m. and 4 p.m. Eastern Time. According to rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Eastern Time.

consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (C)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (C)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (C)(4), in which case the Reference Price shall be determined in accordance with that paragraph (C)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (C)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (C)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (C)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, the Exchange proposes amending paragraph (c)(1), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (C)(3), the Exchange proposes adding such language back in to paragraph (c)(1) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–BX–2010–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BX–2010–040. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BX–2010–040 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15550 Filed 6–25–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62341; File No. SR–FINRA–2010–032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities)

June 21, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

FINRA is proposing modifications to its Rule 11892, entitled Clearly Erroneous Transactions in Exchange-Listed Securities ("the Rule"). First, FINRA proposes replacing existing paragraph (b)(2) of the Rule, entitled "Alternative Reference Prices" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, FINRA is replacing existing paragraph (b)(4) of the Rule, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, FINRA is combining paragraphs (a)(1) and (a)(2) into one paragraph to provide that paragraph (b) governs the review of all transactions reported to a FINRA trade reporting system, whether or not there are similarly situated transactions in the security on a national securities exchange. Finally, FINRA proposes modifications to paragraphs (b)(1) and (b)(3) of the Rule consistent with the proposed changes to paragraphs (b)(2) and (b)(4). The provisions of this proposed rule change shall be in effect during a pilot period set to end on December 10, 2010. If the pilot is not extended or approved as permanent by December 10, 2010, the prior version of this Rule shall be in effect.

FINRA is proposing the rule changes described herein in consultation with other self-regulatory organizations ("SROs") and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect for transactions otherwise than on an exchange. FINRA also has proposed additional changes to the Rule that reduce the ability of FINRA to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (b)(2) Related to Multi-Stock Events Involving Twenty or More Securities

FINRA proposes to eliminate the text of existing paragraph (b)(2), which provides flexibility to FINRA to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." FINRA proposes to replace the text of this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would provide that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, as set forth in paragraph (a)(2), in such circumstances, decisions made by FINRA in consultation with the markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, FINRA may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (b)(4), and to ensure consistent application across market centers when proposed paragraph (b)(2) is invoked, FINRA will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (b)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. FINRA will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by FINRA and the markets consistent with the proposed paragraph (b)(2).

Because FINRA and the market centers are adopting a different threshold and standards to handle large-scale market events, which would

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

include events occurring during times of high volatility at the beginning of regular trading hours, FINRA proposes deletion of paragraph (b)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. FINRA believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (b)(4) Related to Individual Stock Trading Pauses

Several SROs recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the SEC recently approved a proposed rule change by FINRA to halt trading in an individual stock when the primary listing market for such stock issues a trading pause in any security under its rules.[3] As described above, FINRA is proposing to eliminate existing paragraph (b)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). FINRA proposes adopting a provision, numbered as paragraph (b)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect for transactions otherwise than on an exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by FINRA from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect by FINRA for transactions otherwise than on an exchange, especially under highly volatile and active market conditions.

FINRA proposes to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading halt is in effect for transactions otherwise than on an exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause on a primary listing market. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. FINRA will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. FINRA proposes to make clear in the text that the proposed standards in paragraph (b)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (b)(1) and (b)(2).

As proposed, the Numerical Guidelines set forth in paragraph (b)(1) of the Rule, other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. FINRA proposes to review all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect for transactions otherwise than on an exchange. Where a trading pause was triggered by a price decline (rise), FINRA shall deem as clearly erroneous all such transactions that occurred at a price lower (higher) than the Trading Pause Trigger Price. Because the proposed rules for trading pauses would only apply within Regular Trading Hours, an execution would be reviewed and nullified as clearly erroneous as follows:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.* 2x).

Trades occurring after a trading halt is in effect may be deemed in violation of FINRA Rule 5260 (Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts) and will be deemed clearly erroneous.

FINRA reminds members that they must have policies and procedures in place that are reasonably designed to ensure that, among other things, members promptly cease effecting transactions during a halt as required by FINRA Rule 5260.

Additional Conforming Revisions to Paragraphs (b)(1) and (b)(3)

Based on proposed paragraph (b)(2), FINRA has proposed certain conforming changes to paragraphs (b)(1) and (b)(3) of the existing Rule, as described below.

Under current FINRA Rule 11892, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (b)(1) of the Rule. The "Reference Price" is currently defined as the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (b)(2) of the Rule. FINRA proposes modifying paragraph (b)(1) consistent with the changes described above such that FINRA shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (b)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (b)(2)

[3] *See* Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (Order Approving File No. SR–FINRA–2010–025).

that trigger a trading pause and subsequent transactions, as described in proposed paragraph (b)(4), in which case the Reference Price shall be determined in accordance with that paragraph (b)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. FINRA also proposes modifying paragraph (b)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (b)(3). Moreover, FINRA proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, FINRA proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

FINRA proposes clarifying paragraph (b)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to a FINRA official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses. FINRA also is combining paragraphs (a)(1) and (a)(2) into one paragraph to provide that paragraph (b) governs the review of all transactions reported to a FINRA trade reporting system, whether or not there are similarly situated transactions in the security on a national securities exchange. Existing paragraph (a)(3) of the Rule will be renumbered as (a)(2).

Consistent with the exchanges, FINRA is proposing that the provisions of this proposed rule change shall be in effect during a pilot period set to end on December 10, 2010. If the pilot is not extended or approved as permanent by December 10, 2010, the prior version of this Rule shall be in effect.

FINRA has requested that the Commission approve the proposed rule change on an accelerated basis, so that it may become operative as soon as possible based on the fact that the proposed trading pause rules adopted by FINRA and several national securities exchanges have now become fully operative subject to the initial pilot program.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[4] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the clearly erroneous rules of other SROs and will promote the goal of transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading halt is in effect for transactions otherwise than on an exchange. Further, FINRA believes that the proposed changes enhance the objectivity of decisions made by FINRA with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–032. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–FINRA–2010–032 and should be submitted on or before July 19, 2010.

[4] 15 U.S.C. 78*o*–3(b)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15549 Filed 6–25–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62333; File No. SR–NYSE–2010–47]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Rule 128 Relating to Clearly Erroneous Executions

June 21, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 17, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 128 relating to clearly erroneous executions. The text of the proposed rule change is available at the Exchange, the Commission's Web site at *http://www.sec.gov,* the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 128, entitled Clearly Erroneous Executions for NYSE Equities. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 128, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange proposes replacing existing paragraph (c)(4) of Rule 128, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Security Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 128 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3) and (e) of Rule 128 consistent with the proposed changes to paragraphs (c)(2) and (c)(4).

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual security trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 128 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule in those circumstances. The proposed changes are described in further detail below.

As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 128, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 128 would be in effect.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities, the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed.

Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4)

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The Commission has just approved the Exchange's filing to adopt Rule 80C permitting the primary listing market to invoke a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period.[4] This rule is currently a pilot and is applicable to securities included in the S&P 500 Index.

As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual security trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of NYSE Rule 128 to allow the Exchange to use the price that triggered a trading pause in an individual security (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any security subject to Rule 80C. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in NYSE Rule 128(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to paragraph (g) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[5] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

As further proposed, in conducting this review, and notwithstanding anything to the contrary contained in paragraph (c)(1), where a trading pause was triggered by a price decline (rise), the Exchange would limit its review to transactions that executed at a price lower (higher) than the Trading Pause Trigger Price.

Revision to Paragraph (e)

The Exchange further proposes to amend paragraph (e) to provide that when rulings are made in conjunction with one or more market center, the number of the affected transactions is similarly such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest and, hence, are also non-appealable. This provision ensures that in the case of joint market rulings, even for situations involving less than 20 securities, such rulings are not appealable. This is consistent with current paragraph (c)(2) of the Rule, which is proposed to be deleted.

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides an officer of the Exchange the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances * * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (f) to make clear that the provision only applies to a disruption or

[4] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–NYSE–2010–39).

[5] Regular Trading Hours are defined in NYSE Rule 51 as the time 9:30 a.m. and 4 p.m. Eastern Time. An individual stock trading pause could be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Pacific Eastern Time. *See* Rule 80C.

malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (g) gives an officer of the Exchange the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Officer of the Exchange or other senior level employee reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (g) to state that an officer must rely on paragraphs (c)(1)–(4) of Rule 128 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1) and (c)(3)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1) and (c)(3) of the existing Rule, as described below.

Under current NYSE Rule 128, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of NYSE Rule 128. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject to the Additional Factors included in paragraph (c)(3). Finally, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but fewer than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

In addition, the Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[6] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2010–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2010–47. This file number should be included on the subject line

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

if e-mail 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,[8] 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2010–47 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15542 Filed 6–25–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62338; File No. SR–EDGA–2010–03]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Amend EDGA Rule 11.13, Entitled "Clearly Erroneous Executions"

June 21, 2010.

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 17, 2010, EDGA Exchange, Inc. (the "Exchange" or EDGA) filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On June 18, 2010, the Exchange submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend EDGA Rule 11.13, entitled "Clearly Erroneous Executions."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby submits this Amendment No. 1 to its rule filing, SR–EDGA–2010–03, to replace and supersede the original filing in its entirety.

The Exchange is proposing modifications to its Rule 11.13, entitled Clearly Erroneous Executions. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 11.13, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange is proposing to replace existing paragraph (c)(4) of Rule 11.13, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 11.13 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3) and (e) of Rule 11.13 consistent with the proposed changes to paragraphs (c)(2) and (c)(4). As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.13, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.13 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 11.13 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public

[8] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in Interpretation and Policy .05 of Rule 11.14.[3] As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of EDGA Rule 11.13 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Circuit Breaker Securities as defined in Interpretation and Policy .05 of Rule 11.14. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in EDGA Rule 11.13(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to paragraph (g) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[4] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

[3] *See* EDGA Rule 11.14; *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–EDGA–2010–01).

[4] Regular Trading Hours are defined in EDGA Rule 1.5 as the time between 9:30 a.m. and 4 p.m. Eastern Time. According to rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Eastern Time. *See* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides an Officer of the Exchange or other senior level employee designee the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances * * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (f) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (g) gives an Officer of the Exchange or other senior level employee designee the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Officer of the Exchange or other senior level employee reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (g) to state that an Officer must rely on paragraphs (c)(1)–(4) of Rule 11.13 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1), (c)(3), and (e)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1), (c)(3), and (e) of the existing Rule, as described below.

Under current EDGA Rule 11.13, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of EDGA Rule 11.13. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (c)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, the Exchange proposes amending paragraph (e)(2), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (c)(3), the Exchange proposes adding such language back in to paragraph (e)(2) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2010–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2010–03. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–EDGA–2010–03 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15545 Filed 6–25–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62339; File No. SR–EDGX–2010–03]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Amend EDGX Rule 11.13, Entitled "Clearly Erroneous Executions"

June 21, 2010.

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 17, 2010, EDGX Exchange, Inc. (the "Exchange" or EDGX) filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On June 18, 2010, the Exchange submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend EDGX Rule 11.13, entitled "Clearly Erroneous Executions."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby submits this Amendment No. 1 to its rule filing, SR–EDGX–2010–03, to replace and supersede the original filing in its entirety.

The Exchange is proposing modifications to its Rule 11.13, entitled Clearly Erroneous Executions. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 11.13, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange is proposing to replace existing paragraph (c)(4) of Rule 11.13, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 11.13 to eliminate the ability of the Exchange to deviate from the

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1),(c)(3) and (e) of Rule 11.13 consistent with the proposed changes to paragraphs (c)(2) and (c)(4). As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.13, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.13 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 11.13 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in Interpretation and Policy .05 of Rule 11.14.[3] As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of EDGX Rule 11.13 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Circuit Breaker Securities as defined in Interpretation and Policy .05 of Rule 11.14. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in EDGX Rule 11.13(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to

[3] *See* EDGX Rule 11.14; *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–EDGX–2010–01).

review, on its own motion pursuant to paragraph (g) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[4] an execution would be reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides an Officer of the Exchange or other senior level employee designee the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances* * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (f) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (g) gives an Officer of the Exchange or other senior level employee designee the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Officer of the Exchange or other senior level employee reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (g) to state that an Officer must rely on paragraphs (c)(1)–(4) of Rule 11.13 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1),(c)(3), and (e)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1), (c)(3), and (e) of the existing Rule, as described below.

Under current EDGX Rule 11.13, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review except for in Unusual Circumstances as described in paragraph (c)(2)" of EDGX Rule 11.13. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (c)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide

[4] Regular Trading Hours are defined in EDGX Rule 1.5 as the time between 9:30 a.m. and 4 p.m. Eastern Time. According to rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Eastern Time. *See* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, the Exchange proposes amending paragraph (e)(2), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (c)(3), the Exchange proposes adding such language back in to paragraph (e)(2) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–EDGX–2010–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2010–03. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–EDGX–2010–03 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15546 Filed 6–25–10; 8:45 am]

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[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62340; File No. SR–BATS–2010–016]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend BATS Rule 11.17, entitled "Clearly Erroneous Executions"

June 21, 2010.

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 17, 2010, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 11.17, entitled "Clearly Erroneous Executions."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange is proposing modifications to its Rule 11.17, entitled Clearly Erroneous Executions. First, the Exchange proposes replacing existing paragraph (c)(2) of Rule 11.17, entitled "Unusual Circumstances and Joint Market Rulings" with a new paragraph, entitled "Multi-Stock Events Involving Twenty or More Securities." Second, the Exchange proposes replacing existing paragraph (c)(4) of Rule 11.17, entitled "Numerical Guidelines Applicable to Volatile Market Opens" with a new paragraph, entitled "Individual Stock Trading Pauses." Third, the Exchange is proposing changes to existing paragraphs (f) and (g) of Rule 11.17 to eliminate the ability of the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1) (other than under limited circumstances set forth in paragraph (f)) when deciding which transactions will be reviewed by the Exchange as potentially clearly erroneous. Finally, the Exchange proposes modifications to paragraphs (c)(1), (c)(3) and (e) of Rule 11.17 consistent with the proposed changes to paragraphs (c)(2) and (c)(4). As proposed, the provisions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.17, as amended pursuant to this filing, would be in effect during a pilot period set to end on December 10, 2010. If the pilot is not either extended or approved permanent by December 10, 2010, the prior versions of paragraphs (c), (e)(2), (f), and (g) of Rule 11.17 would be in effect.

The Exchange is proposing the rule changes described below in consultation with other markets and Commission staff to provide for uniform treatment: (1) Of clearly erroneous execution reviews in Multi-Stock Events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The Exchange has also proposed additional changes to Rule 11.17 that reduce the ability of the Exchange to deviate from the objective standards set forth in the Rule. The proposed changes are described in further detail below.

Revised Paragraph (c)(2) Related to Multi-Stock Events Involving Twenty or More Securities

The Exchange proposes to eliminate the majority of existing paragraph (c)(2), which provides flexibility to the Exchange to use different Numerical Guidelines or Reference Prices in various "Unusual Circumstances." The Exchange proposes to replace this paragraph with new language that would apply to Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less. The revised paragraph would retain language making clear that during Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. Accordingly, in such circumstances, decisions made by the Exchange in consultation with other markets could not be appealed. Further, as proposed, in connection with reviews of Multi-Stock Events involving twenty or more securities, the Exchange may use a Reference Price other than consolidated last sale in its review of potentially clearly erroneous executions. With the exception of those securities under review that are subject to an individual stock trading pause as described in proposed paragraph (c)(4), and to ensure consistent application across market centers when proposed paragraph (c)(2) is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of proposed paragraph (c)(2), as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with the proposed paragraph (c)(2).

Because the Exchange and other market centers are adopting a different threshold and standards to handle large-scale market events, which would include events occurring during times of high volatility at the beginning of regular trading hours, the Exchange proposes deletion of paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens") of the existing rule. The Exchange believes that this provision is no longer necessary, and if maintained, could result in extremely high Numerical Guidelines (up to 90%) in certain circumstances.

Revised Paragraph (c)(4) Related to Individual Stock Trading Pauses

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently amended its rules to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in Interpretation and Policy .05 of Rule 11.18.[3] As described above, the Exchange is proposing to eliminate existing paragraph (c)(4) ("Numerical Guidelines Applicable to Volatile Market Opens"). The Exchange proposes adopting a rule, numbered as (c)(4) following such elimination, which will provide for uniform treatment of clearly erroneous execution reviews in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange. The proposed rule change is necessary to provide greater certainty

[3] *See* BATS Rule 11.18; *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BATS–2010–014).

of the clearly erroneous Reference Price for transactions that trigger a trading pause (the "Trigger Trade") and subsequent transactions occurring between the time of the Trigger Trade and the time the trading pause message is received by the Exchange from the single plan processor responsible for consolidation and dissemination of information for the security and put into effect on the Exchange, especially under highly volatile and active market conditions.

The Exchange proposes to revise paragraph (c)(4) of BATS Rule 11.17 to allow the Exchange to use the price that triggered a trading pause in an individual stock (the "Trading Pause Trigger Price") as the Reference Price for clearly erroneous execution reviews of a Trigger Trade and transactions that occur immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. As proposed, the phrase "Trading Pause Trigger Price" shall mean the price that triggered a trading pause in any Circuit Breaker Securities as defined in Interpretation and Policy .05 of Rule 11.18. The Trading Pause Trigger Price reflects a price calculated by the primary listing market over a rolling five-minute period and may differ from the execution price of a transaction that triggered a trading pause. The Exchange will rely on the primary listing market that issued an individual stock trading pause to determine and communicate the Trading Pause Trigger Price for such stock. The Exchange proposes to make clear in the text that the proposed standards in paragraph (c)(4) apply regardless of whether the security at issue is part of a Multi-Stock Event involving five or more securities as described in proposed paragraphs (c)(1) and (c)(2).

As proposed, the Numerical Guidelines set forth in BATS Rule 11.17(c)(1), other than those Numerical Guidelines applicable to Multi-Stock Events, would apply to reviews of Trigger Trades and subsequent transactions. The Exchange proposes to review, on its own motion pursuant to paragraph (g) of the Rule, all transactions that trigger a trading pause and subsequent transactions occurring before the trading pause is in effect on the Exchange. The Exchange has proposed to limit such reviews to reviews of transactions that executed at a price lower than the Trading Pause Trigger Price in the event of a price decline and higher than the Trading Pause Trigger Price in the event of a price rise. Because the proposed rules for trading pauses would only apply within Regular Trading Hours,[4] an execution would reviewed and nullified as clearly erroneous if it exceeds the following thresholds:

Reference price or product	Numerical guidelines (subject transaction's % difference from the trading pause trigger price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (*i.e.,* 2x).

Revisions to Paragraphs (f) and (g)

Consistent with other proposals made in this filing, the Exchange proposes modifying paragraphs (f) and (g) to eliminate the ability of an Exchange official to deviate from the Numerical Guidelines contained in the Rule other than under very limited circumstances set forth in paragraph (f).

Current paragraph (f) provides an officer of the Exchange or other senior level employee designee the ability on his or her own motion, to review and rule on executions that result from "any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Exchange, or extraordinary market conditions or other circumstances in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist." Without modification, the language "extraordinary market conditions or other circumstances * * *" would leave the Exchange with broad discretion to deviate from the Numerical Guidelines set forth in paragraph (c)(1). Thus, the Exchange proposes narrowing the scope of paragraph (f) so that it only permits the Exchange to nullify transactions consistent with that paragraph (including at a lower Numerical Guideline) if there is a disruption or malfunction in the operation of the Exchange's system. For the same reason, the Exchange proposes eliminating the words "use or" from the language in paragraph (f) to make clear that the provision only applies to a disruption or malfunction of the Exchange's system (and not of an Exchange user's systems).

Paragraph (g) gives an officer of the Exchange or other senior level employee designee the ability on his or her own motion to review transactions as potentially clearly erroneous. Consistent with the goal of achieving more objective and standard results, the Exchange proposes deleting language in existing paragraph (g) that would allow the Exchange to deviate from the Numerical Guidelines contained in paragraph (c)(1). In addition, the Exchange proposes to make clear that any Officer of the Exchange or other senior level employee reviewing transactions on his or her own motion must follow the guidelines set forth in proposed paragraph (c)(4), if applicable. Accordingly, the Exchange proposes to modify paragraph (g) to state that an officer must rely on paragraphs (c)(1)–(4) of Rule 11.17 when reviewing transactions on his or her own motion.

Additional Conforming Revisions to Paragraphs (c)(1), (c)(3) and (e)

Based on proposed paragraph (c)(2), the Exchange has proposed certain conforming changes to paragraphs (c)(1), (c)(3) and (e) of the existing Rule, as described below.

Under current BATS Rule 11.17, a transaction may be found to be clearly erroneous only if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth in paragraph (c)(1) of the Rule. The "Reference Price" is currently defined as "the consolidated last sale immediately prior to the execution(s) under review

[4] Regular Trading Hours are defined in BATS Rule 1.5 as the time between 9:30 a.m. and 4 p.m. Eastern Time. According to rules of the primary listing markets, an individual stock trading pause can be issued based on a Trigger Trade that occurs at any time between 9:45 a.m. and 3:35 p.m. Eastern Time. *See* NASDAQ Rule 4120(a)(11), NYSE Rule 80C, and NYSE Arca Rule 7.11.

except for in Unusual Circumstances as described in paragraph (c)(2)" of BATS Rule 11.17. The Exchange proposes modifying paragraph (c)(1) consistent with the changes described above such that the Exchange shall use the consolidated last sale immediately prior to the execution(s) under review as the Reference Price except for: (A) Multi-Stock Events involving twenty or more securities, as described in proposed paragraph (c)(2); (B) transactions not involving a Multi-Stock Event as described in proposed paragraph (c)(2) that trigger a trading pause and subsequent transactions, as described in proposed paragraph (c)(4), in which case the Reference Price shall be determined in accordance with that paragraph (c)(4); and (C) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. The Exchange also proposes modifying paragraph (c)(1) to reduce uncertainty as to the applicability of the Numerical Guidelines, by requiring a finding that an execution was clearly erroneous if such execution exceeds the Numerical Guidelines, subject only to the Additional Factors included in paragraph (c)(3). Moreover, the Exchange proposes revising the existing description for Multi-Stock Events that is contained on the Numerical Guidelines chart to make clear that different Numerical Guidelines apply for Multi-Stock Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less. In addition, the Exchange proposes adding to the Numerical Guidelines chart a row that contains the Numerical Guidelines (30%) for Multi-Stock Events involving twenty or more securities whose executions occurred within a period of five minutes or less.

The Exchange proposes clarifying paragraph (c)(3) to make clear that the additional factors set forth in that paragraph are not intended to provide any discretion to an Exchange official to deviate from the guidelines that apply to Multi-Stock Events or to transactions in securities subject to individual stock trading pauses.

Finally, the Exchange proposes amending paragraph (e)(2), related to appeals of clearly erroneous execution decisions by the Exchange, to preserve non-appealability of all joint rulings between the Exchange and one or more other market centers. The Exchange believes that certainty and consistency is critical to reviews of related executions that span multiple market centers. Accordingly, although the Exchange has proposed deletion of such language from existing paragraph (c)(3), the Exchange proposes adding such language back in to paragraph (e)(2) to make clear that joint market rulings are not appealable.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[6] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning reviews of potentially clearly erroneous executions in various contexts, including reviews in the context of a Multi-Stock Event involving twenty or more securities and reviews resulting from a Trigger Trade and any executions occurring immediately after a Trigger Trade but before a trading pause is in effect on the Exchange. Further, the Exchange believes that the proposed changes enhance the objectivity of decisions made by the Exchange with respect to clearly erroneous executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BATS–2010–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2010–016. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BATS–2010–016 and should be submitted on or before July 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15547 Filed 6–25–10; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[DOT Docket No. DOT–OST–2010–0074]

Future of Aviation Advisory Committee (FAAC)

AGENCY: U.S. Department of Transportation, Office of the Secretary of Transportation.

ACTION: The Future of Aviation Advisory Committee (FAAC); Notice of Federal Advisory Committee Meeting.

SUMMARY: The Department of Transportation, Office of the Secretary of Transportation, announces the second meeting of the FAAC which will be held in the Atlanta area. This notice announces the date, time and location of the meeting, which will be open to the public. The purpose of FAAC is to provide advice and recommendations to the Secretary of Transportation to ensure the competitiveness of the U.S. aviation industry and its capability to manage effectively the evolving transportation needs, challenges, and opportunities of the global economy.

DATES: The meeting will be held on July 14, 2010, from 9 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at the offices of the Federal Aviation Administration's Southern Region Headquarters Building, 1701 Columbia Ave., College Park, GA 30337, in the Wright Brothers Auditorium.

Agenda: Time will be apportioned to each of the five Subcommittees to present their findings to the Committee. The public will also be afforded time to comment on the subcommittee report-outs. Persons wishing to express more detailed comments are encouraged to do so in written form (see instructions in the Public Comments section.) The Committee and the public will also have an opportunity to discuss the new proposed rulemaking titled "Enhancing Airline Passenger Protections" (docket DOT–OST–2010–0140.)

Public Access: The meeting is open to the public. (*See* below for registration instructions.) Entering the FAA Building:

- A valid form of government issued ID with an expiration date is required.
- Registration is from 7:30 to 8:45 a.m.
- Only pre-registered attendees may attend the meeting.
- Attendees must be screened and pass through a metal detector.
- No firearms are allowed in the building.
- Special accessibility requirements should be noted at time of email registration.
- There is no publicly available Internet access at this site.
- A cafeteria is available on-site for lunch (cash only).
- There is limited parking available at the site. Those wishing to utilize the FAA parking facility should note that fact in the registration request. Visitors using FAA parking should use the building entrance at 1712 Princeton Ave., College Park, GA 30337.
- Those using public transportation may use the Columbia Avenue entrance which is 2 blocks East of the College Park Station on the Red and Gold Lines of MARTA (Metropolitan Atlanta Rapid Transit Authority). *See http://www.itsmarta.com* for more information on trip planning.

Public Comments: The public will be afforded an opportunity for brief comments at the meeting. Comments should address one or more of the five topics (competition, environment, finance, safety and workforce/labor) that were published in the Federal Advisory Committee Charter at *http://www.regulations.gov* (Docket DOT–OST–2010–0074). You may also file written comments identified by the docket number DOT–OST–2010–0074 by any of the following methods:

- *Federal eRulemaking Portal:* go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

In addition to sending your comments through the dockets using any of the methods above, you may also forward a copy of your comments and questions to *FAAC@dot.gov* and include one of the following in the subject line when making your email submission; "Financing", "Safety", "Environment", "Workforce", "Competition", and/or "General comment".

In order for the committee to read and consider your views for the July 14 meeting, comments must be received by 5 p.m. EDT Monday, July 12. All public comments will be posted in Docket DOT–OST–2010–0074, which is accessible from *http://www.Regulations.gov*. Please note that even after the closing date, we will continue to review public comments for future meetings.

SUPPLEMENTARY INFORMATION:

Background

To carry out its duties, the advisory committee met on May 25, 2010 in Washington, DC. At that meeting it was determined that issues would be identified and explored further in subcommittees. The Advisory Committee will meet on the following dates this year:

- July 14
- August 25
- October 20
- December 15

Members of the public may review the FAAC charter and minutes of FAAC meetings at *http://www.regulations.gov* in docket number DOT–OST–2010–0074 or the FAAC Web site at *http://www.dot.gov/faac*.

Registration

- Space is limited. Registration will be available on a first-come, first-serve basis. Once the maximum number of 300 registrants has been reached, registration will close. All requests to attend the FAAC must be received by close of business on Monday, July 12.
- All foreign nationals must provide their date of birth and passport number by Wednesday, June 30.
- Persons with disabilities who require special assistance should advise the Department at *FAAC@dot.gov,* under the subject line of "Special Assistance" of their anticipated special needs as early as possible.
- *To register:* Send an e-mail to *FAAC@dot.gov* under the subject line "Registration" with the following information:
  - Last name, First name

[8] 17 CFR 200.30–3(a)(12).

○ Title (if any)
○ Company or affiliation (if any)
○ Address
○ Phone number
○ US Citizen (Y/N)
○ Requesting use of the FAA parking facility or using Public Transportation
○ Email address in order for us to confirm your registration

• The Federal Aviation Administration building is a secure Federal facility.
• An e-mail will be sent to you confirming your registration along with details on security procedures for entering the Federal Aviation Administration building.

FOR FURTHER INFORMATION CONTACT: Pamela Hamilton-Powell, Designated Federal Officer, Future of Aviation Advisory Committee, 202–267–9677, or *FAAC@dot.gov*.

Issued on: June 21, 2010.

Ray LaHood,

Secretary of Transportation.

[FR Doc. 2010–15582 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between the City of Lakeland and the Federal Aviation Administration for the Lakeland Linder Regional Airport, Lakeland, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties 7.89 acres, more or less, at the Lakeland Linder Regional Airport, Lakeland, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Lakeland, dated September 26, 1947. The release of property will allow the City of Lakeland to dispose of the property for other than aeronautical purposes. The property is located in the southeast corner of Aero Place and Airpark Drive, Lakeland, Polk County, Florida. The parcel is currently designated as non-aeronautical use. The property will be disposed of for the purpose of commercial development. The fair market value of the property has been determined by appraisal to be $688,810. The airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Lakeland Linder Regional Airport and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATES: Comments are due on or before *July 28, 2010.*

ADDRESSES: Documents are available for review at the Lakeland Linder Regional Airport, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

Bart Vernace,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2010–15533 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2010–0175]

Pipeline Safety: Updating Facility Response Plans in Light of the Deepwater Horizon Oil Spill

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice; issuance of Advisory Bulletin.

SUMMARY: PHMSA is issuing an Advisory Bulletin to operators of hazardous liquid pipeline facilities required to prepare and submit an oil spill response plan under 49 CFR part 194. In light of the Deepwater Horizon oil spill in the Gulf of Mexico, which has resulted in the relocation of oil spill response resources to address the oil spill, PHMSA is reminding operators of their responsibilities to review and update their oil spill response plans and to comply with other emergency response requirements to ensure the necessary response to a worst case discharge from their pipeline facility.

FOR FURTHER INFORMATION CONTACT: John Hess, Director for Emergency Support and Security, (202) 366–4595 or by e-mail at *PHMSA.OPA90@dot.gov.* Additional information about PHMSA may be found at *http://phmsa.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

PHMSA is the Federal safety authority with responsibility to ensure the safe, reliable, and environmentally sound operation of the Nation's pipeline transportation system. Pursuant to authority delegated under the Oil Pollution Act of 1990, 33 U.S.C. 1321, and Executive Order 12777, 56 FR 54757, Oct. 18, 1991, PHMSA has issued regulations in 49 CFR part 194 that require operators of onshore pipeline facilities to prepare and submit oil spill response plans to reduce the environmental impact of oil discharges. Operators of onshore pipelines that could reasonably be expected to cause significant or substantial harm to the environment by discharging oil into or on any navigable waters of the United States or adjoining shorelines must prepare and submit to PHMSA an oil spill response plan. The plan must be individually tailored to the geographic location of the facility and contain detailed procedures for responding, to the maximum extent practicable, to "a worst case discharge and to a substantial threat of such a discharge." Among other requirements, operators must calculate the worst case discharge scenario for the facility and develop procedures for responding to such a scenario, including identifying and ensuring, by contract or otherwise, necessary resources for the response. Plans must include immediate notification procedures, spill detection and mitigation procedures, training, and a drill or simulation program. Operators are required to review and update their response plans at least every five years, but must immediately update a plan if new or different operating conditions or circumstances would affect full implementation of the plan. Such modifications are required to be submitted to PHMSA within 30 days under § 194.121(b)(8). In addition to submitting plans to PHMSA, operators must maintain their response plans on-site for inspection by PHMSA during field audits.

PHMSA has also prescribed safety standards for hazardous liquid pipeline

facilities governing emergency response in 49 CFR 195.402. Operators must have emergency response procedures that require, among other things, having sufficient resources available at the scene, taking necessary action (such as emergency shutdown) to minimize the volume of hazardous liquid released, controlling released hazardous liquid, and minimizing public exposure to injury. Operators must also maintain liaison with emergency responders and other appropriate public officials, and coordinate preplanned and actual emergency responses. PHMSA regularly inspects operators' compliance with these requirements during on-site inspections.

On April 20, 2010, an explosion and fire on the Deepwater Horizon mobile drilling unit, approximately 40 miles offshore in the Gulf of Mexico, led to a massive release of crude oil from a well on the sea floor. The oil spill is estimated to be the largest offshore spill in United States history. The catastrophic event, which has proven to be far worse than originally estimated, is diverting resources from all over the Nation to the areas impacted by the spill and potentially affecting the availability of resources identified in pipeline operators' oil spill response plans, resulting in circumstances that could affect full implementation of pipeline operators' plans.

While offshore drilling is not governed by 49 CFR part 194, PHMSA is reminding onshore hazardous liquid pipeline operators of their responsibilities under such regulations to review, update, and maintain their oil spill response plans to ensure that each plan: properly calculates the worst case spill scenario for the pipeline facility; identifies and ensures by contract or otherwise sufficient resources to respond, to the maximum extent practicable, to such a discharge; and evaluates the identified resources' remaining capability given the ongoing relocation of resources to the Gulf. PHMSA will not consider it "practicable" to list resources for responding to a worst case discharge, if such resources are, or are requested to be, relocated to respond to the Deepwater Horizon oil spill until such resources are returned. Operators must conduct this review and submit any updates to their oil spill response plans as set forth in § 194.121 within 30 days. Operators are further reminded of their responsibilities to maintain their response plans on-site, to conduct regular drills of their plans, and to maintain the necessary liaison with emergency responders and other appropriate public officials. PHMSA intends to evaluate operators' performance of these efforts during upcoming field audits.

Advisory Bulletin (ADB–10–05)

To: Operators of Hazardous Liquid Pipeline Systems.

Subject: Updating Facility Response Plans in Light of the Deepwater Horizon Oil Spill.

Advisory: Operators of onshore pipelines that could reasonably be expected to cause significant or substantial harm to the environment by discharging oil into or on any navigable waters of the United States or adjoining shorelines must prepare and submit an oil spill response plan pursuant to 49 CFR part 194. Among other requirements, a response plan must include a proper calculation of a worst case discharge and identify the available resources to respond. (*See also* 49 CFR appendix A to part 194).

The April 20, 2010, explosion and subsequent fire on the Deepwater Horizon mobile drilling unit in the Gulf of Mexico has led to a massive release of crude oil from a well on the sea floor. The oil spill has proven to be far worse than originally estimated and is diverting resources from all over the Nation to the areas impacted by the spill, thereby potentially affecting the availability of resources identified in pipeline operators' oil spill response plans.

In light of these circumstances, PHMSA is stressing to operators their responsibilities under 49 CFR part 194 to update their oil spill response plans to ensure the necessary response to a properly calculated worst case discharge.

In accordance with those regulations, operators of onshore hazardous liquid pipeline facilities must review their oil spill response plans and update, as necessary: the calculation of a worst case spill scenario for their pipeline facility; the identification of resources needed to respond, to the maximum extent practicable, to the scenario; and an assessment of the resources' remaining capability given the ongoing relocation of resources to the Gulf. PHMSA will not consider it "practicable" to list resources for responding to a worst case discharge, if such resources are, or are requested to be, relocated to respond to the Deepwater Horizon oil spill until such resources are returned. Operators must conduct this review and submit any updates to their oil spill response plans as set forth in the applicable regulations within 30 days. PHMSA requests that operators who find no need to update their plan following this review still notify PHMSA at the above contact information within 30 days, with the reasons no updates were needed. Operators are also asked to confirm that drills have been performed at the frequency specified in their plans. Operators whose response resources have been, or are subsequently relocated to the Gulf to respond to the Deepwater Horizon event should also notify PHMSA.

Operators are further reminded of their responsibilities to maintain their response plans on-site and to maintain the necessary liaison with emergency responders and other appropriate public officials. PHMSA intends to evaluate operators' efforts during upcoming field audits.

Issued in Washington, DC, on June 23, 2010.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2010–15682 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2005–23099; FMCSA–2007–0017; FMCSA–2007–0071]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 17 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)-366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m.

Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on April 23, 2010 (75 FR 20881).

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 17 renewal applications, FMCSA renews the Federal vision exemptions for Roy L. Allen, Lyle H. Banser, Lloyd J. Botsford, Walter M. Brown, Charley J. Davis, Derek T. Ford, Paul D. Gaither, Taras G. Hamilton, Thomas R. Hedden, Laurent G. Jacques, Lucio Leal, Earl R. Mark, Douglas A. Mendoza, Michael R. Moore, Richard W. Neyens, John P. Rodrigues and Charles W. Towner, Jr.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: June 21, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–15663 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0162]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemption from the diabetes mellitus standard; request for comments.

SUMMARY: FMCSA announces receipt of applications from 20 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before July 28, 2010.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2010–0162 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 20 individuals listed in this Notice have recently requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMV in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

Qualifications of Applicants

Gary L. Alexander

Mr. Alexander, age 54, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Alexander meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Missouri.

Michael J. Baron

Mr. Baron, 43, has had ITDM since 1987. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the

past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Baron meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Daniel E. Bergstresser

Mr. Bergstresser, 54, has had ITDM since 2005. His endocrinologist examined him in 2009 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Bergstresser meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Neil H. Buchner

Mr. Buchner, 52, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Buchner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Charles L. Cheeseboro, Sr.

Mr. Cheeseboro, 56, has had ITDM since 1989. His endocrinologist examined him in 2009 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Cheeseboro meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from New York.

Stephen F. Clendenin

Mr. Clendenin, 58, has had ITDM since 2008. His endocrinologist examined him in 2009 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Clendenin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from New York.

Donald P. Dean

Mr. Dean, 38, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Dean meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Pradip B. Desai

Mr. Desai, 59, has had ITDM since 2002. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Desai meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Howard M. Galton

Mr. Galton, 29, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Galton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Chad C. Gittings

Mr. Gittings, 34, has had ITDM since 1996. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Gittings meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Steve Gummienny

Mr. Gummienny, 31, has had ITDM since 2000. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Gummienny meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

Richard L. Harding

Mr. Harding, 57, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin;

and is able to drive a CMV safely. Mr. Harding meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Mark D. Huffine

Mr. Huffine, 51, has had ITDM since 1998. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Huffine meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Texas.

Brian M. Katayama

Mr. Katayama, 50, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Katayama meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Rajendra Narine

Mr. Narine, 39, has had ITDM since 2007. His endocrinologist examined him in 2009 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Narine meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Georgia.

James M. Parr

Mr. Parr, 55, has had ITDM since 2003. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Parr meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Alaska.

Scott H. Paxton

Mr. Paxton, 38, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Paxton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Kentucky.

Gerald J. Scheeler

Mr. Scheeler, 56, has had ITDM since 2007. His endocrinologist examined him in 2009 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Scheeler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Daniel L. Smith

Mr. Smith, 40, has had ITDM since 2006. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Nebraska.

Steven C. Vanscoyoc

Mr. Vanscoyoc, 55, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Vanscoyoc meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this Notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the Notice.

FMCSA notes that Section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) The elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) the establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

[1] Section 4129(a) refers to the 2003 Notice as a "final rule." However, the 2003 Notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 Notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 Notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 Notice, except as modified by the Notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: June 21, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–15673 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6156; FMCSA–2000–7006; FMCSA–2001–9561; FMCSA–2001–10578; FMCSA–2001–11426; FMCSA–2002–11714; FMCSA–2002–13411; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2004–17195; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2006–25246; FMCSA–2008–0021]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 60 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective July 20, 2010. Comments must be received on or before July 28, 2010.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–1999–6156; FMCSA–2000–7006; FMCSA–2001–9561; FMCSA–2001–10578; FMCSA–2001–11426; FMCSA–2002–11714; FMCSA–2002–13411; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2004–17195; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2006–25246; FMCSA–2008–0021, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This Notice addresses 60 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 60 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Jawad K. Al-Shaibani
Harold J. Bartley, Jr.
Delmas C. Bergdoll
Kenneth J. Bernard
Allen G. Bors
Brad T. Braegger
Michael C. Branham
John E. Breslin
Trixie L. Brown
Raymond L. Brush
Scott F. Chalfant
Leroy A. Chambers
Harvis P. Cosby
Rodney D. Curtis
Ronald D. Danberry
Norman J. Day
Michael D. DeBerry
John K. DeGolier
Francisco Espinal
William L. Foote
Daniel R. Franks

David W. Grooms
Walter D. Hague, Jr.
Spencer N. Haugen
Edward J. Hess, Jr.
William G. Hix
Ralph E. Holmes
Bruce A. Homan
Timothy B. Hummel
Fredrick C. Ingles
Lerry L. Jarvis
Michael S. Johannsen
Charles E. Johnston
Harry L. Jones
Mearl C. Kennedy
Aaron C. Lougher
William F. Mack
Patrick E. Martin
Bennet G. Maruska
Leland K. McAlhaney
Bobby G. Minton
Charles J. Morman
Larry A. Nienhuis
Corey L. Paraf
John H. Pribanic
Ronald M. Price
John P. Raftis
Scott D. Russell
Alton M. Rutherford
Charles L. Schnell
Andrew W. Schollett
Joseph B. Shaw, Jr.
Wolfgang V. Spekis
Sandra J. Sperling
Ryan K. Steelman
Robert L. Swartz, Jr.
Roger A. Thein, Jr.
Duane L. Tysseling
Kenneth E. Walker
Richard G. Wendt

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 60 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 54948; 65 FR 159; 67 FR 10475; 69 FR 8260; 71 FR 6824; 73 FR 48275; 67 FR 17102; 69 FR 17267; 71 FR 26601; 65 FR 20245; 66 FR 30502; 66 FR 41654; 68 FR 44837; 70 FR 41811; 72 FR 52422; 66 FR 53826; 66 FR 66966; 68 FR 69434; 70 FR 74102; 69 FR 26921; 67 FR 10471; 67 FR 19798; 69 FR 19611; 71 FR 26601; 73 FR 43819; 67 FR 15662; 67 FR 37907; 69 FR 26206; 69 FR 26221; 71 FR 27033; 67 FR 76439; 68 FR 10298; 71 FR 16410; 68 FR 61857; 68 FR 76715; 71 FR 6825; 73 FR 19928; 71 FR 646; 68 FR 74699; 68 FR 10503; 71 FR 6829; 69 FR 17263; 69 FR 31447; 70 FR 48797; 70 FR 61493; 70 FR 57353; 70 FR 72689; 71 FR 4194; 71 FR 13450; 71 FR 5105; 71 FR 19600; 71 FR 6826; 71 FR 19602; 71 FR 14566; 71 FR 30227; 71 FR 32183; 71 FR 41310; 72 FR 180; 72 FR 9397; 73 FR 15567; 73 FR 27015). Each of these 60 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by July 28, 2010.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published Notices of final disposition announcing its decision to exempt these 60 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its Notices of applications. The Notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: June 21, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–15679 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6480; FMCSA–2003–16564; FMCSA–2005–23238; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2005–22727; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2008–0021]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement

in the Federal Motor Carrier Safety Regulations for 29 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on May 17, 2010 (75 FR 19674).

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below. An anonymous individual stated that he feels the Agency is negligent and lets drivers who can't see get by with unsafe regulations. The individual feels that standards need to be instituted to guide the medical doctors.

In regard to this comment, to evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637. FMCSA also relies on the medical physician examining the driver to determine if the individual has sufficient vision to perform the tasks necessary to operate a commercial vehicle safely.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 29 renewal applications, FMCSA renews the Federal vision exemptions for Gerald L. Anderson, Leo G. Becker, Timothy W. Bickford, Stanley W. Davis, Ray L. Emert, Sean O. Feeny, Steven R. Felks, Marvin T. Fowler, Michael J. Frein, Jimmy G. Hall, Hazel L. Hopkins, Jr., Dennis R. Irvin, Mark L. LeBlanc, David A. Miller, Rick P. Moreno, Paul D. Schnautz, Steve J. Sherar, Robert F. Skinner, Jr., William T. Smiley, Richard M. Smith, Robert A. Stoeckle, David N. Stubbs, Edward J. Sullivan, Aaron S. Taylor, Martin L. Taylor, Gary R. Thomas, William B. Thomas, Michael J. Tisher and Kevin R. White.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: June 21, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–15676 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0006; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 2000 East Lancs Lolyne Double Decker Bus Mounted on Volvo B7L Chassis is Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2000 East Lancs Lolyne double decker buses mounted on Volvo B7L chasses that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is July 28, 2010.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. *Please see* the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for

accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notices in the **Federal Register** for each petition that it receives, and affords interested persons an opportunity to comment on the petitions. At the close of the comment period, NHTSA decides, on the basis of the petitions and any comments that it has received, whether the vehicle(s) is eligible for importation. The agency then publishes their decision in the **Federal Register.**

J.K. Technologies, LLC, of Baltimore, Maryland (J.K.) (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2000 East Lancs Lolyne double decker buses mounted on Volvo B7L chasses are eligible for importation into the United States.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2000 East Lancs Lolyne double decker buses mounted on Volvo B7L chasses, as originally manufactured, conform to many FMVSS, or are capable of being altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2000 East Lancs Lolyne double decker buses mounted on Volvo B7L chasses, as originally manufactured, comply with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 111 *Rearview Mirrors,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 121 *Air Brake Systems,* 124 *Accelerator Control Systems,* 205 *Glazing Materials,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 217 *Bus Emergency Exits and Window Retention and Release,* and 302 *Flammability of Interior Materials.*

With regard to Standard No. 121 *Air Brake Systems,* the petition asserts: "All elements of the braking system comply with the applicable FMVSS 121 requirements." Because it is aware that Volvo Buses has not, to date, manufactured any buses for sale in the United States or certified any buses as complying with all applicable FMVSS, NHTSA is concerned that the brake system on the vehicles that are the subject of the petition may not, in fact, have been originally manufactured to comply with all requirements of Standard No. 121. As a consequence, the agency is soliciting specific comments with respect to this issue.

Petitioner also contends that the vehicle is capable of being altered to meet the following standards, in the manners indicated:

Standard No. 101 *Controls and Displays:* modification of: (a) The speedometer face so that speed is displayed in miles per hour; (b) the low pressure warning system dash placards for the primary and secondary braking systems; and (c) the safety belt telltale lamp label to ensure that the controls and displays meet the requirements of this standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of the following U.S.-conforming model components: (a) Front sidemarker lamps; (b) headlamps; (c) tail lamps with integral rear side marker lamps; (d) clearance lamps; and (e) side mounted reflectors in place of existing nonconforming reflectors.

Standard No. 120 *New Pneumatic Tires for Vehicles Other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* Installation of an audible seat belt warning system to meet the requirements of this standard.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 21, 2010.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2010–15552 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 22, 2010.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 28, 2010 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0124.

Type of Review: Extension without change of a currently approved collection.

Title: Permit Applications, Claims, and EXPO Questionnaires (Generic).

Abstract: In an ongoing effort to improve customer service, TTB surveys its customers and keep track of our progress, as well as identify potential needs, problems, and opportunities for improvement. Also, TTB holds an EXPO every other year where various regulated industry members have the opportunity to meet with TTB and other Federal and State agency representatives. We have developed questionnaires to get feedback to determine what is needed to make each EXPO a success.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 53,000 hours.

Clearance Officer: Gerald Isenberg, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005; (202) 927–9347.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Celina M. Elphage,

Treasury PRA Clearance Officer.

[FR Doc. 2010–15531 Filed 6–25–10; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated National Pursuant to Executive Order 13219, as Amended

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the name of an individual whose property and interests in property have been unblocked pursuant to Executive Order 13219 of June 26, 2001, *Blocking Property of Persons Who Threaten International Stabilization Efforts in the Western Balkans,* as amended by Executive Order 13304, *Termination of Emergencies with Respect to Yugoslavia and Modification of Executive Order 13219 of June 26, 2001.*

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons ("SDN List") of the individual identified in this notice whose property and interests in property were blocked pursuant to Executive Order 13219, as amended by Executive Order 13304, is effective on June 22, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

On June 26, 2001, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 13219 (66 Fed.Reg. 34777, June 29, 2001) ("E.O. 13219"). In E.O. 13219, the President declared a national emergency with respect to the actions of persons engaged in, or assisting, sponsoring, or supporting: (i) Extremist violence in the former Yugoslav Republic of Macedonia, southern Serbia, the Federal Republic of Yugoslavia, and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 in Kosovo.

On May 28, 2003, the President issued Executive Order 13304 (68 FR 32315, May 29, 2003) ("E.O. 13304") terminating the national emergencies declared in Executive Order 12808 of May 20, 1992, and Executive Order 13088 of June 9, 1998, with respect to the former Socialist Federal Republic of Yugoslavia, revoking those and related executive orders, and taking additional steps with regard to the national emergency declared in E.O. 13219. Section 1 of E.O. 13219, as amended by E.O. 13304, blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, of: (i) Persons listed in the Annex to E.O. 13304 and (ii) persons designated by the Secretary of the Treasury, in consultation with the Secretary of State, because they are determined: (A) To be under open indictment by the International Criminal Tribunal for the former Yugoslavia, unless circumstances warrant otherwise, or (B) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of threatening the peace in or diminishing the stability or security of any area or state in the Western Balkans region, undermining the authority, efforts, or objectives of international organizations or entities present in the region, or endangering the safety of persons participating in or providing support to the activities of those international organizations or entities; or (C) to have actively obstructed, or pose a significant risk of actively obstructing, the Ohrid Framework Agreement of 2001 relating to Macedonia, United Nations Security Council Resolution 1244 relating to Kosovo, or the Dayton Accords or the Conclusions of the Peace Implementation Conference held in London on December 8–9, 1995, including the decisions or conclusions of the High Representative, the Peace Implementation Council or its Steering Board, relating to Bosnia and Herzegovina; or (D) to have materially assisted in, sponsored, or provided financial, material, or technological support for, or goods or services in support of, such acts of violence or obstructionism or any person listed in or designated pursuant to this order; or (E) to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any of the foregoing persons.

On June 22, 2010, the Director of OFAC removed from the SDN List the individual listed below, whose property and interests in property were blocked pursuant to E.O. 13219, as amended by E.O. 13304: HALILOVIC, Sefer; DOB 6 Jan 1952; POB Prijepolje, Serbia and Montenegro; ICTY indictee (individual) [BALKANS].

Dated: June 22, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–15551 Filed 6–25–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of the four individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, *Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers.*

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons ("SDN List") of the four individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on June 22, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of

the Treasury, Washington, DC 20220, tel.: 202/622–2490.

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the "Order"). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of the Treasury, in consultation with the Attorney General and Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On June 22, 2010 the Director of OFAC removed from the SDN List the four individuals listed below, whose property and interests in property were blocked pursuant to the Order:

1. CARRILLO SILVA, Armando, c/o DROGAS LA REBAJA, Cali, Colombia; c/o INVERSIONES CAMINO REAL S.A., Cali, Colombia; c/o GRACADAL S.A., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o ASESORIAS DE INGENIERIA EMPRESA UNIPERSONAL, Cali, Colombia; c/o DISTRIBUIDORA SANAR DE COLOMBIA S.A., Cali, Colombia; c/o PROSPECTIVA EMPRESA UNIPERSONAL, Cali, Colombia; c/o TECNICAS CONTABLES Y ADMINISTRATIVAS, Cali, Colombia; c/o DISTRIBUIDORA DEL VALLE E.U., Cali, Colombia; c/o PROVIDA E.U., Cali, Colombia; DOB 11 Feb 1949; Cedula No. 16242828 (Colombia); Passport 16242828 (Colombia) (individual) [SDNT]

2. MONDRAGON DE RODRIGUEZ, Mariela, c/o MARIELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA., Cali, Colombia; c/o COMPAX LTDA., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o CORPORACION DEPORTIVA AMERICA, Cali, Colombia; c/o INVERSIONES MONDRAGON Y CIA. S.C.S., Cali, Colombia; c/o MARIELA MONDRAGON DE R. Y CIA. S. EN C., Cali, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o INVERSIONES Y DISTRIBUCIONES A M M LTDA., Cali, Colombia; DOB 12 Apr 1935; Cedula No. 29072613 (Colombia); Passport 4436059 (Colombia) (individual) [SDNT]

3. RODRIGUEZ ABADIA, William, c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o DERECHO INTEGRAL Y CIA. LTDA., Cali, Colombia; c/o M. RODRIGUEZ O. Y CIA. S. EN C., Cali, Colombia; c/o INVERSIONES MIGUEL RODRIGUEZ E HIJO, Cali, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o ANDINA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o ASPOIR DEL PACIFICO Y CIA. LTDA., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador; c/o VALORES MOBILIARIOS DE OCCIDENTE S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o REVISTA DEL AMERICA LTDA., Cali, Colombia; c/o MUNOZ Y RODRIGUEZ Y CIA. LTDA., Cali, Colombia; c/o CLAUDIA PILAR RODRIGUEZ Y CIA. S.C.S., Bogota, Colombia; c/o PRODUCCIONES CARNAVAL DEL NORTE Y COMPANIA LIMITADA, Cali, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o ASISTENCIA PROFESIONAL ESPECIALIZADA EN COLOMBIA LIMITADA, Cali, Colombia; c/o BONOMERCAD S.A., Bogota, Colombia; c/o DECAFARMA S.A., Bogota, Colombia; c/o DROCARD S.A., Bogota, Colombia; c/o SEGUWRA DEL VALLE E.U., Cali, Colombia; c/o ALERO S.A., Cali, Colombia; DOB 31 Jul 1965; Cedula No. 16716259 (Colombia) (individual) [SDNT]

4. RODRIGUEZ RAMIREZ, Andre Gilberto, Calle 10 No. 4–47 piso 18, Cali, Colombia; c/o ANDINA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o BONOMERCAD S.A., Bogota, Colombia; c/o CAFE ANDINO S.L., Madrid, Spain; c/o CONSULTORIA SANTAFE E.U., Bogota, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o DECAFARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA SANAR DE COLOMBIA S.A., Cali, Colombia; c/o DROCARD S.A., Bogota, Colombia; c/o FOGENSA S.A., Bogota, Colombia; c/o INVERSIONES RODRIGUEZ RAMIREZ Y CIA. S.C.S., Cali, Colombia; c/o INVERSIONES Y CONSTRUCCIONES ABC S.A., Cali, Colombia; c/o ALERO S.A., Cali, Colombia; DOB 22 Mar 1972; Cedula No. 16798937 (Colombia); Passport 16798937 (Colombia) (individual) [SDNT]

Dated: June 22, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–15544 Filed 6–25–10; 8:45 am]

BILLING CODE 4810–AL–P

Federal Register

Monday,
June 28, 2010

Book 2 of 2 Books
Pages 36785–37286

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

Medicare and Medicaid Programs; Quarterly Listing of Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9059–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January Through March 2010

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from January through March 2010, relating to the Medicare and Medicaid programs. This notice provides information on national coverage determinations (NCDs) affecting specific medical and health care services under Medicare. Additionally, this notice identifies certain devices with investigational device exemption (IDE) numbers approved by the Food and Drug Administration (FDA) that potentially may be covered under Medicare. This notice also includes listings of all approval numbers from the Office of Management and Budget for collections of information in CMS regulations and a list of Medicare-approved carotid stent facilities. Included in this notice is a list of the American College of Cardiology's National Cardiovascular Data registry sites, active CMS coverage-related guidance documents, and special one-time notices regarding national coverage provisions. Also included in this notice is a list of National Oncologic Positron Emissions Tomography Registry sites, a list of Medicare-approved ventricular assist device (destination therapy) facilities, a list of Medicare-approved lung volume reduction surgery facilities, a list of Medicare-approved clinical trials for fluorodeoxyglucose positron emissions tomogrogphy for dementia, and a list of Medicare-approved bariatric surgery facilities.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, and to foster more open and transparent collaboration efforts, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this 3-month time frame.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning these items. Copies are not available through the contact persons. (*See* Section III of this notice for how to obtain listed material.)

Questions concerning CMS manual instructions in Addendum III may be addressed to Ismael Torres, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–1864.

Questions concerning regulation documents published in the **Federal Register** in Addendum IV may be addressed to Kathleen Smith, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0626.

Questions concerning Medicare NCDs in Addendum V may be addressed to Patricia Brocato-Simons, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0261.

Questions concerning FDA-approved Category B IDE numbers listed in Addendum VI may be addressed to John Manlove, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–13–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6877.

Questions concerning approval numbers for collections of information in Addendum VII may be addressed to Melissa Musotto, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6962.

Questions concerning Medicare-approved carotid stent facilities in Addendum VIII may be addressed to Sarah J. McClain, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2994.

Questions concerning Medicare's recognition of the American College of Cardiology-National Cardiovascular Data Registry sites in Addendum IX may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare's active coverage-related guidance documents in Addendum X may be addressed to Beverly Lofton, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7136.

Questions concerning one-time notices regarding national coverage provisions in Addendum XI may be addressed to Beverly Lofton, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7136.

Questions concerning National Oncologic Positron Emission Tomography Registry sites in Addendum XII may be addressed to Stuart Caplan, RN, MAS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–8564.

Questions concerning Medicare-approved ventricular assist device (destination therapy) facilities in Addendum XIII may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare-approved lung volume reduction surgery facilities listed in Addendum XIV may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare-approved bariatric surgery facilities listed in Addendum XV may be addressed to Kate Tillman, RN, MA, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–9252.

Questions concerning fluorodeoxyglucose positron emission

tomography for dementia trials listed in Addendum XVI may be addressed to Stuart Caplan, RN, MAS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–8564.

Questions concerning all other information may be addressed to Kathleen Smith, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0626.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of the two programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) maintaining effective communications with regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, and to foster more open and transparent collaboration, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the respective 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of manual issuances, memoranda, substantive and interpretive regulations, NCDs, and FDA-approved IDEs published during the subject quarter to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare NCD Manual (NCDM, formerly the Medicare Coverage Issues Manual (CIM)) may wish to review the August 21, 1989, publication (54 FR 34555). Those interested in the revised process used in making NCDs under the Medicare program may review the September 26, 2003, publication (68 FR 55634).

To aid the reader, we have organized and divided this current listing into 11 addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published CMS Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique CMS transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the—
  - Date published;
  - **Federal Register** citation;
  - Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);
  - Agency file code number; and
  - Title of the regulation.
- Addendum V includes completed NCDs, or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision.
- Addendum VI includes listings of the FDA-approved IDE categorizations, using the IDE numbers the FDA assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B), and identified by the IDE number.
- Addendum VII includes listings of all approval numbers from the Office of Management and Budget (OMB) for collections of information in CMS regulations in title 42; title 45, subchapter C; and title 20 of the CFR.
- Addendum VIII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients.
- Addendum IX includes a list of the American College of Cardiology's National Cardiovascular Data registry sites. We cover implantable cardioverter defibrillators (ICDs) for certain indications, as long as information about the procedures is reported to a central registry.
- Addendum X includes a list of active CMS guidance documents. As required by section 731 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173, enacted on December 8, 2003), we will begin listing the current versions of our guidance documents in each quarterly listings notice.
- Addendum XI includes a list of special one-time notices regarding national coverage provisions. We are publishing a list of issues that require public notification, such as a particular clinical trial or research study that qualifies for Medicare coverage.
- Addendum XII includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.
- Addendum XIII includes a listing of Medicare-approved facitilites that receive coverage for ventricular assist devices used as destination therapy. All facilities were required to meet our standards in order to receive coverage for ventricular assist devices implanted as destination therapy.
- Addendum XIV includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial are also eligible to receive coverage.
- Addendum XV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities

must meet our standards in order to receive coverage for bariatric surgery procedures.

• Addendum XVI includes a listing of Medicare-approved clinical trials for fluorodeoxyglucose positron emission tomography (FDG–PET) for dementia and neurodegenerative diseases.

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, most manuals are available at the following Internet address: *http://cms.hhs.gov/manuals/default.asp.*

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through *GPO Access.* The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is *http://www.gpoaccess.gov/fr/index.html,* by using local WAIS client software, or by telnet to *swais.gpoaccess.gov,* then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters. Interested individuals can obtain copies from the nearest CMS Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the CMS Home Page. The Internet address is *http://cms.hhs.gov/rulings.*

D. CMS' Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

• Titles XI, XVIII, and XIX of the Act.
• CMS-related regulations.
• CMS manuals and monthly revisions.
• CMS program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 2005. (Updated titles of the Social Security Laws are available on the Internet at *http://www.ssa.gov/OP_Home/ssact/comp-toc.htm.*) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal Government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

For each CMS publication listed in Addendum III, CMS publication and transmittal numbers are shown. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare Benefit Policy publication titled "Outpatient Intravenous Insulin Treatment (Therapy)," use CMS–Pub. 100–03, Transmittal No. 112.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: June 15, 2010.

Jacquelyn Y. White,

Director, Office of Strategic Operations and Regulatory Affairs.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

April 1, 2008 (73 FR 17422)
June 27, 2008 (73 FR 36596)
September 26, 2008 (73 FR 55902)
December 30, 2008 (73 FR 79982)
March 27, 2009 (74 FR 13516)
June 26, 2009 (74 FR 30689)
September 25, 2009 (74 FR 49076)
December 18, 2009 (74 FR 67310)
March 26, 2010 (75 FR 14906)

Addendum II—Description of Manuals, Memoranda, and CMS Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the former CIM

(now the NCDM) was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

ADDENDUM III

Medicare and Medicaid Manual Instructions

January Through March 2010

Transmittal No.	Manual/Subject/Publication Number

Medicare General Information
(CMS-Pub. 100-01)

None

Medicare Benefit Policy
(CMS-Pub. 100-02)

119	Coverage of Inpatient Rehabilitation Services Inpatient Rehabilitation Facility (IRF) Services Documentation Requirements Required Preadmission Screening Required Post-Admission Physician Evaluation Required Individualized Overall Plan of Care Required Admission Orders Required Inpatient Rehabilitation Facility Patient Assessment Instrument (IRF-PAI) Inpatient Rehabilitation Facility Medical Necessity Criteria Multiple Therapy Disciplines Intensive Level of Rehabilitation Services Ability to Actively Participate in Intensive Rehabilitation Therapy Program Physician Supervision Interdisciplinary Team Approach to the Delivery of Care Definition of Measurable Improvement

Medicare National Coverage Determination
(CMS-Pub. 100-03)

112	Outpatient Intravenous Insulin Treatment (Therapy) Outpatient Intravenous Insulin Treatment (Effective December 23, 2009)
113	Screening for the Human Immunodeficiency Virus (HIV) Infection Human Immunodeficiency Virus (HIV) Testing Diagnosis Screening for the Human Immunodeficiency Virus (HIV) Infection (Effective December 8, 2009)
114	Outpatient Intravenous Insulin Treatment (Therapy) Outpatient Intravenous Insulin Treatment (Effective December 23, 2009)
115	Percutaneous Transluminal Angioplasty (PTA) of the Carotid Artery Concurrent With Stenting

Percutaneous Transluminal Angioplasty (PTA)

116 Repeal of Section 20.10, Cardiac Rehabilitation (CR) Programs

117 Outpatient Intravenous Insulin Treatment (Therapy
Outpatient Intravenous Insulin Treatment (Effective December 23, 2009)

118 Screening for the Human Immunodeficiency Virus (HIV) Infection
Human Immunodeficiency Virus (HIV) Testing Diagnosis
Screening for the Human Immunodeficiency Virus (HIV) Infection (Effective December 8, 2009)

119 Positron Emission Tomography (NaF-18) to Identify Bone Metastasis of Cancer

Medicare Claims Processing
(CMS-Pub. 100-04)

1887 Emergency Update to the 2010 Medicare Physician Fee Schedule Database

1888 Positron Emission Tomography (PET) (FDG) for Cervical Cancer
Billing Requirements for PET Scans for Specific indications of Cervical Cancer Performed on or After January 28, 2005
Billing Requirements for CMS - Approved Clinical Trials and Coverage With Evidence Development Claims for PET Scans for Neurodegenerative Diseases, Previously Specified Cancer Indications, and All Other Cancer Indications Not Previously Specified
Billing and Coverage Changes for PET Scans Effective for Services on and After April 3, 2009
Billing and Coverage Changes for PET Scans Effective for Services on and After November 10, 2009

1889 PharmacogenomicTesting for Warfarin Response
Pharmacogenomic Testing for Warfarin Response
Coverage Requirements
Billing Requirements
Payment Requirements

1890 Processing of Non-Covered International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Procedure codes on Inpatient Hospital Claims
General Information on Institutional Noncovered Charges on Institutional Claims
Summary of All Types of Institutional No Payment Claims
Noncovered Charges on Inpatient Bills
Billing for Noncovered Procedures in an Inpatient Stay
Medicare Code Editor (MCE)

1891 Correction to CR 6728 on Correct Coding Initiative (CCI) Edits, Version 16.0, Effective January 1, 2010

1892 Payment to Physician or Other Supplier for Diagnostic Tests Subject to the Anti-Markup Payment Limitation
Payment to Physician or Other Supplier for Diagnostic Tests Subject to the Anti-Markup Payment Limitation-Claims Submitted to A/B MACs

1893 Paying Claims Without Common Working File (CWF) Approval
Paying Claims Without CWF Approval
Requesting to Pay Claims Without CWF Approval
Procedures for Paying Claims Without CWF Approval
Contractor Monthly Reports of Claims Paid Without CWF Approval

1894 Billing for Services Related to Voluntary Uses of Advanced Beneficiary Notices (ABNs) of Noncoverage
Provider Billing of Non-covered Charges on Institutional Claims
General Information on Non-covered Charges on Institutional Claims
Basic Payment Liability Conditions
Billing Services Excluded by Statute
Claims With Condition Code 21
Provider-liable Fully Non-covered Outpatient Claims
Non-covered Charges on Inpatient Bills
Background on Institutional Demand Bills (Condition Code 20)
Inpatient and Outpatient Demand Billing Instructions
Outpatient Billing With an ABN (Occurrence Code 32)
Line-Item Modifiers Related to Reporting of Non-covered Charges When Covered and Non-covered Services Are on the Same Outpatient Claim
Special Instructions for Non-covered Time Increments in Standard Method Critical Access Hospitals (CAHs)
Special Claims Processing Rules for Institutional Outpatient Rehabilitation Claims
Determining Payment Amounts
Applicable Types of Bill
Applicable Revenue Codes
Edit Requirements for Revenue Codes
Line Item Date of Service Reporting
Non-covered Charge Reporting
Non-covered Charges on Institutional Ambulance Claims

1895 Processing of Non-Covered International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Procedure Codes on Inpatient Hospital Claims
Billing for Noncovered Procedures in an Inpatient Stay
Medicare Code Editor (MCE)

1896 Healthcare Provider Taxonomy Codes (HPTC) Update April 2010

1897	Associating Hospice Visits to the Level of Care Data Required on the Institutional Claim to Medicare Contractor
1898	Dialysis Adequacy, Infection and Vascular Access Reporting Required Information for In-Facility Claims Paid Under the Composite Rate Coding for Adequacy of Dialysis, Vascular Access and Infection Form Locators 31-41
1899	April 2010 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing Files and Revisions to Prior Quarterly Pricing Files
1900	Correction to Processing of Non-Covered Revenue Codes General Information on Non-covered Charges on Institutional Claims Liability Considerations for Bundled Services Coding That Results from Processing Noncovered Charges
1901	Billing and Processing for Healthy Control Group Volunteers in a Qualified Clinical Trial
1902	Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality
1903	Instructions for Processing Claims Containing Anti-Markup Services But With Partial Information Completed in Item 20 of the Form CMS-1500 Conditional Data Element Requirments for A/B MACs and DMEMACs
1904	Coding Patient Transfers Under the Home Health Prospective Payment System (HH PPS) Transfer Situation - Payment Effects Discharge and Readmission Situation Under HH PPS - Payment Effects National Home Health Prospective Payment Episode History File Coordination of HH PPS Claims Episodes With Inpatient Claim Types Chart Summarizing the Effects of RAP/Claim Actions on the HH PPS Episode File Request for Anticipated Payment (RAP) HH PPS Claims Input/Output Record Layout
1905	New Waived Tests
1906	Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality
1907	Medicare Systems Edit Refinements Related to Hospice Services Levels of Care Data Required on the Institutional Claim to Medicare Contractor Claims From Medicare Advantage Organizations
1908	Clotting Factor Furnishing Fee – Conforming Manual Change to "Unit" Clotting Factor Furnishing Fee
1909	Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality
1910	Type of Service (TOS) Corrections Type of Service

1911 Implementation of a New Skilled Nursing Facility (SNF) Consolidated Billing (CB) Edit for Facility Services Billed by Ambulatory Surgical Centers (ASCs) Edit to Prevent Payment of Facility Fees for Services Billed by an Ambulatory Surgical Center (ASC) when Rendered to a Beneficiary in a Part A Stay

1912 Healthcare Common Procedure Coding System (HCPCS) Codes Subject to and Excluded from Clinical Laboratory Improvement Amendments (CLIA) Edits

1913 Outpatient Intravenous Insulin Treatment (Therapy)
Outpatient Intravenous Insulin Treatment (OIVIT)
Medicare Summary Notices (MSNs), Reason Codes, and Remark Codes
HCPCS Coding for OIVIT

1914 Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality

1915 Non-Systems Internet Only Manual (IOM) Chapter 25 Changes
Uniform Billing with Form CMS-1450
Disposition of Copies of Completed Forms
General Instructions for Completion of Form CMS-1450 for Billing (UB-04)
Form Locators 1-15
Form Locators 16-30
Form Locators 31-41
Form Locator 42
Form Locators 43-81

1916 Quarterly Update to Correct Coding Initiative (CCI) Edits, Version 16.1, Effective April 1, 2010

1917 Point of Origin for Admission or Visit Codes Update to the UB-04 (CMS-1450) Manual Code List
Form Locators 1-15
Form Locators 16-30

1918 Screening for the Human Immunodeficiency Virus (HIV) Infection
Healthcare Common Procedure Coding System (HCPCS) for HIV Screening Tests
Billing Requirements
Payment Method
Types of Bill (TOBs) and Revenue Codes
Diagnosis Code Reporting
Medicare Summary Notice (MSN) and Claim Adjustment Reason Codes (CARC)

1919 Instructions for Downloading the Medicare ZIP Code File for July 2010

1920 Modifications to Gap-Filling Requirements for the Health Insurance Portability and Accountability Act (HIPAA) 837 version 5010 Coordination of Benefits (COB) Claims Transactions and National Council for Prescription Drug Programs (NCPDP) Version D.0 Claim Files
Coordination of Benefits Agreement (COBA) 5010 Coordination of Benefits

(COB) Requirements
National Council for Prescription Drug Programs (NCPDP) Version D.0
Coordination of Benefits (COB) Requirements
1921 Billing for Services Related to Voluntary Uses of Advanced Beneficiary Notices of Noncoverage (ABNs)
Provider Billing of Non-covered Charges on Institutional Claims
General Information on Non-covered Charges on Institutional Claims
Basic Payment Liability Conditions
Billing Services Excluded by Statute
Claims With Condition Code 21
Provider-Liable Fully Non-covered Outpatient Claims
Non-covered Charges on Inpatient Bills
Background on Institutional Demand Bills (Condition Code 20)
Inpatient and Outpatient Demand Billing Instructions
Outpatient Billing With an ABN (Occurrence Code 32)
Line-Item Modifiers Related to Reporting of Non-covered Charges When Covered and Non-covered Services Are On the Same Outpatient Claim
Special Instructions for Non-covered Time Increments in Standard Method Critical Access Hospitals (CAHs)
Special Instructions for Non-covered Time Increments in Standard Method Critical Access Hospitals (CAHs)
Determining Payment Amounts
Applicable Types of Bill
Edit Requirements for Revenue Codes
Edit Requirements for Revenue Codes
Non-covered Charge Reporting
Non-covered Charges on Institutional Ambulance Claims
1922 July 2010 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing Files and Revisions to Prior Quarterly Pricing Files
1923 Outpatient Intravenous Insulin Treatment (Therapy)
Outpatient Intravenous Insulin Treatment (OIVIT)
HCPCS Coding for OIVIT
Medicare Summary Notices (MSNs), Reason Codes, and Remark Codes
1924 April 2010 Update of the Hospital Outpatient Prospective Payment System (OPPS)
Billing for "Sometimes Therapy" Services that May be Paid as Non-Therapy Services for Hospital Outpatients
Editing Of Hospital Part B Inpatient Services
Editing Of Hospital Part B Inpatient Services
1925 Percutaneous Transluminal Angioplasty (PTA) of the Carotid Artery Concurrent With Stenting

	Category B Investigational Device Exemption (IDE) Study Coverage
	Post-Approval Study Coverage
1926	April 2010 Update to the Ambulatory Surgical Center (ASC) Payment System
1927	April 2010 Integrated Outpatient Code Editor (I/OCE) Specifications Version 11.1
1928	Correction to Processing of Non-Covered Revenue Codes
	General Information on Non-covered Charges on Institutional Claims
	Liability Considerations for Bundled Services
	Coding That Results from Processing Noncovered Charges
1929	Point of Origin for Admission or Visit Codes Update to the UB-04 (CMS-1450) Manual Code List
	Form Locators 1-15
	Form Locators 16-30
1930	Outpatient Intravenous Insulin Treatment (Therapy)
	Outpatient Intravenous Insulin Treatment (OIVIT)
	HCPCS Coding for OIVIT
	Medicare Summary Notices (MSNs), Reason Codes, and Remark Codes
1931	Revision of the Internet Only Manual (IOM) to Remove References to "Purchased Diagnostic Test" and Replace With Language Consistent With the Anti-Markup Rule
	Payment Jurisdiction Among Local B/MACs for Services Paid Under the Physician Fee Schedule and Anesthesia Services
	Payment Jurisdiction for Services Subject to the Anti-Markup Rule
	Exceptions to Assignment of Provider's Right to Payment - Claims Submitted to A/B MACs
	Background and Purpose of Reassignment Rules - Claims Submitted to B/MACs
	Correcting Unacceptable Payment Arrangements
	Billing for Diagnostic Tests (Other Than Clinical Diagnostic Laboratory Tests) Subject to the Anti-Markup Payment Limitation - Claims Submitted to B/MACs
	Summary of Adjustments to Fee Schedule Computations
	Anti-Markup Payment Limitation
	B/MAC Payment Rules
	Billing for Services
	Payment
	Billing Requirements - Carrier/B/MAC Claims
	Items 14-33 - Provider of Service or Supplier Information
	Claims Processing
	Diagnostic Tests Subject to the Anti-Markup Payment Limitation
1932	Dialysis Adequacy, Infection and Vascular Access Reporting
	Required Information for In-Facility Claims Paid Under the Composite
	Coding for Adequacy of Dialysis, Vascular Access and Infection

Form Locators 31-41

1933 Clinical Laboratory Fee Schedule (CLFS) - Medicare Travel Allowance Fees for Collection of Specimens

1934 Billing and Processing Claims with Unlimited Occurrence Span Codes (OSCs) Inpatient Billing From Hospitals and SNFs
Form Locators 31-41

1935 Screening for the Human Immunodeficiency Virus (HIV) Infection
Healthcare Common Procedure Coding System (HCPCS) for HIV Screening Tests
Billing Requirements
Payment Method
Types of Bill (TOBs) and Revenue Codes
Diagnosis Code Reporting
Medicare Summary Notice (MSN) and Claim Adjustment Reason Codes (CARC)

1936 Claim Status Category and Claim Status Code Update

1937 Positron Emission Tomography (NaF-18) to Identify Bone Metastasis of Cancer
Tracer Codes Required for PET Scans
Billing and Coverage Changes for PET (NaF-18) Scans to Identify Bone Metastasis of Cancer Effective for Claims With Dates of Service on or After February 26, 2010

1938 April 2010 Update to the Ambulatory Surgical Center (ASC) Payment System

Medicare Secondary Payer
(CMS-Pub. 100-05)

00 None

Medicare Financial Management
(CMS-Pub. 100-06)

164 Chapter 7, Internal Control Requirements Update
OMB Circular A-123
CMS Contractor Internal Control Review Process and Timeline
Risk Assessment
Risk Analysis Chart
Documentation and Working Papers
Certification Package for Internal Controls (CPIC)
OMB Circular A-123Appendix A; Internal Control Over Financial Reporting (ICOFR)
Identify and Document Key Controls at the Major Transaction Cycle, Sub-Cycle, or Account Level

CPIP Report of Material Weaknesses
Definitions of Control Deficiency, Significant Deficiency, and Material Weakness
Material Weaknesses Identified During the Reporting Period
CMS Finding Numbers
Initial CAP Report
Quarterly CAP Report
List of CMS Contractor Control Objectives
CMS Contractor Cycle Memo
CMS Contractor Cycle Memo Outline
List of Appendices

165 Notice of New Interest Rate for Medicare Overpayments and Underpayments – 2nd Notification for FY 2010

Medicare State Operations Manual
(CMS-Pub. 100-07)

57 Revised Chapter 2, "The Certification Process," Section 2256H

Medicare Program Integrity
(CMS-Pub. 100-08)

322 Durable Medical Equipment (DME MAC) and the National Supplier Clearinghouse (NSC MAC) Procedures for Third Party Notification of Deceased Durable Medical Equipment, Prosthetic, Orthotic and Supplies (DMEPOS) Supplier Associates

323 Verification of Legalized Status
Verification of Legalized Status.

324 Revisions to Model Approval Letters
Model Approval Letter for Initial Enrollment
Model Approval Letter for Change of Information
Model Approval Letter for Change of Information

325 Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality

326 Revision of the Internet Only Manual (IOM) to Remove References to "Purchased Diagnostic Test" and Replace With Language Consistent With the Anti-Markup Rule
Interpreting Physicians
NPIs for Secondary Providers

327 Signature Guidelines for Medical Review Purposes
Documentation Specifications for Areas Selected for Prepayment or Postpayment MR

328 Ordering/Referring Providers Who Are Not Enrolled in Medicare

Section 2 of the CMS-855I
Ordering/Referring Providers Who Are Not Enrolled in Medicare
Model Approval Letter for Providers Who Order and Refer Only

329 Change in Provider Enrollment Timeliness Standards for Certain Paper Applications
Timeliness and Accuracy Standards
Standards for Initial Applications
Paper Applications – Timeliness
CMS-855A Applications
CMS-855I Applications
CMS-855B Applications Submitted by Suppliers Other Than IDTFs
CMS-855B Applications Submitted by IDTFs
Standards for Changes of Information
Paper Applications – Timeliness
Pre-Screening Process
Application Rejections
Denials for Incomplete Applications
Changes of Information and Complete CMS-855 Applications
Incomplete or Unverifiable Changes of Information

332 Reporting Changes in Surety Bonds
Surety Bonds

Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)

27 Change in Provider Customer Service Program Requirements
Additional Reporting
Quality Call Monitoring Calibration
Quality Written Correspondence Monitoring Calibration
Provider Contact Centers Training Program
Training Schedule
Training Closures of More Than 4 Hours
General Requirements
Contact Center Training Closure Information to Be Reported in PCID

Medicare End-Stage Renal Disease Network Organizations (CMS Pub 100-14)

00 None

Medicare Managed Care
(CMS-Pub. 100-16)

00 None

Medicare Business Partners Systems Security
(CMS-Pub. 100-17)

00 None

Demonstrations
(CMS-Pub. 100-19)

63 Modification to Accommodate the Acute Care Episode (ACE) Demonstration
64 Payments to Practices Participating in the Electronic Health Records (EHR) Demonstration

One Time Notification
(CMS-Pub. 100-20)

616 Common Working File (CWF) Non-Base Jobs to Base Jobs
617 Medically Unlikely Edits (MUEs).
618 Institutional Online Screens Changes for Version 005010 Related to ICD-10, Institutional Online Screens Changes for Additional Medical Codes, and Changes Needed to Process Additional Medical Codes - Analysis Only
619 Converting the BSIs for the Providers Transitioning from WPS Legacy Workload (formerly processed by Mutual of Omaha) to the J1 A/B Medicare Administrative Contractor (MAC)
620 Various OIG Reports that have Medical Review Implications
621 Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Version 5010 - MAC Jurisdiction 9 Only
622 Systematic Synchronization of Medicare Participating Physician or Supplier Agreement (PAR) Status Between the Multi Carrier System (MCS) Provider Enrollment, Chain and Ownership System (PECOS)
623 Implementation of the HIPAA Version 5010 276/277 Claim Status Second Phase
624 Incorporation of the National Provider Identifier (NPI) into the National Supplier Clearinghouse (NSC) Enrollment System and Related Instructions
625 Guidance on Implementing System Edits for Certain Durable Medical

Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)
626 One-Time Mailing of Supplier Responsibilities Letter - Individual Practitioners Only
627 Carriers and Part A and Part B Medicare Administrative Contractors (A/B MACs) to Fully Populate the Provider Enrollment, Chain and Ownership System (PECOS)
628 Integrated Outpatient Code Editor (IOCE) PC (interactive and batch) Re-Write
629 MCS Changes Needed to Automate the Annual Update to the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM)
630 FISS Integrated Outpatient Code Editor (IOCE) Control Block Changes Related to ICD-10
631 Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality
632 Claim Adjustment Reason Code (CARC) Update for Medicare Secondary Payer (MSP) Claims Processing
633 Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Version 5010 – Acknowledgements Instructions
634 Reporting the Beneficiary's Residence State Code and ZIP Code for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Claims
635 Maintenance and Servicing Payments for Certain Oxygen Equipment on or After July 1, 2010
636 Instructions for Reprocessing Claims and Recouping Overpayments for Claims for Implanted DME and Implanted Prosthetics Submitted Under the Guidelines Established in Change Request (CR) 5917
637 Common Working File (CWF) Edit to Reject Claims for Durable Medical Equipment (DME) Provided to Medicare Beneficiaries During Non-Covered Stays in a Skilled Nursing Facility (SNF)
638 Revised Clinical Laboratory Fee Schedule and ZIP Code File to include Kansas Payment Locality Structure
639 Editing Guidance/Clarification Related to HIPAA 5010
641 Common Working File (CWF) Submission of Codes to the Part A Contractors and Shared Systems and the Systems Ability to Override the Claim Level CWF Edit for Certain MSP Claims
642 Expansion of the Current Scope of Editing for Ordering/Referring Providers for Claims Processed by Medicare Carriers and Part B Medicare Administrative Contractors (MACs)
643 Expansion of the Current Scope of Editing for Ordering/Referring Providers for Durable Medical Equipment, Prosthetics, Orthotics, and Supplier (DMEPOS) Suppliers Claims Process by Durable Medical Equipment Medicare Administrative Contractors (DMEMACs)
644 Accumulation of Claims with Condition Code 04 on the Provider Statistical and

Reimbursement Report (PS&R)

645 Version D.0 Inbound National Council for Prescription Drug Programs (NCPDP) Flat File Implementation

646 VMS End-to-End Testing for HIPAA 5010

647 Implementation of Common Edits and Enhancements (CEM) Software at Part A/B MAC Local Data Centers

648 Additional ICD-9 Codes Analysis and Processing direction (Institutional Claims Only)

649 Health Insurance Portability and Accountability Act (HIPAA) 5010 Error Corrections

650 DME MAC and NSC MAC Processing "Do Not Forward" Code Notification and Action

651 5010-D.0 Project Receipt, Control and Balancing Initial Phase for Durable Medical Equipment (DME) Only

652 Medically Unlikely Edits (MUEs)

653 Clinical Laboratory Fee Schedule (CLFS) - Special Instructions for Specific Test Codes (CPT Code 80100, CPT Code 80101, CPT Code 80101QW, G0430, G0430QW, and G0431QW)

654 Beta Testing of the HIPAA Version 5010 Common Edits and Enhancements Module (CEM) at Part A/B MAC Local Data Centers

655 HIPAA 5010 Activity – Testing of 5010 CRs

656 Health Insurance Portability and Accountability Act (HIPAA) 005010 837 Institutional (837I) Edits and 005010 837 Professional (837P) Edits - July Version

657 Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Version 5010 Catch-up Phase Two - MAC Jurisdiction 9 Only

658 Jurisdiction 10 A/B MAC Merge of the Part B Alabama, Georgia, and Tennessee CICS Production and User Acceptance Test Regions

659 Reporting of Recoupment for Overpayment on the Remittance Advice (RA)

660 Version D.0 Inbound National Council for Prescription Drug Programs (NCPDP) Flat File Implementation

661 Validating the Billing of End-Stage Renal Disease (ESRD) 50/50 Rule Modifier

662 Conference Call and Research Hours in Support of CR 5949

663 Update to List of ICD-9-CM Diagnosis Codes Not Requiring the Q0 Healthcare Common Procedure Coding System (HCPCS) Modifier for Automatic Implantable Cardiac Defibrillator (ICD) Services Provided in a Clinical Study

664 Implementation of the HIPAA Version 5010 276/277 Claim Status Multi-Carrier System (MCS) Only Transaction Pairing Fix

666 Update ViPS Medicare System (VMS) to Deactivate Billing Numbers for Non-Frequent Billing Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Suppliers.

Addendum IV—Regulation Documents Published in the Federal Register January Through March 2010

Publication date	FR Vol. 75 Page No.	42 CFR Parts affected	File code	Title of regulation
January 13, 2010	1844	412, 413, 422, and 495	CMS–0033–P	Medicare and Medicaid Programs; Electronic Health Record Incentive Program.
January 22, 2010	3742		CMS–7017–N2	Medicare Program; Meeting of the Advisory Panel on Medicare Education; Cancellation of the February 3, 2010 Meeting and Announcement of the March 31, 2010 Meeting.
	3743		CMS–1566–N	Medicare Program; Meeting of the Practicing Physicians Advisory Council, March 8, 2010.
January 26, 2010	4088		CMS–6023–N2	Medicare Program; Approval of Independent Accrediting Organizations To Participate in the Advanced Diagnostic Imaging Supplier Accreditation Program.
	4095		CMS–3222–N	Medicare Program; Meeting of the Medicare Evidence Development and Coverage Advisory Committee, March 24, 2010.
February 2, 2010	5410	45 CFR 146	CMS–4140–IFC	Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.
February 3, 2010	5599		CMS–1341–NC	Medicare and Medicaid Programs; Announcement of Applications From Hospitals Requesting Waiver for Organ Procurement Service Area.
February 24, 2010	8374		CMS–1566–CN	Medicare Program; Meeting of the Practicing Physicians Advisory Council, March 8, 2010, Correction.
February 26, 2010	8971		CMS–1514–N	Medicare Program; Public Meetings in Calendar Year 2010 for All New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS) Coding and Payment Determinations.
February 26, 2010	8980		CMS–3223–N	Medicare Program; Meeting of the Medicare Evidence Development and Coverage Advisory Committee—April 22, 2010.
February 26, 2010	8982		CMS–3224–N	Medicare Program; Request for Nominations for Members of the Medicare Evidence Development & Coverage Advisory Committee.
March 26, 2010	14606		CMS–1570–N	Medicare Program; Request for Nominations to the Advisory Panel on Ambulatory Payment Classification Groups.
March 26, 2010	14906		CMS–9057–N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October Through December 2009.
March 31, 2010	16149		CMS–2312–N	Medicaid and CHIP Programs; Meeting of the CHIP Working Group—April 26, 2010.

Addendum V—National Coverage Determinations [January Through March 2010]

A national coverage determination (NCD) is a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under Title XVIII of the Social Security Act, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title, or determination with respect to the amount of payment made for a particular item or service so covered. We include below all of the NCDs that were issued during the quarter covered by this notice. The entries below include information concerning completed decisions as well as sections on program and decision memoranda, which also announce pending decisions or, in some cases, explain why it was not appropriate to issue an NCD. We identify completed decisions by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. Information on completed decisions as well as pending decisions has also been posted on the CMS Web site at *http://cms.hhs.gov/coverage.*

Title	NCDM Section	TN No.	Issue date	Effective date
Repeal of Section 20.10, Cardiac Rehabilitation (CR) Programs	20.10	R116NCD	03/05/2010	02/22/2010
Percutaneous Transluminal Angioplasty (PTA) of the Carotid Artery Concurrent with Stenting	20.70	R115NCD	03/05/2010	12/09/2009
Outpatient Intravenous Insulin Treatment (Therapy)	40.70	R117NCD	03/09/2010	12/23/2009
Screening for the Human Immunodeficiency Virus (HIV) Infection	210.70	R118NCD	03/23/2010	12/08/2009

Title	NCDM Section	TN No.	Issue date	Effective date
Positron Emission Tomography (NaF–18) to Identify Bone Metastasis of Cancer	220.60	R119NCD	03/26/2010	02/26/2010
Changes to the Laboratory National Coverage Determination (NCD) Edit Software for July 2010	190.00	R1963CP	04/30/2010	07/01/2010

Addendum VI—FDA-Approved Category B IDEs [January Through March 2010]

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved IDE. Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following list includes all Category B IDEs approved by FDA during the first quarter, January through March 2010.

IDE	Category
BB14319	B
BB14334	B
BB14335	B
G080150	B
G090029	B
G090050	B
G090105	B
G090188	B
G090221	B
G090230	B
G090251	B
G090255	B
G090258	B
G090259	B
G090267	B
G090270	B
G090272	B
G090273	B
G090277	B
G100008	B
G100009	B
G100020	B
G100024	B
G100031	B
G100032	B
G100035	B
G100041	B

Addendum VII—Approval Numbers for Collections of Information

Below we list all approval numbers for collections of information in the referenced sections of CMS regulations in Title 42; Title 45, Subchapter C; and Title 20 of the Code of Federal Regulations, which have been approved by the Office of Management and Budget:

OMB Control Numbers	Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")

OMB NUMBER	Approved CFR Sections
0938-0008	Part 424 Subpart C
0938-0022	413.20, 413.24, 413.106
0938-0023	424.103
0938-0025	406.28, 407.27
0938-0027	486.100 - 486.110
0938-0033	405.807
0938-0035	407.40
0938-0037	413.20, 413.24
0938-0041	408.6, 408.202
0938-0042	410.1, 410.40, 424.124, 424.601, 414.605, 414.610, 414.615, 414.620, 414.625, 424.32
0938-0045	405.711
0938-0046	405.2133
0938-0050	413.20, 413.24
0938-0062	431.151, 435.151, 435.1009, 440.220, 440.250, 442.1, 442.10 - 442.16, 442.30, 442.40, 442.42, 442.100 - 442.119, 483.400 - 483.480, 488.332, 488.400, 498.3 - 498.5
0938-0065	485.701 - 485.729
0938-0074	491.1 - 491.11
0938-0080	406.7, 406.13
0938-0086	420.200 - 420.206, 455.100 - 455.106
0938-0101	430.30
0938-0102	413.20, 413.24
0938-0107	413.20, 413.24
0938-0146	431.800 - 431.865
0938-0147	431.800 - 431.865
0938-0151	493.1 - 493.2001
0938-0155	405.2470
0938-0193	430.10 - 430.20, 440.167
0938-0202	413.17, 413.20
0938-0214	411.25, 489.2, 489.20

0938-0236	413.20, 413.24
0938-0242	488.26 and 442.30
0938-0245	407.10, 407.11
0938-0246	431.800-431.865
0938-0251	406.7
0938-0266	416.1-416.150
0938-0267	485.56, 485.58, 485.60, 485.64, 485.66
0938-0269	412.116, 412.632, 413.64, 413.350, 484.245
0938-0270	405.376
0938-0272	440.180, 441.300 - 441.310
0938-0273	485.701 - 485.729
0938-0279	424.5
0938-0287	447.31
0938-0296	413.170, 413.184
0938-0301	413.20, 413.24, 415.60
0938-0302	418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96, 418.100
0938-0313	489.11, 489.20
0938-0328	482.12, 482.13, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.45, 482.53, 482.56, 482.57, 482.60, 482.61, 482.62, 482.66, 485.618, 485.631
0938-0334	491.9, 491.10
0938-0338	486.104, 486.106, 486.110
0938-0354	441.50
0938-0355	442.30, 488.26
0938-0358	488.26
0938-0359	412.40 - 412.52
0938-0360	488.60
0938-0365	484.10, 484.12, 484.14, 484.16, 484.18, , 484.36, 484.48, 484.52
0938-0372	414.330
0938-0378	482.60 - 482.62
0938-0379	442.30, 488.26
0938-0386	405.2100 - 405.2171
0938-0391	488.18, 488.26, 488.28
0938-0426	480.104, 480.105, 480.116, 480.134
0938-0429	447.53
0938-0443	478.18, 478.34, 478.36, 478.42
0938-0444	1004.40, 1004.50, 1004.60, 1004.70
0938-0445	412.44, 412.46, 431.630, 476.71, 476.74, 476.78
0938-0447	405.2133
0938-0448	405.2133, **45 CFR** 5, 5b; **20 CFR** Parts 401, 422E

0938-0449	440.180, 441.300 - 441.310
0938-0454	424.20
0938-0456	412.105
0938-0463	413.20, 413.24, 413.106
0938-0467	431.17, 431.306, 435.910, 435.920, 435.940 - 435.960
0938-0469	417.126, 422.502, 422.516
0938-0470	417.143, 422.6
0938-0477	412.92
0938-0484	424.123
0938-0501	406.15
0938-0502	433.138
0938-0512	486.301 - 486.348
0938-0526	475.102, 475.103, 475.104, 475.105, 475.106
0938-0534	410.38, 424.5
0938-0544	493.1 - 493.2001
0938-0564	411.32
0938-0565	411.20 - 411.206
0938-0566	411.404, 411.406, 411.408
0938-0573	412.256
0938-0578	447.534
0938-0581	493.1 - 493.2001
0938-0599	493.1 - 493.2001
0938-0600	405.371, 405.378, 413.20
0938-0610	417.436, 417.801, 422.128, 430.12, 431.20, 431.107, 483.10, 484.10, 489.102
0938-0612	493.801, 493.803, 493.1232, 493.1233, 493.1234, 493.1235, 493.1236, 493.1239, 493.1241, 493.1242, 493.1249, 493.1251, 493,1252, 493.1253, 493.1254, 493.1255, 493.1256, 493.1261, 493.1262, 493.1263, 493.1269, 493.1273, 493.1274, 493.1278, 493.1283, 493.1289, 493.1291, 493.1299
0938-0618	433.68, 433.74, 447.272
0938-0653	493.1771, 493.1773, 493.1777
0938-0657	405.2110, 405.2112
0938-0658	405.2110, 405.2112
0938-0667	482.12, 488.18, 489.20, 489.24
0938-0686	493.551 - 493.557
0938-0688	486.301 - 486.325
0938-0691	412.106
0938-0692	466.78, 489.20, 489.27
0938-0701	422.152
0938-0702	**45 CFR** 146.111, 146.115, 146.117, 146.150, 146.152, 146.160, 146.180

0938-0703	**45 CFR** 148.120, 148.122, 148.124, 148.126, 148.128
0938-0714	411.370 - 411.389
0938-0717	424.57
0938-0721	410.33
0938-0723	421.300 - 421.316
0938-0730	405.410, 405.430, 405.435, 405.440, 405.445, 405.455, 410.61, 415.110, 424.24
0938-0732	417.126, 417.470
0938-0734	**45 CFR** 5b
0938-0739	413.337, 413.343, 424.32, 483.20
0938-0749	424.57
0938-0753	422.000 - 422.700
0938-0754	441.151, 441.152
0938-0758	413.20, 413.24
0938-0760	484.55, 484.205, 484.245, 484.250
0938-0761	484.11, 484.20
0938-0763	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350
0938-0770	410.2
0938-0778	422.111, 422.564
0938-0779	417.126, 417.470, 422.64, 422.210
0938-0781	411.404, 484.10
0938-0786	438.352, 438.360, 438.362, 438.364
0938-0790	460.12 - 460.210
0938-0792	491.8, 491.11
0938-0796	422.64
0938-0798	413.24, 413.65, 419.42
0938-0802	419.43
0938-0818	410.141 - 410.146, 414.63
0938-0829	422.568
0938-0832	Parts 489 and 491
0938-0833	483.350 - 483.376
0938-0841	431.636, 457.50, 457.60, 457.70, 457.340, 457.350, 457.431, 457.440, 457.525, 457.560, 457.570, 457.740, 457.750, 457.810, 457.940, 457.945, 457.965, 457.985, 457.1005, 457.1015, 457.1180
0938-0842	412.23, 412.604, 412.606, 412.608, 412.610, 412.614, 412.618, 412.626, 413.64

0938-0846	411.352 - 411.361
0938-0857	Part 419
0938-0860	Part 419
0938-0866	**45 CFR** Part 162
0938-0872	413.337, 483.20
0938-0873	422.152
0938-0874	**45 CFR** Parts 160 and 162
0938-0878	Part 422 Subparts F and G
0938-0887	**45 CFR** 148.316, 148.318, 148.320
0938-0897	412.22, 412.533
0938-0907	412.230, 412.304, 413.65
0938-0910	422.620, 422.624, 422.626
0938-0911	426.400, 426.500
0938-0915	421.120, 421.122
0938-0916	483.160
0938-0920	438.6, 438.8, 438.10, 438.12, 438.50, 438.56, 438.102, 438.114, 438.202, 438.206, 438.207, 438.240, 438.242, 438.402, 438.404, 438.406, 438.408, 438.410, 438.414, 438.416, 438.604, 438.710, 438.722, 438.724, 438.810
0938-0921	414.804
0938-0931	**45 CFR** 142.408, 162.408, and 162.406
0938-0933	438.50
0938-0935	422 Subparts F and K
0938-0936	423
0938-0939	405.502
0938-0944	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.279, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350
0938-0950	405.910
0938-0951	423.48
0938-0953	405.1200 and 405.1202
0938-0954	414.906, 414.908, 414.910, 414.914, 414.916
0938-0957	Part 423 Subpart R
0938-0964	403.460, 411.47
0938-0969	421.405
0938-0975	423.562(a)

0938-0976	423.568
0938-0977	Part 423 Subpart R
0938-0978	423.464
0938-0982	422.310, 423.301, 423.322, 423.875, 423.888
0938-0986	412.20-412.30
0938-0990	423.56
0938-0992	423.505, 423.514
0938-0993	1396
0938-0997	424.5
0938-0999	Part 424 Subpart C
0938-1004	423.502
0938-1009	411.357(v), 411.357(w)
0938-1013	423.56(e)
0938-1019	405.1206, 422.622
0938-1020	412.525(a)(4), 412.529(c)(3), 412.84(i)(2)
0938-0123	422.152(a)(1), 422.152(a)(2)
0938-1024	1396
0938-1026	447.520
0938-1013	423.56e
0938-1019	405.1206, 422.622
0938-1023	422.152a
0938-1033	455
0938-1034	489.20
0938-1049	424.36(b)

Addendum VIII—Medicare-Approved Carotid Stent Facilities [January Through March 2010]

On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients.

Facility	Provider No.	Effective date	State	Additional information
Palm Springs General Hospital, 1475 West 49th Street, Hialeah, FL 33012	100050	01/12/2010	FL	
Parrish Medical Center, 951 N. Washington Avenue, Titusville, FL 32796	100028	01/12/2010	FL	
New York Presbyterian Hospital, 177 Ft. Washington Avenue, New York, NY 10032.	330101	05/05/2005	NY	
Northside Hospital & Tampa Bay Heart Institute, 6000 49th Street North, St. ... Petersburg, FL 33709	1205880945	02/26/2010	FL	
Orange Park Medical Center, 2001 Kingsley Avenue, ... Orange Park, FL 32073	100226	02/26/2010	FL	
Saint Thomas Hospital, 4220 Harding Road, Nashville, TN 37205	440082	02/26/2010	TN	
Marshall Medical Center North, 8000 Alabama HWT 69, Guntersville, AL 35976.	15082417	04/02/2010	AL	
Oklahoma Heart Hospital South LLC, 5200 E. I–240 Service Road, Oklahoma City, OK 73135–2610.	1841442274	04/02/2010	OK	
Great River Medical Center, 1221 S. Gear Avenue, West Burlington, IA 52655–1681.	420680407	04/16/2010	IA	
Liberty Hospital, P.O. Box 1002, Liberty, MO 64069–1002	260177	04/16/2010	MO	
Scripps Memorial Hospital, Encinitas, 354 Santa Fe Drive ENC01, Encinitas, CA 92024.	050503	04/16/2010	CA	
University of Maryland Medical Center, 22 South Greene Street, Baltimore, MD 21201–1595.	210002	04/16/2010	MD	

Addendum IX

American College of Cardiology's National Cardiovascular Data Registry Sites [January Through March 2010]

In order to obtain reimbursement, Medicare national coverage policy requires that providers implanting ICDs for primary prevention clinical indications (that is, patients without a history of cardiac arrest or spontaneous arrhythmia) report data on each primary prevention ICD procedure. This policy became effective January 27, 2005. Details of the clinical indications that are covered by Medicare and their respective data reporting requirements are available in the Medicare National Coverage Determination (NCD) Manual, which is on the Centers for Medicare & Medicaid Services (CMS) Web site at *http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=99&sortByDID=1&sortOrder=ascending&itemID=CMS014961.*

A provider can use either of two mechanisms to satisfy the data reporting requirement. Patients may be enrolled either in an Investigational Device Exemption trial studying ICDs as identified by the FDA or in the American College of Cardiology's National Cardiovascular Data Registry (ACC–NCDR) ICD registry. Therefore, in order for a beneficiary to receive a Medicare-covered ICD implantation for primary prevention, the beneficiary must receive the scan in a facility that participates in the ACC–NCDR ICD registry.

We maintain a list of facilities that have been enrolled in this registry. Addendum IX includes the facilities that have been designated in the quarter covered by this notice.

Facility Name	Address1	Address2	City	State	Zip
Abbott Northwestern Hospital	800 East 28th Street (Internal Zip 33210)		Minneapolis	MN	55407
Abilene Regional Medical Center	6250 Highway 83-84 Antilley Road		Abilene	TX	97606
Abington Memorial Hospital	1200 York Road	5 Toll-AMH	Abington	PA	19446
Adena Regional Medical Center	272 Hospital Road		Chillicothe	OH	45601
Adventist Bolingbrook Hospital	120 North Oak Street		Bolingbrook	IL	60440
Adventist Glen Oaks Hospital	701 Winthrop Avenue		Glendale Heights	IL	60139
Adventist Hinsdale Hospital	120 N. Oak Street		Hinsdale	IL	60521
Adventist LaGrange Memorial Hospital	120N. Oak Street		Hinsdale	IL	60521
Adventist Medical Center	10123 SE Market Street		Portland	OR	97216
Advocate BroMenn Medical Center	Virginia & Franklin Avenues		Normal	IL	61761
Advocate Christ Medical Center	4440 West 95th Street	#127NOB	Oak Lawn	IL	60453
Advocate Condell Medical Center	801 S. Milwaukee Avenue		Libertyville	IL	60048
Advocate Good Shepherd Hospital	450 W. Highway 22		Barrington	IL	60010

Advocate Illinos Masonic Medical Center	836 W. Wellington Avenue		Chicago	IL	60657
Advocate Lutheran General Hospital	1775 Dempster Street		Park Ridge	IL	60068
Affinity Medical Center	400 Austin Avenue		Massillon	OH	44646
AHMC Anaheim Regional Medical Center	1111 W. La Palma Avenue		Anaheim	CA	92801
Aiken Regional Medical Center	302 University Parkway		Aiken	SC	29802
Akron City Hospital	525 East Market Street		Akron	OH	44309-2090
Akron General Medical Center	400 Wabash Avenue	Heart & Vascular Center	Akron	OH	44307
Alamance Regional Medical Center	PO Box 202		Burlington	NC	27216
Alaska Regional Hospital	2801 Debarr Road		Anchorage	AK	99508
Albany Medical Center Hospital	43 New Scotland Avenue		Albany	NY	12208
Albert Einstein Medical Center	5501 Old York Road		Philadelphia	PA	19141
Alegent Health Bergan Mercy Medical Center	7500 Mercy Road		Omaha	NE	68124

Alegent Health Immanuel Medical Center	6828 North 72nd Street	Suite 3000N	Omaha	NE	68122-1709
Alegent Health Mercy Hospital	6901 North 72nd Street		Omaha	NE	68122
Alexian Brothers Medical Center	800 Biesterfield Road		Elk Grove Village	IL	60007-3311
Allegheny General Hosptial	320 East North Avenue		Pittsburg	PA	15212
Allegiance Health (W.A. Foote Memorial Hospital)	205 N. East Avenue	Heart Center 1st Floor	Jackson	MI	49201
Alpena Regional Medical Center	1501 W. Chisholm Street		Alpena	MI	49707
Alta Bates Medical Center	2450 Ashby Avenue		Berkeley	CA	94705
Alta Bates Summit Medical Center	350 Hawthorne Avenue		Oakland	CA	94609
Alton Memorial Hospital	1 Memorial Drive		Alton	IL	62067
Altoona Hospital	620 Howard Avenue		Altoona	PA	16601
Altru Health System	1200 South Columbia Road		Grand Forks	ND	58201
Alvarado Hospital	6645 Alvarado Road		San Diego	CA	92120
Amarillo Endoscopy Center	6833 Plum Creek Drive		Amarillo	TX	79124
AnMed Health	800 North Fant Street		Anderson	SC	29621
Anna Jaques Hospital	25 Highland Avenue		Newburyport	MA	01950

Anne Arundel Medical Center	2001 Medical Parkway		Annapolis	MD	21404
Appleton Medical Center/ThedaClark Medical Center	1818 N. Meade Street	Rm 165-B	Appleton	WI	54911
Aria Health	Knights and Red Lion Roads		Philadelphia	PA	19114
Arizona Heart Hospital	1930 East Thomas Road		Phoenix	AZ	85016
Arizona Regional Medical Center	4838 East Baseline Road	Suite 109-110	Mesa	AZ	85206
Arkansas Heart Hospital	1701 S. Shackelford Road		Little Rock	AR	72202
Arlington Memorial Hospital	800 W. Randol Mill Road		Arlington	TX	76012
Arnot-Ogden Medical Center	600 Roe Avenue		Elmira	NY	14905
Arrowhead Hospital	18701 N. 67th Avenue		Glendale	AZ	85308
Ashtabula County Medical Center	2420 Lake Avenue		Ashtabula	OH	44004
Aspirus Wausau Hospital	333 Pine Ridge Boulevard		Wausau	WI	54401
Athens Regional Medical Center	1199 Prince Avenue		Athens	GA	30606
Atlanta Medical Center	303 Parkway Drvie NE		Atlanta	GA	30312

Atlanticare Regional Medical Center	2500 English Creek Avenue		Egg Habour Township	NJ	08234
Atrium Medical Center	One Medical Center		Franklin	OH	45005
Audrain Medical Center	620 E. Monroe Street		Mexico	MO	65265
Aultman Hospital	2600 Sixth Street SW		Canton	OH	44710
Aurora BayCare Medical Center	2845 Greenbrier Road		Green Bay	WI	54308
Aurora Medical Center – Kenosha	2900 W. Oklahoma Avenue		Milwaukee	WI	53125
Aurora Medical Center of Washington County	2900 W. Oklahoma Avenue		Milwaukee	WI	53215
Aurora Medical Center Oshkosh	855 N. Westhaven Street		Oshkosh	WI	53132
Aurora Memorial Hospital of Burlington	2900 W. Oklahoma Avenue		Milwaukee	WI	53215
Aurora Sheboygan Memorial Medical Center	2629 N. 7th Street		Sheboygan	WI	53083
Aurora Sinai Medical Center	945 N. 12th Street		Milwaukee	WI	53233
Aurora West Allis Memorial Hospital	2900 E. Oklahoma Avenue		Milwaulee	WI	53215
Auxilio Mutuo Hospital	Apartado 191227		San Juan	PR	00919-1227

Aventura Hospital and Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Avera Heart Hospital of South Dakota	4500 West 69th Street		Sioux Falls	SD	57108
Avera Sacred Heart Hospital	501 Summit		Yankton	SD	57078
Avera St. Luke's	305 South State Street		Aberdeen	SD	57401
Bakersfield Heart Hospital	3001 Sillect Avenue		Bakersfield	CA	93308
Bakersfield Memorial Hospital	420 34th Street		Bakersfield	CA	93303-1888
Ball Memorial Hospital	2401 University Avenue		Muncie	IN	47303
Baltimore Washington Medical Center	301 Hosptial Drive	2nd Floor Cardiac Cath Lab	Glen Burnie	MD	21061
Banner Boswell Medical Center	10401 W. Thunderbird Boulevard		Sun City	AZ	85351
Banner Desert Medical Center	Banner Desert Medical Center, Quality Management	1400 S. Dobson Road	Mesa	AZ	85202
Banner Estrella Medical Center	9201 W. Thomas Road		Phoenix	AZ	85037
Banner Good Samaritan Med Center	1111 East McDowell Road		Phoenix	AZ	85006-2612
Banner Heart Hospital	6750 E. Baywood Avenue		Mesa	AZ	85206
Banner Thunderbird Med Center	5555 W. Thunderbird Road		Glendale	AZ	85306

Baptist Health Medical Center	9601 Interstate 630 Exit 7		Little Rock	AR	72205-7299
Baptist Health Medical Center	3333 Springhill Drive		North Little Rock	AR	72117
Baptist Hospital	1000 W. Moreno Street		Pensacola	FL	32501
Baptist Hospital	4220 Harding Road		Nashville	TN	37202
Baptist Hospital East	4000 Kresge Way		Louisville	KY	40207
Baptist Hospital of Miami	8900 SW 88th Street		Miami	FL	33176
Baptist Hospital of Southeast Texas	PO Box 1591	3080 College Street	Beaumont	TX	77704
Baptist Hospital West	900 E. Oak Hill Avenue		Knoxville	TN	37917
Baptist Medical Center	800 Prudential Drive		Jacksonville	FL	32207
Baptist Medical Center	730 North Main Avenue	Suite 409	San Antonio	TX	78205
Baptist Memorial Hospital	6019 Walnut Grove Road		Memphis	TN	38120
Baptist Memorial Hospital North Mississippi	2301 South Lamar Boulevard		Oxford	MS	38655
Baptist Memorial Hospital-Desoto	7601 Southcrest Parkway		Southaven	MS	38671
Baptist Memorial Hospital-Union City	1201 Bishop Street		Union City	TN	38261
Baptist St. Anthony's Health Systems	1600 Wallace Boulevard		Amarillo	TX	79106

Barberton Citizens Hospital	155 5th Street NE		Barberton	OH	44203
Barnes Jewish Hospital/Washington University	#1 Barnes Jewish Hospital Plaza	SW Tower-Main. Mailstop 90-59-315	Saint Louis	MO	63110-9930
Barstow Community Hospital	555 South Seventh Street		Barstow	CA	92311
Bartow Regional Medical Center	2200 Osprey Boulevard		Bartow	FL	33830
Bassett Healthcare-(Mary Imogene Bassett Hospital)	One Atwell Road		Cooperstown	NY	13326
Baton Rouge General Medical Center	3600 Florida Boulevard		Baton Rouge	LA	70806
Battle Creek Health System	300 North Avenue		Battle Creek	MI	49016
Baxter Regional Medical CenterAttn: A/P	624 Hospital Drive		Mountain Home	AR	72653
Bay Medical Center	615 North Bonita Avenue		Panama City	FL	32401
Bay Regional Medical Center	1900 Columbus Avenue		Bay City	MI	48708
Bayfront Medical Center	701 Sixth Street South		St. Petersburg	FL	33701
Bayhealth Medical Center(KGH)	640 S. State Street		Dover	DE	19901

Baylor All Saints Medical Center at Fort Worth	1400 8th Avenue		Fort Worth	TX	76104
Baylor Jack and Jane Hamilton Heart and Vascular Hospital	621 North Hall Street		Dallas	TX	75226
Baylor Medical Center at Garland	2300 Marie Curie Drive		Garland	TX	75042
Baylor Medical Center at Irving	1901 North MacArthur Boulevard		Irving	TX	75061
Baylor Regional Medical Center at Grapevine	1650 West College Street		Grapevine	TX	76051
Bayshore Medical Center	4000 Spencer Highway		Pasadena	TX	77504
Baystate Medical Center	759 Chestnut Street	Springfield 4 4558	Springfield	MA	01199
Beauregard Memorial Hospital	600 S. Pine Street		Deridder	LA	70634
Bellin Memorial Hospital	744 S. Webster Avenue	Cardiac Data Center 5th Floor	Green Bay	WI	54301
Benefis Healthcare	1101 26th Street South		Great Falls	MT	59405-5161
Berkshire Medical Center, Inc.	725 North Street		Pittsfield	MA	01201-4124
Bert Fish Medical Center	401 Palmetto Street		New Smyrna Beach	FL	32168

Beth Israel Deaconess Medical Center	185 Pilgrim Road		Boston	MA	02215
Bethesda Memorial Hospital	2815 S. Seacrest Blvd		Boynton Beach	FL	33435
Bethesda North Hospitals	375 Dixmyth Avenue		Cincinnati	OH	45220-2489
Beverly Hospital	85 Herrick Street		Beverly	MA	01915
Bexar County Hospital District d.b.a. University Health	4502 Medical Drive	Stop 34-1	San Antonio	TX	78229
Billings Clinic (formerly Deaconess)	2800 9th Avenue, North		Billings	MT	59101
Biloxi Regional Medical Center	150 Reynoir Street		Biloxi	MS	39531
Blake Medical Center	2020 59th Street West		Bradenton	FL	34209
Blanchard Valley Hospital	1900 South Main Street	HeartCare Center	Findlay	OH	45840
Blessing Hospital	1005 Broadway	PO Box 7005	Quincy	IL	62305-7005
Bloomington Hospital	601 W. Second Street	PO Box 1149	Bloomington	IN	47403
Boca Raton Community Hospital	12201 NW Second Place		Coral Springs	FL	33071
Bon Secours DePaul Medical Center	5801 Bremo Road	Suite 310, North Medical Office Building	Richmond	VA	23226

Bon Secours – Maryview Medical Center	5801 Bremo Road	Suite 310, North Medical Office Building	Richmond	VA	23226
Bon Secours-Memorial Regional Medical Center	5801 Bremo Road	Suite 310, North Medical Office Building	Richmond	VA	23226
Bon Secours St Francis Medical Center	5801 Bremo Road	Suite 310, North Medical Office Building	Richmond	VA	23226
Bon Secours St. Marys Hospital	5801 Bremo Road	Suite 310, North Medical Office Building	Richmond	VA	23226
Boone Hospital Center	1600 E. Broadway		Columbia	MO	65201-5897
Borgess Medical Center	1521 Gull Road		Kalamazoo	MI	49048
Boston Medical Center	One Boston Medical Place		Boston	MA	02118
Bothwell Regional Health Center	601 East 14th Street		Sedalia	MO	65301
Botsford Hospital	28050 Grand River Avenue		Farmington Hills	MI	48336
Boulder Community Hospital	1100 Balsam Avenue		Boulder	CO	80304

Brandon Regional Hospital	119 Oakfield Drive		Brandon	FL	33511
Brandywine Hospital	201 Reeceville Road		Coatesville	PA	19320
Bridgeport Hospital	267 Grant Street		Bridgeport	CT	06610
Brigham & Womens Hospital	75 Francis Street	L258A	Boston	MA	02115
Bronson Methodist Hospital	601 John Street		Kalamazoo	MI	49007-5348
Brookdale Hospital & Medical Center	1 Brookdale Plaza		Brooklyn	NY	11212
Brooklyn Hospital Center	121 DeKalb Avenue		Brooklyn	NY	11201
Brooksville Regional Hospital	17240 Cortez Boulevard		Brooksville	FL	34601
Brookwood Medical Center	2010 Brookwood Medical Center		Birmingham	AL	35209
Broward General Medical Center	1600 S. Andrews Avenue		Ft. Lauderdale	FL	33316
Bryan LGH Medical Center	1600 South 48th Street		Lincoln	NE	68526
Bryn Mawr Hospital	Suite 557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
Buffalo General Hospital	3 Gates Circle		Buffalo	NY	14209
Cabell Huntington Hospital	1340 Hal Greer Boulevard		Huntington	WV	25701

California Pacific Medical Center	2330 Clay Street, Stern Building, Room #103	Stern Building, Room #103	San Francisco	CA	94115
CAMC Teays Valley Hospital	1400 Hospital Drive		Hurricane	WI	25526
Camden-Clark Memorial Hospital	800 Garfield Avenue		Parkersburg	WV	26101
Cape Canaveral Hospital	701 West Cocoa Beach Causeway		Cocoa Beach	FL	32931
Cape Cod Hospital	40 Quinlan Way		Hyannis	MA	02601
Cape Fear Valley Health System	303 Wagoner Drive		Fayetteville	NC	28303-4646
Capital Medical Center	3900 Capital Mall Drive		Olympia	WA	98502
Capital Regional Medical Center	` arbara.scott3@ hcahealthcare.com		Tallahassee	FL	32308
Capital Regional Medical Center	1125 Madison Street (PO Box 1128)		Jefferson City	MO	65102-1128
Cardiovascular Center of Puerto Rico	PO Box 366528		San Juan	PR	00936-6528
Carilion Roanoke Memorial Hosp	Att: Cardiac Cath Lab	PO Box 13367	Roanoke	VA	24033-3367
Caritas Good Samaritan Medical Center	235 North Pearl Street		Brockton	MA	02301
Caritas Norwood Hospital	800 Washington Street		Norwood	MA	02062
Caritas St. Elizabeths Medical Center	736 Cambridge Street		Boston	MA	01235

Carle Foundation Hospital	611 W. Park Street		Urbana	IL	61801
Carolina Pines Regional Medical Center	1304 W. BoBo Newsom Highway		Hartsville	SC	29550
Carolinas Hospital System	805 Pamplico Highway		Florence	SC	29505
Carolinas Medical Center	1001 Blythe Boulevard		Charlotte	NC	28227
Carolinas Medical Center – Mercy	720 E. Morehead Street	Suite 200	Charlotte	NC	28202
Carondelet Heart Institute at St. Joseph Medical Center	1000 Carondelet Drive		Kansas City	MO	64114
Carroll Hospital Center	200 Memorial Avenue		Westminster	MD	21157
Carson Tahoe Regional Medical Center	1600 Medical Parkway		Carson City	NV	89706
Cartersville Medical Center	PO Box 20008		Cartersville	GA	30120
Casa Grande Regional Medical Center	1800 E. Florence Boulevard		Casa Grande	AZ	85222
Castleview Hospital	300 North Hospital Drive		Price	UT	84501
Catawba Valley Medical Center	810 Fairgrove Church Road		Hickory	NC	28602

Catholic Medical Center	100 McGregor Street	Level C Room 248	Manchester	NH	03102-3770
Cayuga Medical Center at Ithaca	101 Dates Drive		Ithaca	NY	14850
Cedars-Sinai Health Systems	8700 Beverly Boulevard	MGB 901	Los Angeles	CA	90048
Centennial Hills Hospital Medical Center	6900 N. Durango Drive		Las Vegas	NV	89149-4409
Centennial Medical Center	12505 Lebanon Boulevard		Frisco	TX	75035
Centennial Medical Center	2300 Patterson Street		Nashville	TN	37203
Centerpoint Medical Center	19600 E. 39th Street		Independence	MO	64057
Centinela Hospital Medical Center	555 E. Hardy Street		Inglewood	CA	90301
Central Baptist Hospital	1800 Nicholasville Road Suite 401		Lexington	KY	40503
Central DuPage Hospital	25 N. Winfield Road		Winfield	IL	60190
Central Florida Regional Hospital	1401W. Seminole Boulevard		Sanford	FL	32771
Central Maine Medical Center	CMHVI 60 High Street		Lewiston	ME	04240
Central Minnesota Heart Center at St. Cloud Hospital	1406 Sixth Avenue North		St. Cloud	MN	56303

Central Mississippi Medical Center	1850 Chadwick Drive		Jackson	MS	39204
Central Washington Hospital	1201 South Miller Street		Wenatchee	WA	98801
Chandler Regional Medical Center	475 S. Dobson Road		Chandler	AZ	85224
Charlotte Regional Medical Center	809 East Marion Avenue		Punta Gorda	FL	33950
Charlton Memorial Hospital	363 Highland Avenue		Fall River	MA	02720-3700
Chattanooga-Hamilton County Hospital Authority/ER	975 E. Third Street		Chattanooga	TN	37403
Chesapeake General Hospital	736 Battlefield Boulevard North		Chesapeake	VA	23320
Cheshire Medical Center	580 Court Street		Keene	NH	03431
Chester County Hospital	701 E. Marshall Street		West Chester	PA	19380
Cheyenne Regional Medical Center	Cheyenne Regional Medical Center	214 E. 23rd Street	Cheyenne	WY	82001
Christian Hospital	11133 Dunn Road		St Louis	MO	63136
Christiana Care Health System	4755 Ogletown-Stanton Road		Newark	DE	19718
Christus Hospital-St. Mary	3600 Gates Boulevard		Port Arthur	TX	77642

Christus Saint Elizabeth Hospital	2830 Calder Street		Beaumont	TX	77702
Christus Santa Rosa Hospital	333 N. Santa Rosa Street		San Antonio	TX	78207
Christus Santa Rosa Hospital - Medical Center	333 N. Santa Rosa Street		San Antonio	TX	78207-3198
Christus Santa Rosa Hospital - New Braunfels	333 N. Santa Rosa Street		San Antonio	TX	78207-3198
Christus Spohn Hospital Corpus Christi – Shoreline	600 Elizabeth Street		Corpus Christi	TX	78404
Christus St. John Hospital	18300 St. John Drive	Cath Lab	Nassau Bay	TX	77058
Christus St. Michael Health System	2600 St. Michael Drive		Texarkana	TX	75503
Christus St. Patrick Hospital	524 South Ryan Street		Lake Charles	LA	70602-3401
Christus – Schumpert Highland Hospital	One St. Mary Place		Shreveport	LA	71101
Christus – St. Frances Cabrini Hospital	3330 Masonic Drive	Cath Lab	Alexandria	LA	71301
Citrus Memorial Health System	502 W. Highland Boulevard		Inverness	FL	34452
CJW Medical Center	7101 Jahnke Road		Richmond	VA	23225-4044
Clarian Arnett	5165 McCarty Lane		Lafayette	IN	47905

Clarian Health Partners-Methodist Hospital campus	1701 N. Senate Boulevard	Room A1082	Indianapolis	IN	46202
Clarian North Medical Center	11725 Illinois Street B-178		Carmel	IN	46032
Clark Memorial Hospital	1220 Missouri Avenue		Jeffersonville	IN	47130
Clear Lake Regional Medical Center	500 Medical Center Boulevard		Webster	TX	77598
Cleveland Clinic Florida	3100 Weston Road		Weston	FL	33331
Cleveland Clinic Foundation	9500 Euclid Avenue		Cleveland	OH	44195
Coliseum Medical Centers	350 Hospital Drive		Macon	GA	31217
College Station Medical Center	1604 Rock Prairie Road		College Station	TX	77845
Columbia Hospital	4425 North Port Washington Road		Glendale	WI	53212
Columbia Regional Hospital	404 Keene Street		Columbia	MO	65201
Columbia St. Mary's Hospital Ozaukee	13111 N. Port Washington Road		Mequon	WI	53097
Columbus Cardiovascular Care, PLLC	2520 5th Street North PO Box 1307		Columbus	MS	39703
Columbus Regional Hospital	2400 17th Street		Columbus	IN	47201

Comanche County Memorial Hospital	3401 W. Gore Boulevard	PO Box 129	Lawton	OK	73505
Community Health Partners	3700 Kolbe Road		Lorain	OH	44053
Community Hospital	5637 Marine Parkway		New Port Richey	FL	34652
Community Hospital	The Community Hospital	901 MacArthur Boulevard	Munster	IN	46321
Community Hospital and Wellness Center	433 West High Street		Bryan	OH	43506
Community Hospital East	Cardiovascular Services	1500 North Ritter Avenue	Indianapolis	IN	46219
Community Hospital of the Monterey Peninsula	PO Box HH		Monterey	CA	93942-1085
Community Hospital South	1500 N. Ritter Avenue		Indianapolis	IN	46219-3027
Community Medical Center	99 Highway 37 West		Toms River	NJ	08775
Community Medical Center	1800 Mulberry Street		Scranton	PA	18510
Community Medical Center – Clovis	2755 Herndon Avenue		Clovis	CA	96311
Community Memorial Hospital	147 N. Brent Street		Ventura	CA	93003

Community Memorial Hospital	W180 N8085 Town Hall Road		Menomonee Falls	WI	53052
CommunityMercy AKA Springfield Regional Medical Center	2615 E. High Street		Springfield	OH	45525
Concord Hospital	250 Pleasant Street		Concord	NH	03301
Conroe Regional Medical Center	504 Medical Center Boulevard		Conroe	TX	77304
Covenant Heart Institute	3615 19th Street		Lubbock	TX	79410
Conway Regional Medical Center	2302 College Avenue		Conway	AR	72034-6226
Cooley Dickinson Hospital	30 Locust Street		Northampton	MA	01060
Cooper University Hospital	One Cooper Plaza	D386B	Camden	NJ	08103
Coral Gables Hospital	3100 Douglass Road		Coral Gables	FL	33134
Corpus Christi Medical Center	7101 SPID		Corpus Christi	TX	78412
Covenant Healthcare	1447 N. Harrison Street		Saginaw	MI	48602
Covenant Medical Center	3421 West Ninth Street		Waterloo	IA	50702
Cox Medical Center South	3801 S. National Avenue		Springfield	MO	65807
Craven Regional Medical Center	2000 Neuse Boulevard	PO Box 12157	New Bern	NC	28560

Creighton University Medical Center	601 N. 30th Street		Omaha	NE	68131
Crestwood Medical CenterTriad Hospitals, Inc.	One Hospital Drive		Huntsville	AL	35801-3495
Crittenton Hospital Medical Center	1101 W. University Drive		Rochester	MI	48307-1831
Crouse Hospital	736 Irving Avenue		Syracuse	NY	13210
Crozer Chester Medical Center	1 Medical Center Boulevard		Chester	PA	19013-3995
Cumberland Cardiology	5000 US Route 321		Prestonsburg	KY	41653
CVPH Medical Center	75 Beekman Street		Plattsburgh	NY	12901-1493
Cypress Fairbanks Medical Center	10655 Steepletop Drive		Houston	TX	77065
Dallas Regional Medical Center	1011 N. Galloway Avenue		Mesquite	TX	75149
Dameron Hospital	525 W. Acacia Street		Stockton	CA	95203
Danbury Hospital	24 Hospital Avenue	Cardiology 2 South	Danbury	CT	06810
Dauterive Hospital	600 N. Lewis Street		New Iberia	LA	70563
Davis Hospital	1600 West Antelope Drive		Layton	UT	84041
DCH Regional Medical Center	809 University Boulevard E		Tuscaloosa	AL	35401-2029
Deaconess Hospital	5501 N. Portland Avenue		Oklahoma City	OK	73112
Deaconess Hospital	311 Straight Street		Cincinnati	OH	45129
Deaconess Hospital	600 Mary Street		Evansville	IN	47747

Deaconess Medical Center	W. 800 Fifth Avenue		Spokane	WA	99204
Deborah Heart & Lung Center	200 Trenton Road		Browns Mills	NJ	08015
Decatur General Hospital	1201 7th Street		Decatur	AL	35601
Dekalb Medical Center	2701 N. Decatur Road		Decatur	GA	30033
Dekalb Regional Medical Center	200 Medical Center Drive		Fort Payne	AL	35968
Del Sol Medical Center	10301 Gateway West		El Pasoq	TX	79925
Delray Medical Center	5352 Linton Boulevard		Delray Beach	FL	33484
Denton Regional Medical Center	3535 South I-35E		Denton	TX	76205
Denver Health Medical Center	777 Bannock Street		Denver	CO	80204
DePaul Health Center	12303 DePaul Drive		Bridgeton	MO	63044
Des Peres Hospital	2345 Dougherty Ferry Road		St. Louis	MO	63122
Desert Regional Medical Center	1150 N. Indian Canyon		Palm Springs	CA	92262
Desert Springs Hospital	2075 E. Flamingo Road		Las Vegas	NV	89119
Desert Valley Hospital	16850 Bear Valley Road		Victorville	CA	92392
DeTar Hospital	506 E. San Antonio Street		Victoria	TX	77902

Dixie Regional Medical Center	1380 E. Medical Drive		St. George	UT	84790
Doctors Hospital	5000 University Drive		Miami	FL	33146
Doctors Hospital	5100 West Broad Street		Columbus	OH	43228
Doctors Hospital	9440 Poppy Drive		Dallas	TX	75218
Doctors Hospital at Renaissance	5501 S. McColl Road		Edinburg	TX	78539
Doctors Hospital – Augusta	3651 Wheeler Drive		Augusta	GA	30909
Doctors Hospital of Sarasota	5731 Bee Ridge Road		Sarasota	FL	34233
Doctors Medical Center	2000 Vale Road		San Pablo	CA	94806
Doctors Medical Center	1441 Florida Avenue		Modesto	CA	95350
Dominican Santa Cruz Hospital	1555 Soquel Drive		Santa Cruz	CA	95065
Downey Regional Medical Center	11500 Brookshire Avenue		Downey	CA	90241
Doylestown Hospital	595 West State Street		Doylestown	PA	18901
Dr. P. Phillips Hospital	1414 Kuhl Avenue		Orlando	FL	32806
DuBois Regional Medical Center	100 Hospital Avenue		DuBois	PA	15801
Duke Raleigh Hospital	3400 Wake Forest Road		Raleigh	NC	27609

Duke University Hospital	Erwin Road DUMC 3943		Durham	NC	27710
Dunn Memorial Hospital	1600 23rd Street		Bedford	ID	47421
Durham Regional Hospital	3634 Roxboro Road		Durham	NC	27704
East Alabama Medical Center	2000 Pepperall Parkway		Opelika	AL	36830
East Georgia Regional Medical Center	1499 Fair Road (PO Box 1048)		Statesboro	GA	30459
East Jefferson General Hospital	4200 Houma Boulevard	Quality Management Department	Metairie	LA	70006
East Texas Medical Center	1000 S. Beckham Avenue		Tyler	TX	75711
Eastern Idaho RMC	3100 Channing Way		Idaho Falls	ID	83404
Eastern Maine Medical Center	489 State Street	PO Box 404	Bangor	ME	04402-0404
Easton Hospital (Northampton Hospital Corp.)	250 South 21st Street		Easton	PA	18042
Edward Hospital	801 S. Washington Street		Naperville	IL	60540
Eisenhower Medical Center	39000 Bob Hope Drive		Rancho Mirage	CA	92270
El Camino Hospital	2500 Grant Road		Mountain View	CA	94040
Eliza Coffee Memorial Hospital	603 West College Street		Florence	AL	35630

Elkhart General Hospital	600 East Boulevard	3 South Suites	Elkhart	IN	46514-2499
Elliot Hospital	1 Elliot Way		Manchester	NH	03103
Ellis Hospital	1101 Nott Street		Schenectady	NY	12308
Elmhurst Hospital Center	79-01 Broadway	Dept of Cardiology, Suite D-54	Elmhurst	NY	11373
Elmhurst Memorial Hospital Marquardt Memorial Lib	200 Berteau Avenue		Elmhurst	IL	60126
EMH Regional Medical Center	630 East River Street		Elyria	OH	44035
Emory Crawford Long Hospital	550 Peachtree Street		Atlanta	GA	30308
Emory Dunwoody Medical Center	4575 North Shallowford Road		Atlanta	GA	30338
Emory Eastside Medical Center	1700 Medical Way		Snellville	GA	30078
Emory Johns Creek	6325 Hospital Parkway		Johns Creek	GA	30097
Emory University Hospital	1364 Clifton Road NE	C408	Atlanta	GA	30322
Englewood Community Hospital (HCA)	700 Medical Boulevard		Englewood	FL	34223
Englewood Hospital & Medical Center	350 Engle Street		Englewood	NJ	07631

Enloe Medical Center	1600 Esplanade		Chico	CA	95926
Erie County Medical Center	462 Grider Street		Buffalo	NY	14215
Excela Health Westmoreland Hospital	532 West Pittsburgh Street		Greensburg	PA	15601
Exempla Good Samaritan Medical Center	2420 W. 26th Avenue Building D Suite 100		Denver	CO	80211
Exempla Lutheran Medical Center	2420 W. 26th Avenue Building D Suite 140		Denver	CO	80211
Exempla Saint Joseph Hospital	2420 W. 26th Avenue Building D Suite 140		Denver	CO	80211
Exeter Hospital	5 Alumni Drive		Exeter	NH	03833
F.E. Lajam, MD PC	140-04 58th Road		Flushing	NY	11355
Fairfield Cardiac Cath Labs	3000 Mack Road	Suite 200	Fairfield	OH	45014
Fairfield Medical Center	401 N. Ewing Street		Lancaster	OH	43130
Fairview Hospital	18101 Lorain Road #329		Cleveland	OH	44111
Fairview Park Hospital	PO Box 1408		Dublin	GA	31021
Fairview Southdale Hospital	6401 France Avenue South		Edina	MN	55435
Faith Regional Health Services	2700 W. Norfolk Avenue		Norfolk	NE	68701

Fawcett Memorial Hospital	21298 Olean Boulevard		Port Charlotte	FL	33949-4960
Faxton – St. Luke's Campus	1656 Champlin Avenue		New Hartford	NY	13413
FirstHealth Moore Regional Hospital	155 Memorial Drive		Pinehurst	NC	28374
Fisher-Titus Medical Center	272 Benedict Avenue		Norwalk	OH	44857
Flagstaff Medical Center	1200 N. Beaver Street		Flagstaff	AZ	86001-3198
Fletcher Allen Health Care	111 Colchester Avenue		Burlington	VT	05401
Florida Hospital	601 East Rollins Street	Box 99	Orlando	FL	32803
Florida Hospital Deland	701 West Plymouth Avenue		Deland	FL	32720
Florida Hospital Fish Memorial	1055 Saxon Boulevard		Orange City	FL	32763
Florida Hospital Ormond Memorial	875 Sterthaus Avenue		Ormond Beach	FL	32174
Florida Hospital Waterman, Inc.	1000 Waterman Way		Tavares	FL	32778
Florida Hospital Zephyrhills	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Flowers Hospital	4370 West Main Street		Dothan	AL	36305
Floyd Medical Center	304 Turner McCall Boulevard		Rome	GA	30165
Floyd Memorial	1850 State Street		New Albany	IN	47150

Hospital					
Forrest General Hospital	6051 Highway 49 South		Hattiesburg	MS	39404-6389
Fort Sanders Regional Medical Center	1901 Clinch Avenue		Knoxville	TN	37916-2307
Fort Walton Beach Medical Center	1000 Mar Walt Drive		Fort Walton Beach	FL	32547
Forum Health – Northside Medical Center	500 Gypsy Lane		Youngstown	OH	44501-0240
Fountain Valley Regional Hosp	17100 Euclid Street		Fountain Valley	CA	92708-4004
Frankfort Regional Medical Center	299 Kings Daughter Drive		Frankfort	KY	40601
Franklin Square Hospital	9000 Franklin Square Drive		Baltimore	MD	21237
Frederick Memorial Hospital	400 W. Seventh Street		Frederick	MD	21710
Freeman Hospital	1102 W. 32nd Street	1102 W. 32nd Street	Joplin	MO	64804
Fremont Area Medical Center	450 East 23rd Street		Fremont	NE	68025
French Hospital Medical Center	1911 Johnson Avenue		San Luis Obispo	CA	93401
Fresno Community Hospital and Medical Center	2823 Fresno Street		Fresno	CA	93721
Fresno Heart Hospital	15 East Audubon Drive		Fresno	CA	93720
Froedtert Hospital	9200 W. Wisconsin Avenue		Milwaukee	WI	53226

Frye Regional Medical Center	420 N. Center Street		Hickory	NC	28601
Gadsden Regional Medical Center	1007 Goodyear Avenue		Gadsden	AL	35903
Galichia Heart Hospital	2610 N. Woodlawn Boulevard		Wichita	KS	67220
Garden City Hospital	6245 Inkster Road		Garden City	MI	48135-4001
Garden Grove Hospital	12601 Garden Grove Boulevard		Garden Grove	CA	92843
Gaston Memorial Hospital	2525 Court Drive		Gastonia	NC	28054
Gateway Medical CenterGateway Health System	651 Dunlap Lane		Clarksville	TN	37043
Gateway Regional Medical Center	2100 Madison Avenue		Granite City	IL	62040
Geisinger Medical Center	100 North Academy Avenue		Danville	PA	17822-2160
Geisinger Wyoming Valley Medical Center	100 North Academy Avenue		Danville	PA	17822-2160
Genesis Healthcare System	800 Forest Avenue		Zanesville	OH	43701
Genesis Medical Center	1236 East Rusholme Street	Suite 190	Davenport	IA	52803-2459
Genesis Medical Center, Illini Campus	1236 East Rusholme Street	Suite 190	Davenport	IA	52803-2459
Genesys Regional Medical Center	One Genesys Parkway		Grand Blanc	MI	48439

Georgetown University Hospital	3800 Reservoir Road NW		Washington	DC	20007
Gerald Champion Reginal Medical	2669 North Scenic Drive		Alamogordo	NM	88310
Glenbrook Hospital	2100 Pfingsten Road		Evanston	IL	60026
Glendale Adventist Medical Center	1509 Wilson Terrace		Glendale	CA	91206
Glendale Memorial Hospital and Health Center	1420 S. Central Avenue		Glendale	CA	91204
Glens Falls Hospital	100 Park Street		Glens Falls	NY	12801
Glenwood Regional Medical Center	503 McMillan Road		West Monroe	LA	71294
Good Samaritan	407 14th Avenue SE		Puyallup	WA	98371
Good Samaritan Heart Center	520 South 7th Street		Vincennes	IN	47591
Good Samaritan Hospital and Health Center	2222 Philadelphia Drive		Dayton	OH	45406
Good Samaritan Hospital	2425 Samaritan Drive	2425 Samaritan Drive	San Jose	CA	95124
Good Samaritan Hospital	605 N. 12th Street		Mount Vernon	IL	62864
Good Samaritan Hospital	3815 Highland Avenue		Downers Grove	IL	60515
Good Samaritan Hospital	375 Dixmyth Avenue		Cincinnati	OH	45220-2489

Good Samaritan Hospital	1225 Wilshire Boulevard		Los Angelos	CA	90017
Good Samaritan Hospital	10 East 31st Street		Kearney	NE	68848
Good Samaritan Hospital	255 Lafayette Avenue		Suffern	NY	10901
Good Samaritan Hospital Cardiology	1000 Montauk Highway		West Islip	NY	11795
Good Samaritan Hospital of Maryland	5601 Loch Raven Boulevard		Baltimore	MD	21239
Good Samaritan Medical Center	1309 North Flagler Drive		West Palm Beach	FL	33401
Good Samaritan Regional Medical Center	3600 NW Samaritan Drive		Corvallis	OR	97330
Goshen General Hospital	200 High Park Avenue		Goshen	IN	46526
Governor Juan F. Luis Hospital & Medical Center	4007 Estate Diamond Ruby		Christiansted	VI	00820
Graduate Hospital	1800 Lombard Street		Philadelphia	PA	19146
Grady Health System	80 Jessie Hill Jr. Drive SE		Atlanta	GA	30303
Grady Memorial Hospital	561 West Central Avenue		Delaware	OH	43015-1489

Grand Strand Regional Medical Center	809 82nd Parkway		Myrtle Beach	SC	29572
Grandview Medical Center	405 Grand Avenue		Dayton	OH	45405
Grant Medical Center	111 S. Grant Avenue		Columbus	OH	43215
Gratiot Medical Center	4401 Campus Ridge Drive		Midland	MI	48670
Great Plains Regional Medical Center	Box 2339		Elk City	OK	73648
Greater Baltimore Medical Center	GBMC – Cardiac Cath Lab	6701 N. Charles Street	Towson	MD	21204
Greene Memorial Hospital	1141 N. Monroe Drive		Xenia	OH	45385
Greenview Regional Hospital	1801 Ashley Circle		Bowling Green	KY	42104
Greenville Memorial Hospital	701 Grove Road		Greenville	SC	29605
Greenwich Hospital	5 Perryridge Road		Greenwich	CT	06830
Gulf Coast Medical Center	449 W. 23rd Street		Panama City	FL	32406-5309
Gulf Coast Medical Center	1400 Highway 59 Bypass		Wharton	TX	77488
Gulf Coast Medical Center (formerly Southwest Regional)	9981 S. Healthpark Drive		Fort Meyers	FL	33908
Gundersen Lutheran Medical Center, Inc.	1900 South Avenue	H06-004	LaCrosse	WI	54601

Gwinnett Hospital System	1000 Medical Center Boulevard		Lawrenceville	GA	30045
Hackensack University Medical Center	30 Prospect Avenue		Hackensack	NJ	07601
Hahnemann University Hospital	230 N. Broad Street		Philadelphia	PA	19102
Halifax Medical Center	303 N. Clyde Morris Boulevard		Daytona Beach	FL	32114-2732
Halifax Regional Hospital	2204 Wilborn Avenue		South Boston	VA	24592
Hamilton Medical Center	1200 Memorial Drive		Dalton	GA	30720
Hanford Community Medical Center	450 N. Greenfield Avenue		Handford	CA	93230
Hamot Medical Center	201 State Street		Erie	PA	16550
Hannibal Regional Hospital	6000 Hospital Drive		Hannibal	MO	63401
Harbor Hospital Center	3001 S. Hanover Street		Baltimore	MD	21225
Hardin Memorial Hospital	913 N Dixie Avenue		Elizabethtown	KY	42701
Harlingen Medical Center	5501 South Expressway 77		Harlingen	TX	78550
Harper University Hospital	3990 John R. Street		Detroit	MI	48201
Harris County Hospitals	1504 Taub Loop		Houston	TX	77030

Harris Methodist Fort Worth	1301 Pennsylvania Avenue		Fort Worth	TX	76104
Harris Methodist HEB	1600 Hospital Parkway		Bedford	TX	76022
Harrison Medical Center	2520 Cherry Avenue		Bremerton	WA	98310
Hartford Hospital	80 Seymour Street		Hartford	CT	06102-8000
Harton Regional Medical Center	1801 N. Jackson Street		Tullahoma	TN	37388
Havasu Regional Medical Center	101 Civic Center Lane		Lake Havasu City	AZ	86403
Hawaii Medical Center East, LLC	2230 Liliha Street		Honolulu	HI	96817
Hawaii Medical Center West	91-2141 Fort Weaver Road		Ewa Beach	HI	96706
Hays Medical Center	2220 Canterbury Road		Hays	KS	67601
Hazard ARH Regional Medical Center	100 Medical Center Drive		Hazard	KY	41701
Health Care Authority for Baptist Health	2105 East South Boulevard		Montgomery	AL	36116
Heart and Lung Clinic	900 East Broadway Box 5510		Bismark	ND	58502
Heart Center of Indiana	8333 Nabb Road Suite 330	Suite 330	Indianapolis	IN	46290
Heart Hospital of Austin	3801 N. Lamar Boulevard		Austin	TX	78756

Heart Hospital of Lafayette	1105 Kaliste Saloom Road		Lafayette	LA	70508
Heart Hospital of New Mexico	8719 Springhill Drive NW		Albuqerque	NM	87114
Heart of Florida Regional Medical Center	40100 Highway 27		Davenport	FL	33837
Heart of Lancaster Regional Medical Center	250 College Avenue		Lancaster	PA	17604
Heartland Regional Medical Center	3333 W. Deyoung Street		Marion	IL	62959
Heartland Regional Medical Center	The Heart Center – Cardiac Cath Lab	5325 Faraon Street	Saint Joseph	MO	64506-3373
Helen Ellis Memorial	1395 South Pinella Avenue		Tarpon Springs	FL	34689
Helen Keller Hospital	1300 South Montgomery Avenue		Sheffield	AL	35660
Hemet Valley Medical Center	1117 E. Devonshire Avenue		Hemet	CA	92543
Hendersonville Medical Center	355 New Shackle Island Road		Hendersonville	TN	37075
Hendrick Medical Center	1900 Pine Street		Abilene	TX	79601
Hennepin County Medical Center	701 Park Avenue		Minneapolis	MN	55415-1829
Henrico Doctors Hospital	1602 Skipwith Road	Cardiac Cath Lab	Richmond	VA	23229
Henry Ford Hospital	2799 W. Grand Boulevard	K-14	Detroit	MI	48202
Henry Ford Macomb	15855 Nineteen Mile Road		Clinton	MI	48038

			Township		
Henry Ford Macomb-Warren	13355 East Ten Mile Road		Warren	MI	48089
Henry Mayo Newhall Memorial Hospital	23845 McBean Parkway		Valencia	CA	91350
Henry Medical Center, Inc.	1133 Eagles Landing Parkway		Stockbridge	GA	30281
Hialeah Hospital	651 East 25th Street		Hialeah	FL	33013
High Point Regional Hospital	601 N. Elm Street		High Point	NC	27261
Highland Park Hospital	718 Glenview Avenue		Highland Park	IL	60035
Hillcrest Baptist Medical Center	3000 Herring Avenue		Waco	TX	76708
Hillcrest Hospital	6780 Mayfield Road		Mayfield Heights	OH	44124
Hillcrest Medical Center	1120 S. Utica Avenue	3 West	Tulsa	OK	74104
Hilton Head Regional Medical Center	25 Hospital Center Boulevard		Hilton Head	SC	29925
HMA-Physician Management Region 25 Disb. Acct. (Physician's Regional)	6101 Pine Ridge Road		Naples	FL	34119
Hoag Memorial Hospital Presbyterian	One Hoag Drive		Newport Beach	CA	92658

Holland Community Hospital	602 Michigan Avenue		Holland	MI	49423
Hollywood Medical Center	3600 Washington Street		Hollywood	FL	33021
Holmes Regional Medical Center	1355 South Hickory Street Suite 203		Melbourne	FL	32901
Holy Cross Hospital	4725 N. Federal Highway		FT. Lauderdale	FL	33308
Holy Cross Hospital Medical Library	1500 Forest Glen Road		Silver Spring	MD	20910
Holy Spirit Health System	503 N 21st Street	Heart Center Admin.	Camp Hill	PA	17011-2204
Holzer Cardiovascular Institute	90 Jackson Pike		Gallipolis	OH	45631
Hopkins County Memorial Hospital	115 Airport Road		Sulphur Springs	TX	75482
Hospital of St. Raphael	Cardiac Cath Lab, 1450 Chapel Street		New Haven	CT	06511
Hospital of the University of Pennsylvania	9011 E. Gates 3400 Spruce Street		Philadelphia	PA	19104
Houston Northwest Medical Center Accounts Payable	710 FM 1960 Road West		Houston	TX	77090
Howard County General Hospital	5755 Cedar Lane		Columbia	MD	21044

Howard Regional Health System	3500 South LaFountain Street		Kokomo	IN	46904-9011
Howard University Hospital	2041 Georgia Avenue		Washington	DC	20060
Hualapai Mountain Medical Center	3801 Santa Rosa Drive		Kingman	AZ	86401
Huguley Memorial Medical Center	11801 South Freeway		Ft. Worth	TX	76115
Huntington Hospital	100 W. California Boulevard		Pasadena	CA	91109
Huntington Hospital	270 Park Avenue		Huntington	NY	11743
Huntsville Hospital	101 Sivley Road		Huntsville	AL	35801
Huron Valley Sinai Hospital	1 William Carls Drive		Commerce Township	MI	48382
Iberia Medical Center	2315 East Main Street		New Iberia	LA	70560
Immanuel-St. Joseph's Hospital	1025 Marsh Street		Mankato	MN	56001
Indian River Medical Center	1000 36th Street		Vero Beach	FL	32960
Indiana Heart Institute	8333 Naab Rd	Suite 330	Indianapolis	IN	46260
Indiana Regional Medical Center Cardiology Department	835 Hospital Road		Indiana	PA	15701
Ingalls Hospital	One Ingalls Drive		Harvey	IL	60426
Ingham Regional Medical Center	401 W. Greenlawn Avenue		Lansing	MI	48910
Innovis Health	3000 32nd Avenue SW		Fargo	ND	58104

Inova Alexandria Hospital	3289 Woodburn Road		Falls Church	VA	22042
Inova Fairfax Hospital/Inova Heart & Vascular Institute	3300 Gallows Road		Falls Church	VA	22042
Inova Loudoun Hospital	3289 Woodburn Road	Suite 235	Falls Church	VA	22042
Integris Baptist Medical Center	3433 NW 56th Street, Suite 805		Oklahoma City	OK	73112
Integris Health	600 South Monroe Street		Enid	OK	73701
Integris Southwest Medical Center	4401 South Western Avenue		Oklahoma City	OK	73109
Interfaith Medical Center	1545 Atlantic Avenue		Brooklyn	NY	11213
Intermountain Medical Center	5121 Cottonwood Street		Murray	UT	84157-7000
Iowa Lutheran Hospital	700 E. University Avenue		Des Moines	IA	50316
Iowa Methodist Medical Center	700 E. University Avenue		Des Moines	IA	50316
Iredell Memorial Hospital	557 Brookdale Drive		Statesville	NC	28687
Iroquois Memorial Hospital	200 Fairman Avenue		Watseka	IL	60970
Jackson Hospital and Clinic	1725 Pine Street		Montgomery	AL	36106

Jackson Madison General Hospital	620 Skyline Drive		Jackson	TN	38301
Jackson North Medical Center	1611 NW 12th Avenue		Miami	FL	33136
Jacobi Medical Center	1400 Pelham Parkway		Bronx	NY	10461-1101
Jamaica Hospital Medical Center	8900 Van Wyck Expressway		Jamaica	NY	11418
Jane Phillips Memorial Medical Center	3500 Frank Phillips Boulevard		Bartlesville	OK	74006
Jeanes Hospital	7600 Central Avenue		Philadelphia	PA	19111
Jeff Anderson Regional Medical Center	2124 14th Street		Meridian	MS	39301
Jefferson Memorial Hospital	PO BOX 350		Crystal City	MO	63019
Jefferson Regional Medical Center	1600 West 40th Avenue		Pine Bluff	AR	71603
Jefferson Regional Medical Center	PO Box 18119 565 Coal Valley Road		Pittsburgh	PA	15236-0119
Jennie Edmundson Memorial Hospital	933 E. Pierce Street		Council Bluffs	IA	51503
Jersey City Medical Center	355 Grand Street		Jersey City	NJ	07302
Jersey Shore University Medical Center	1945 State Route 33		Neptune	NJ	07753

Jewish Hospital	4777 East Galbraith Road		Cincinnati	OH	45236
Jewish Hospital	200 Abraham Flexner Way		Louisville	KY	40202
JFK Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
John C. Lincoln Hospital – Deer Valley	19829 N. 27th Ave.		Phoenix	AZ	85027-4002
John C. Lincoln Hospital – North Mountain	250 E. Dunlap Avenue		Phoenix	AZ	85020-2871
John F. Kennedy Memorial Hospital	47-111 Monroe Street		Indio	CA	92201
John Muir Medical Center – Concord Campus	1601 Ygnacio Valley Road		Walnut Creek	CA	94550
John Muir – Walnut Creek	1601 Ygnacio Valley Road		Walnut Creek	CA	94550
Johns Hopkins Bayview Medical Center	4940 Eastern Avenue		Baltimore	MD	21224
Johns Hopkins Hospital	600 N. Wolfe Street		Baltimore	MD	21287
Johnson City Medical Center Hosp	400 N State of Franklin		Johnson City	TN	37604
Jordan Valley Hospital	3580 W. 9000 S		West Jordan	UT	84088
Kadlec Medical	888 Swift Boulevard		Richland	WA	99352

Center					
Kaiser Foundation Hospital	1526 Edgemont Street		Los Angeles	CA	90027
Kaiser Foundation Hospital	6600 Bruceville Road		Sacramento	CA	95823
Kaiser Permanente – Moanalua Medical Center	3288 Moanalua Road		Honolulu	HI	96819
Kaiser Permanente – Panorama City	13652 Cantara Street		Panoram City	CA	91402
Kaiser Permanente – San Diego Medical Center	4647 Zion Avenue		San Diego	CA	92120
Kaiser Permanente Medical Center	2350 Geary Boulevard	1st Floor – CV Surgery	San Francisco	CA	94115
Kaiser Permanente Medical Center – Health Sciences Library	9400 Rosencrans Avenue		Bellflower	CA	90706
Kaiser Permanente Medical Center – Santa Clara	700 Lawrence Expressway	Department 212	Santa Clara	CA	95051
Kaiser Sunnyside Medical Center	10180 SE Sunnyside Road		Clackamas	OR	97015
Kansas Heart Hospital	3601 N Webb Road		Wichita	KS	67226
Kansas Heart Hospital	3601 N Webb Road		Wichita	KS	67226

Kansas Medical Center	1124 West 21st Street		Andover	KS	67002
Kansas University Hospital Authority	3901 Rainbow Boulevard		Kansas City	KS	66160
Kapi'olani Medical Center Pali Momi	98-1079 Moanalua Road		Aiea	HI	96701
Katherine Shaw Bethea Hospital	403 E. First Street		Dixon	IL	61021
Kaweah Delta Hospital District	Kaweah Delta Hospital District	400 W. Mineral King Avenue	Visalia	CA	93291
Kendall Regional Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Kershaw County Medical Center	1315 Roberts Street		Camden	SC	29020
Kettering Medical Center	3535 Southern Boulevard		Kettering	OH	45429
Kingman Regional Medical Center	3269 Stockton Hill Road		Kingman	AZ	86401
Kings Daughters Hospital	1901 Southwest H.K. Dodgen Loop		Temple	TX	76502
Kings Daughters Medical Center	2201 Lexington Avenue		Ashland	KY	41101
Kingwood Medical Center	22999 Highway 59 N		Kingwood	TX	77339
Kishwaukee Community Hospital	One Kish Hospital Drive		Dekalb	IL	60115
Knox Community Hospital	1330 Coshocton Road		Mount Vernon	OH	43050

Kootenai Medical Center	2003 Lincoln Way		Coeur d' Alene	ID	83814
Kuakani Medical Center	347 N. Kuakani Street		Honolulu	HI	96817
La Paz Regional Hospital	1200 W. Mohave Road		Parker	AZ	85344
Lafayette General Medical Center	1214 Coolidge Avenue		Lafayette	LA	70505
Lahey Clinic	41 Mall Road		Burlington	MA	01805
Lake Charles Memorial Hospital	1701 Oak Park Boulevard		Lake Charles	LA	70601
Lake City Medical Center	340 NW Commerce Boulevard		Lake City	FL	32055
Lake Hospital System	36000 Euclid Avenue		Willoughby	OH	44094
Lake Pointe Medical Center	6800 Scenic Drive		Rowlett	TX	75088
Lake Regional Health System	54 Hospital Drive		Osage Beach	MO	65065
Lakeland Hospital	1234 Napier Avenue		Saint Joseph	MI	49085-2112
Lakeland Regional Medical Center	1324 Lakeland Hills Boulevard		Lakeland	FL	33804
Lakeside Hospital	6901 N. 72nd Street Suite 3300		Omaha	NE	68122
Lakeview Regional Medical Center	95 East Fairway Drive		Covington	LA	70433-7500
Lakeway Regional Hospital	726 McFarland Street		Morristown	TN	37814
Lakewood Hospital	14519 Detroit Avenue		Lakewood	OH	44107

Lakewood Ranch Medical Center	8330 Lakewood Ranch Boulevard		Bradenton	FL	34202
Lakewood Regional Medical Center	3700 East South Street		Lakewood	CA	90712
Lancaster Community Hosp	43830 North 10th Sreet West		Lancaster	CA	93534
Lancaster General Hospital	555 N. Duke Street PO Box 3555		Lancaster	PA	17604-3555
Lancaster Regional Medical Center	250 College Avenue		Lancaster	PA	17604
Landmark Medical Center	115 Cass Avenue		Woonsocket	RI	02895
Lane Regional Medical Center	6300 Main Street		Zachary	LA	70791
Lankenau Hospital	Suite 557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
La Porte Hospital	1007 Lincolnway		La Porte	IN	46352
Laredo Medical Center	1720 Bustamante Street		Laredo	TX	78044
Largo Medical Center	201 14th Street SW		Largo	FL	33770
Las Colinas Medical Center	6800 North MacArthur Boulevard		Irving	TX	75039
Las Palmas Medical Center	1801 N. Oregon Street		El Paso	TX	79902
Latrobe Hospital	One Mellon Way		Latrobe	PA	15601
Lawnwood Medical Center	1700 S. 23rd Street		Fort Pierce	FL	34950

Lawrence & Memorial Hospital	365 Montauk Avenue		New London	CT	06375
Lawrence Hospital	55 Palmer Avenue		Broxville	NY	10708-3491
Lee Memorial Health System-Cape Coral Hospital	9981 S. Healthpark Drive		Fort Myers	FL	33908
Lee Memorial Health System-Health Park Med Center	9981 S. Healthpark Drive		Fort Myers	FL	33908
Lee's Summit Medical Center	2100 SE Blue Parkway		Lee's Summit	MO	64063
Leesburg Regional Medical Center	600 East Dixie Avenue		Leesburg	FL	34748
Legacy Emanuel Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Good Samaritan Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Meridian Park Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Salmon Creek Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Lehigh Regional Medical Center	1500 Lee Boulevard		Lehigh Acres	FL	33963
Lehigh Valley Hospital	1200 S. Cedar Crest Boulevard	Jaindl Pavilion 1st Floor	Allentown	PA	18103
Lehigh Valley Hospital – Muhlenberg	2545 Schoenersville Road	Invasive Cardiology 3rd Floor	Bethlehem	PA	18017-7330

Lenoir Memorial Hospital	100 Airport Road		Kinston	NC	28501
Lenox Hill Heart and Vascular Institute of New York	100 East 77th Street		New York	NY	10021
Lewis Gale Medical Center	1900 Electric Road		Salem	VA	24153
Lexington Medical Center	2720 Sunset Boulevard		West Columbia	SC	29169
Liberty Hospital	2525 Glenn Hendren Drive		Liberty	MO	64068
Licking Memorial Hospital	1320 W. Main Street		Newark	OH	43055
Lima Memorial Hospital	1001 Bellefontaine Avenue		Lima	OH	45804
Little Company of Mary Hospital	4101 Torrance Boulevard		Torrance	CA	90503
Little Company of Mary Hospital	2800 W. 95th Street		Evergreen Park	IL	60805
Logan General Hospital, LLC	20 Hospital Drive		Logan	WV	25601
Loma Linda University Medical Center	11234 Anderson Street Room 2431		Loma Linda	CA	92354
Long Beach Memorial Medical Center	2801 Atlantic Avenue		Long Beach	CA	90806
Long Island College Hospital	339 Hicks Street		Brooklyn	NY	11201

Long Island Jewish Medical Center	270-05 76th Avenue		New Hyde Park	NY	11040
Longmont United Hospital	1950 Mountain View Avenue		Longmont	CO	80501
Longview Regional Medical Center	PO Box 14000		Longview	TX	75607
Los Alamitos Medical Center	3751 Katella Avenue		Los Alamitos	CA	90720
Los Robles Hospital & Medical Center	215 W. Janss Road		Thousand Oaks	CA	91360-1899
Louisiana Medical Center and Heart Hospital	64030 Louisiana Highway 434		Lacombe	LA	70445
Lourdes Hospital	1530 Lone Oak Road		Paducah	KY	42003
Lovelace Medical Center	601 Martin Luther King Jr. Avenue NE		Albuquerque	NM	87102
Lowell General Hospital	295 Varnum Avenue		Lowell	MA	01854
Lower Bucks Hospital	501 Bath Road		Bristol	PA	19007
Lower Keys Medical Center	5900 College Road		Key West	FL	33040
Loyola University Medical Center	2160 S. First Avenue	Rm. 1318 Bldg. 104 Att: Mike	Maywood	IL	60153
LSU Bogalusa Medical Center	433 Plaza Street		Bogalusa	LA	70427
Lubbock Heart Hospital	4810 N. Loop 289		Lubbock	LA	79416

Lutheran Hospital of Indiana	7950 W. Jefferson Boulevard		Fort Wayne	IN	46804
Lutheran Medical Center	150 55th Street		Brooklyn	NY	11220
Lynchburg General Hospital	1901 Tate Springs Road	Cardiac Cath Lab	Lynchburg	VA	24501-1167
MacNeal Hospital	3249 S. Oak Park Avenue		Berwyn	IL	60402
Magnolia Regional Health Center	611 Alcorn Drive		Corinth	MS	38834
Maimonides Medical Center Division of Cardiology	4802 10th Avenue		Brooklyn	NY	11219
Maine Medical Center	22 Bramhall Street		Portland	ME	04102
Mainland Medical Center	6801 Emmett F. Lowry Expressway		Texas City	TX	77591
Manatee Memorial Hospital	206 Second Street East		Bradenton	FL	34208
Marian Medical Center	1400 East Church Street		Santa Maria	CA	93454
Maricopa Integrated Health System	2601 E. Roosevelt Street		Phoenix	AZ	85008
Marin General Hospital	250 Bon Air Road		Greenbrae	CA	94904
Marion General Hospital	441 N. Wabash Avenue		Marion	IN	46952
Marion General Hospital	1000 McKinley Park Drive		Marion	OH	43302-6397

Marquette General Hospital	580 W. College Avenue		Marquette	MI	85724
Marshall Medical Center	2505 US Highway 431		Boaz	AL	35957
Marshall University School of Medicine	420 West Magnetic Street		Huntington	WV	25701
Martha Jefferson Hospital	459 Locust Avenue		Charlottesville	VA	22902
Martin Memorial Medical Center	PO Box 9010		Stuart	FL	34995
Mary Black Hospital	1700 Skylyn Drive		Spatanburg	SC	29307
Mary Greeley Medical Center	1111 Duff Avenue		Ames	IA	50010
Mary Hitchcock Memorial Hospital	One Medical Center Drive		Lebanon	NH	03756
Mary Immaculate Hospital	5801 Bremo Road	Suite 310 N. Medical Office Building	Richmond	VA	23226
Mary Rutan Hospital	205 Palmer Avenue		Bellefontaine	OH	43311
Mary Washington Hospital	1001 Sam Perry Boulevard		Fredericksburg	VA	22401
Massachusetts General Hospital	55 Fruit Street		Boston	MA	02114
Mat-Su Regional Medical Center	2500 S. Woodworth Loop		Palmer	AK	99645
Maui Memorial Medical Center	221 Mahalani Street		Wailuku	HI	96793

Maury Regional Hospital	1224 Trotwood Avenue		Columbia	TN	38401
Mayo Clinic	4500 San Pablo Road		Jacksonville	FL	32216
Mayo Clinic Arizona	5777 E. Mayo Boulevard		Phoenix	AZ	85054
Mayo Clinic – St. Mary's Hospital	1216 2nd Street SW		Rochester	MN	55902
McAlester Regional Health Center	1 Clark Bass Boulevard		McAlester	OK	74501
McAllen Medical Center	301 W. Expressway 83		McAllen	TX	78503
MCG Health Inc.	1120 15th Street BBR-8521		Augusta	GA	30912
McKay-Dee Hospital Center	4401 Harrison Boulevard		Ogden	UT	84405
McKee Medical Center	2000 Boise Avenue		Loveland	CO	80538
Mclaren Regional Medical Center	401 S. Ballenger Highway		Flint	MI	48532
McLeod Regional Medical Center	555 E. Chaves Street		Florence	SC	29501
Mease Countryside Hospital	300 Pinellas Street		Clearwater	FL	33756
Mease Dunedin Hospital	300 Pinellas Street	MS 73	Clearwater	FL	33756
Med Central Mansfield	335 Glessner Avenue		Mansfield	OH	44903
Medcenter One	300 N. 7th Street		Bismarck	ND	58501

Medical Center at Bowling Green	250 Park Street		Bowling Green	KY	42101
Medical Center Hospital	500 W. 4th Street		Odessa	TX	79760
Medical Center of Arlington	3301 Matlock Road		Arlington	TX	76015
Medical Center of Aurora	1501 S. Potomac Street		Aurora	CO	80012
Medical Center of Central Georgia	777 Hemlock Street		Macon	GA	31208
Medical Center of Louisiana at	1541 Tulane Avenue, Room #203, Butterworth Building		New Orleans	LA	70112
Medical Center of McKinney	4500 Medical Center Drive		McKinney	TX	75069
Medical Center of Plano	3901 W. 15th Street		Plano	TX	75075-7738
Medical Center of South Arkansas, LLC	700 West Grove Street		El Dorado	AR	71730
Medical Center of Southeastern Oklahoma	1800 University Boulevard		Durant	OK	74701
Medical Center of the Rockies	2500 Rocky Mountain Avenue		Loveland	CO	80538
Medical City Dallas Hospital	7777 Forest Lane		Dallas	TX	75230
Medical University of South Carolina	25 Countenay Drive		Charleston	SC	29425-2110

Memorial Health System	1400 E. Boulder Street		Colorado Springs	CO	80909-5599
Memorial Health University Medical Center	Cardiac Cath Lab Memorial Health University Medical Center	4700 Waters Avenue	Savannah	GA	31404
Memorial Hermann Hospital	6411 Fannin Street		Houston	TX	77030
Memorial Hermann HVI South West	7787 Southwest Freeway		Houston	TX	77074
Memorial Hermann Memorial City Hospital	921 Gessner Road		Houston	TX	77024
Memorial Hermann Northeast	18951 Memorial North		Humble	TX	77338
Memorial Hermann Northwest Hospital	9401 SW Freeway		Houston	TX	77074
Memorial Hermann The Woodlands Hospital	9250 Pinecroft Drive		Spring	TX	77380
Memorial Hospital	800 West 9th Street		Jasper	IN	47546
Memorial Hospital	2525 Desales Avenue		Chattanooga	TN	37404-1102
Memorial Hospital at Gulfport	4500 13th Street	PO Box 1810	Gulfport	MS	39502
Memorial Hospital Carbondale	405 W. Jackson Street		Carbondale	IL	65902
Memorial Hospital Miramar	1901 SW 172 Avenue		Miramar	FL	33029

Memorial Hospital of Martinsville	320 Hospital Drive		Martinsville	VA	24112
Memorial Hospital of Rhode Island Brown University	111 Brewster Street		Pawtucket	RI	02860
Memorial Hospital of South Bend	615 N. Michigan Street		South Bend	IN	46601-1033
Memorial Hospital Pembroke/ South Broward Hospital	7800 Sheridan Street		Pembroke Pines	FL	33024
Memorial Hospital West/South Broward Hospital District	703 North Flamingo Road		Pembroke Pines	FL	33028
Memorial Hospital – Jacksonville	3625 University Boulevard South		Jacksonville	FL	32215
Memorial Hospitals Association	1700 Coffee Road		Modesto	CA	95355
Memorial Medical Center	701 N. First Street		Springfield	IL	62781
Memorial Medical Center	2450 S. Telshor Boulevard		Las Cruces	NM	88011
Memorial Medical Center	1086 Franklin Street		Johnstown	PA	15905-4398
Memorial Regional Hospital/South Broward Hospital	3501 Johnson Street		Hollywood	FL	33021
Memphis Hospital (Germantown Campus)	1265 Union Avenue		Memphis	TN	38104-3499

Memphis Hospital (North Campus)	1265 Union Avenue		Memphis	TN	38104-3499
Menifee Valley Medical Center	28400 McCall Boulevard		SunCity	CA	92585
Menorah Medical Center	5721 West 119th Street		Overland Park	KS	66209
Mercy Fitzgerald Hospital	1500 Lansdowne Avenue		Darby	PA	19023
Mercy General Hospital – Sacramento	3939 J Street		Sacremento	Ca	95819
Mercy Gilbert Medical Center	3555 S. Val Vista Drive		Gilbert	AZ	85296
Mercy General Health Partners	1500 E. Sherman Boulevard		Muskegon	MI	49444
Mercy Health Partners Hackley Campus	Westshore Professional Building Suite 334		Muskegon	MI	49443
Mercy Health System of Northwestern Arkansas	2710 Rife Medical Lane		Rogers	AR	72758
Mercy Hospital	144 State Street		Portland	ME	04101
Mercy Hospital	2925 Chicago Avenue		Minneapolis	MN	55407
Mercy Hospital – Scranton	746 Jefferson Avenue		Scranton	PA	18501

Mercy Hospital & Medical Center	2525 South Michigan Avenue		Chicago	IL	60616-2477
Mercy Hospital Anderson	7500 State Road		Cincinnati	OH	45255
Mercy Hospital Attn.: Accounts Payable	3663 South Miami Avenue		Miami	FL	33133
Mercy Hospital of Buffalo	515 Abbott Road	Marion Building Suite 306	Buffalo	NY	14220
Mercy Hospital Attn: A/P	271 Carew Street PO Box 9012		Springfield	MA	01102
Mercy Iowa City	500 East Market Street		Iowa City	IA	52245
Mercy Medical Center	2700 Steward Parkway		Roseburg	OR	97470
Mercy Medical Center	801 5th Street		Sioux City	IA	51101
Mercy Medical Center	1111 6th Avenue		Des Moines	IA	51101
Mercy Medical Center	1320 Mercy Drive	Cardiology Management and Support 3C	Canton	OH	44708
Mercy Medical Center	301 St. Paul Place		Baltimore	MD	21202
Mercy Medical Center	2900 W. 9th Avenue	Suite 107	Oshkosh	WI	54904
Mercy Medical Center	701 10th Street SE		Cedar Rapids	IA	52403
Mercy Medical Center	1000 North Village Ave		Rockville Centre	NY	11571
Mercy Medical Center Redding	2175 Rosaline Avenue	PO Box 496009	Redding	CA	96049-6009
Mercy Medical Center – North Iowa	1000 4th Street SW		Mason City	IA	50401

Mercy Memorial Health Center Sisters of Mercy	1011 14th Avenue NW		Ardmore	OK	73401
Mercy Regional Health Center	1823 College Avenue		Manhattah	KS	67218
Mercy Regional Medical Center	1010 Three Springs Boulevard		Durango	CO	81301
Mercy Regional Medical Center	800 East Main Street		Ville Platte	LA	70586
Mercy San Juan Hospital	3941 J Street		Sacremento	CA	95819
Mercy St. Vincent Medical Center	2213 Cherry Street		Toledo	OH	43608
MeritCare Hospital	801 Broadway North		Fargo	ND	58122
Meriter Hospital	202 South Park Street	10 Tower – Heart Center	Madison	WI	53715
Methodist Charlton Medical Center (Methodist Health System)	MHS Sam & Anne Kesner Heart Center	1441 N. Beckley Avenue	Dallas	TX	75203
Methodist Hospital	7700 Floyd Curl Drive		San Antonio	TX	78229
Methodist Hospital	6500 Excelsior Boulevard 2nd Floor HVC		St. Louis Park	MN	55426
Methodist Hospital of South CA	300 W Huntington Drive		Arcadia	CA	91007-3402
Methodist Hospital Southlake Campus	8701 Broadway		Merrillville	IN	46410-7035

Methodist Lebonheur Health Care University Hospital (University Campus)	1265 Union Avenue		Memphis	TN	38104-3499
Methodist Medical Center of Illinois	221 NE Glen Oak Avenue		Peoria	IL	61636
Methodist Medical Center of Oak Ridge	990 Oak Ridge Turnpike		Oak Ridge	TN	37830
Methodist Speciality and Transplant Hospital	7700 Floyd Curl Drive		San Antonio	TX	78229
Methodist Stone Oak Hospital	1139 E. Sonterra Boulevard		San Antonio	TX	78258
Methodist Sugar Land Hospital	16655 Southwest Freeway		Sugar Land	TX	77479
Methodist Willowbrook Hospital	18220 Tomball Parkway		Houston	TX	77070
Metro Health Hospital	5900 Byron Center Road		Wyoming	MI	49519
MetroHealth Medical Center	2500 MetroHealth Drive		Cleveland	OH	44109
Metroplex Hospital	2201 S. Clear Creek Road		Killeen	TN	76549
MetroSouth Medical Center	12935 Gregory street		Blue Island	IL	60406-2470
Metropolitan Methodist Hospital	1310 McCullough Avenue		San Antonio	TX	78212
MetroWest Medical Center	115 Lincoln Street	Cardiac Cath Lab	Framingham	MA	01702-6327
Miami Valley	One Wyoming Street		Dayton	OH	45409

Hospital					
Michael Reese Hospital	2929 S. Ellis Avenue		Chicago	IL	60616
Middle Tennessee Medical Center	4220 Harding Road		Nashville	TN	37205
Midland Memorial Hospital	2200 W. Illinois Avenue c/o Heart Institute		Midland	TX	79701
Midlands Community Hospital	6901 N. 72nd Street		Omaha	NE	68122
MidMichigan Medical Center-Midland	4005 Orchard Drive		Midland	MI	48670
Midwest Regional Medical Center	2825 Parklawn Drive		Midwest City	OK	73110
Milford Regional Medical Center	14 Prospect Street		Milford	MA	01568
Millard Fillmore Hospital	100 High Street		Buffalo	NY	14203
Millard Filmore Suburban	100 High Street		Buffalo	Ny	14203
Mills-Peninsula Hospital	1783 Elcamino Real		Burlingame	CA	94010
Miriam Hospital	164 Summit Avenue		Providence	RI	02906
Mission Hospital Regional Medical Center	27700 Medical Center Road		Mission Viejo	CA	92691-6426
Mission Hospitals, Inc.	509 Biltmore Avenue		Asheville	NC	28801-4690

Mississippi Baptist Medical Center	1225 N State Street		Jackson	MS	39202-2097
Missouri Baptist Medical Center	3015 N. Ballas Road	3105 North Ballas Road	Saint Louis	MO	63131-2374
Moberly Regional Medical Center	1515 Union Avenue		Moberly	MO	65270
Mobile Infirmary Medical Center	5 Mobile Infirmary Circle		Mobile	AL	36607
Monongalia Genera; Hospital	1200 JD Anderson Drive		Morgantown	WV	26505
Monroe Hospital	4011 South Medical Park Boulevard		Bloomington	IN	47403
Montgomery General Hospital	18101 Prince Philip Drive		Olney	MD	20832
Morris Hospital	150 West High Street		Morris	IL	60450
Morristown Memorial Hospital	100 Madison Avenue		Morristown	NJ	07962
Morton Plant Hospital	300 Pinellas Street	MS 73	Clearwater	FL	33756
Morton Plant North Bay Hospital	300 Pinellas Street	MS 73	Clearwater	FL	33756
Moses Cone Health System	1200 N. Elm Street		Greensboro	NC	27401
Mother Frances Hospital	800 E. Dawson Street		Tyler	TX	75701
Mount Auburn Hospital	330 Mount Auburn Street	South 2 – Administration	Cambridge	MA	02138
Mount Carmel East	6150 East Broad Street	Office EB 148	Columbus	OH	42313

Mount Carmel St. Ann's Hospital	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Carmel West	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Clemens Regional Medical Center	1000 Harrington Street		Mount Clemens	MI	48043-2992
Mount Sinai Medical Center	4300 Alton Road		Miami Beach	FL	33140
Mountain View Regional Center	4311 E. Lohman Avenue		Las Cruces	NM	88011
Mountain Vista Medical Center	1301 S. Crismon Road		Mesa	AZ	85209
Mountainview Hospital	3100 N. Tenaya Way		Las Vegas	NV	89128
Munroe Regional Medical Center	1500 SW 1st Avenue PO Box 6000		Ocala	FL	34478
Munson Medical Center	1105 Sixth Street		Traverse City	MI	49684-2386
Nacogdoches Medical Center	4920 NE Stallings Drive		Nacogdoches	TX	75965
Naples Community Hospital	350 7th Street South		Naples	FL	34102
Nashoba Valley Medical Center	200 Groton Road		Ayer	MA	01432

National Park Medical Center	1910 Malvern Avenue		Hot Springs	AR	71901
NEA Baptist Memorial Hospital	3024 Stadium Boulevard		Jonesboro	AR	72401
Nebraska Heart Hospital	7500 South 91st Street		Lincoln	NE	68526
Nebraska Methodist Hospital	8303 Dodge Street		Omaha	NE	68114
New Hanover Regional Medical Center	2131 S. 17th Street		Wilmington	NC	28402
New York Community Hospital	2525 Kings Highway		Brooklyn	NY	11229
New York Hospital Medical Center of Queens Health Education Library	5645 Main Street	Floor 1	Flushing	NY	11355
New York Methodist Hospital	506 6th Street Brooklyn		New York City	NY	11215
New York Presbyterian Hospital	6220West 168th Street	PH-2	New York City	NY	10032
Newark Beth Israel Medical Center	201 Lyons Avenue at Osborne Terrace		Newark	NJ	07112
Niagara Falls Memorial Medical Center	621 Tenth Street		Niagara Falls	NY	14302
Nicholas H. Noyes Memorial Hospital	111 Clara Barton Street		Dansville	NY	14437

NIX Healthcare System	414 Navarro Street		San Antonio	TX	78205
Norman Regional Health System	PO Box 1308		Norman	OK	73070-1308
North Austin Medical Center	5103 Hereford Way		Austin	TX	78727
North Bay Medical Center	1200 B. Gale Wilson Boulevard		Fairfield	CA	94533
North Carolina Baptist Hospital	Medical Center Boulevard		Winston-Salem	NC	27157
North Central Baptist Hospital	730 North Main Avenue	Suite 409	San Antonio	TX	78205
North Colorado Medical Center	1801 16th Street		Greeley	CO	80631
North Cypress Medical Center	21214 Northwest Freeway		Cypress	TX	77429
North Florida Regional Medical Center	6500 Newberry Road		Gainesville	FL	32605
North Hills Hospital	4401 Booth Calloway Road		North Richland Hills	TX	76180
North Kansas City Hospital	2800 Clay Edward Drive		North Kansas City	MO	64116
North Memorial Medical Center	3300 Oakdale Avenue, N		Robbinsdale	MN	55422
North Mississippi Medical Center	830 S. Gloster Street		Tupelo	MS	38801
North Oaks Medical Center	15790 Paul Vega MD Drive		Hammond	LA	70403

North Shore Medical Center	1100 NW 95th Street		Miami	FL	33150
North Shore Medical Center FMC Campus	5000 W. Oakland Park Boulevard		Ft. Lauderdale	FL	33313
North Shore Medical Center – Salem Hospital	81 Highland Avenue	Davenport 5	Salem	MA	01970
North Shore University Medical System Cardiology					
North Shore University Hospital	300 Community Drive		Manhasset	NY	11030
North Suburban Medical Center	9191 Grant Street		Denver	CO	80229
North Vista Hospital	1409 E. Lake Mead Boulevard		North Las vegas	NV	89030
Northeast Alabama Regional Medical Center	400 East 10th Street		Anniston	AL	36202
Northeast Baptist Hospital	730 N. Main Avenue	Suite 409	San Antonio	TX	78205
Northeast Georgia Medical Center	743 Spring Street		Gainesville	GA	30501
NorthEast Medical Center	920 Church Street North		Concord	NC	28025
Northeast Methodist Hospital	12412 Judson Road		San Antonio	TX	78233
Northeast Regional Medical Center	315 S. Osteopathy		Kirksville	MO	63501

Northern Illinois Medical Center	4201 Medical Center Drive		McHenry	IL	60050
Northern Michigan Regional Hospital	416 Connable Avenue		Petoskey	MI	49770
Northern Nevada Medical Center	2375 E. Prater Way		Sparks	NV	89434
Northlake Medical Center	1455 Montreal Road		Tucker	GA	30084
Northridge Hospital Medical Center	18300 Roscoe Avenue		Northridge	CA	91325
Northshore Regional Medical Center	100 Medical Center Drive		Slidell	LA	70461
Northside Hospital	1000 Johnson Ferry Road		Atlanta	GA	30342
Northside Hospital	6000 49th Street, N		Pinellas Park	FL	33709
Northside Hospital – Forsyth	1200 Northside Forsyth Drive		Cumming	GA	30041
Northwest Community Hospital	800 W. Central Road		Arlington Heights	IL	60005
Northwest Hospital	1550 North 115th Street		Seattle	WA	98113
Northwest Hospital Center	5401 Old Court Road		Randallstown	MD	21133
Northwest Medical Center	2801 N. State Road 7		Margate	FL	33063
Northwest Medical Center	Northwest Medical Center	6200 N. La Cholla Boulevard	Tucson	AZ	85741
Northwest Medical Center – Bentonville	609 West Maple Street		Springdale	AR	72764

Northwest Arkansas Hospitals LLC, dba NMC	609 West Maple Street		Springdale	AR	72764
Northwest Mississippi Regional Medical Center	1970 Hospital Drive		Clarksdale	MS	38614
Northwestern Memorial Hospital	676 N. St. Clair Street, Suite 1700		Chicago	IL	60611
Norton Audubon	PO Box 35070		Louisville	KY	40232
Norton Hospital	PO Box 35070		Louisville	KY	40232
Norwalk Hospital	24 Stevens Street		Norwalk	CT	06856
NYU Medical Center	560 First Avenue		New York	NY	10016
Oak Hill Hospital	11375 Cortez Boulevard		Brooksville	FL	34613
Oakwood Hospital & Medical Center	18101 Oakwood Boulevard		Dearborn	MI	48124
Obici Hospital	2800 Godwin Boulevard		Suffolk	VA	23434
Ocala Regional Mecical Center	1431 SW First Avenue		Ocala	FL	34474
Ocean Springs Hospital	2809 Denny Avenue		Pascagoula	MS	39581
Ochsner Medical Center – Baton Rouge	17000 Medical Center Drive		Baton Rouge	LA	70816
Ochsner Medical Center – West Bank	2500 Belle Chasse Highway		Gretna	LA	70056

Ochsner Medical Center – Kenner (Kenner Regional Medical Center)	180 West Esplanade Avenue		Kenner	LA	70065
Ochsner Medical Foundation	1514 Jefferson Highway		New Orleans	LA	70121
Oconee Regional Medical Center	812 N. Cobb Street		Milledgeville	GA	31061
O'Connor Hospital	2105 Forest Avenue		San Jose	CA	95128
Odessa Regional Hospital	520 East Sixth Street		Odessa	TX	79760
Ogden Regional Medical Center	5475 South 500 East		Ogden	UT	84403
Ohio Valley Medical Center	2000 Eoff Street		Wheeling	WV	26003
Oklahoma Heart Hospital	4050 W. Memorial Road		Oklahoma City	OK	73120
Oklahoma State University Medical Center	744 W. 9th Street		Tulsa	OK	74127
Olathe Medical Center	20333 W. 151st Street		Olathe	KS	66061-7211
Orange Regional Medical Center	60 Prospect Avenue		Middletown	NY	10940
Oregon Health & Science University	3181 SW Sam Jackson Road		Portland	OR	97239

Orlando Regional Medical Center	1414 Kuhl Avenue		Orlando	FL	32806
Osceola Regional Medical Center	700 W. Oak Street		Kissimmee	FL	34745
OSF Saint Anthony Medical Center	5666 East State Street		Rockford	IL	61108
OSF Saint Joseph Medical Center	2200 E. Washington Street		Bloomington	IL	61701
OSF Saint Francis Medical Center	530 N.E. Glen Oak Avenue		Peoria	IL	61637
OU Medical Center	700 NE 13th Street		Oklahoma City	OK	73104
Our Lady of Lourdes Medical Center	1600 Haddon Avenue		Camden	NJ	08103
Our Lady of Lourdes Regional Medical Center	611 Saint Landry Street PO Box 4027		Lafayette	LA	70506
Our Lady of The Lake Regional	5000 Hennessy Boulevard		Baton Rouge	LA	70808-4350
Our Lady of the Resurrection Medical Center	5645 W. Addison Street		Chicago	IL	60634
Overlake Hospital Medical Center	1035 116th Avenue NE		Bellevue	WA	98004
Overland Park Regional Medical Center/ Health Midwest	10500 Quivira Road		Overland Park	KS	66215

Owensboro Medical Health System	811 E. Parrish Avenue		Owensboro	KY	42303
Ozarks Medical Center	1100 Kentucky Avenue	PO Box 1100	West Plains	MO	65775
P and S Surgical Hospital	312 Grammont Street		Monroe	LA	71201
Palm Beach Gardens Medical Center	3360 Burns Road		Palm Beach Gardens	FL	33410
Palmetto General Hospital	2001 West 68th Street		Hialeah	FL	33016
Palmetto Health Heart Hospital	6 Richland Medical Park Drive	Suite 4525	Columbia	SC	29203
Palomar Medical Center	555 East Valley Parkway		Escondido	CA	92025
Palos Community Hospital	12251 S. 80th Avenue	Cardiovascular Services	Palos Heights	IL	60463-0930
Paoli Hospital	557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
Paradise Valley Hospital	3929 E. Bell Road		Phoenix	AZ	85032
Paradise Valley Hospital	2400 E. Fourth Street		National City	CA	91950
Paris Regional Medical Center	865 DeShong Drive		Paris	TX	75462
Park Plaza Hospital	1313 Hermann Drive		Houston	TX	77004
Parkland Health and Hospital Systems	5201 Harry Hines Boulevard		Dallas	TX	75235

Parkridge Medical Center	2333 McCallie Avenue		Chattanooga	TN	37404
Parkview Hospital	2200 Randallia Drive		Fort Wayne	IN	46805
Parkview Medical Center	400 W. 16th Street		Pueblo	CO	81003
Parkway Regional Medical Center	160 NW 170th Street		North Miami	FL	33169
Parkwest Medical Center	9352 Parkwest Boulevard		Knoxville	TN	37923
Parma Community General Hospital	7007 Powers Boulevard		Parma	OH	44129
Parrish Medical Center	951 N. Washington Avenue		Titusville	FL	32796
Pasco Regional Medical Center	13000 100 Fort King Road		Dade City	FL	33525
PBI Regional Medical Center	350 Boulevard		Passaic	NJ	07055
Peace River Regional Medical	2500 Harbor Boulevard		Port Charlotte	FL	33952
Peninsula Regional Medical Center	100 East Carroll Street		Salisbury	MD	21801
Penn Presbyterian Medical Center	39th & Market Streets		Philadelphia	PA	19104
Penn State Hershey Medical Center	PO Box 850 MC H047		Hershey	PA	17033-0850
Pennsylvania Hospital	800 Spruce Street		Philadelphia	PA	19107-6192
Penrose – St. Francis Health Services	2222 North Nevada, #3000		Colorado Springs	CO	80907

Phelps County Regional Medical Center	1000 W. 10th Street		Rolla	MO	65401
Phoebe Putney Memorial Hospital	417 Third Avenue		Albany	GA	31701
Phoenix Baptist Hospital	2000 W. Bethany Home Road		Phoenix	AZ	85015
Phoenixville Hospital	140 Nutt Road		Phoenixville	PA	19460-3906
Piedmont Hospital	95 Collier Road Suite 2075		Atlanta	GA	30309
Piedmont Medical Center	222 S. Herlong Avenue		Rock Hill	SC	29732
Pikesville Medical Center	911 Bypass Road		Pikesville	KY	41501
Pinnicle Health Invasive Cardiology	111 South Front Street		Harrisburg	PA	17101-2099
Pitt County Memorial Hospital	2100 Statonsburg Road	PCMH Heart Center	Greenville	NC	27835
Plantation General Hospital	401 NW 42nd Avenue		Plantation	FL	33317
Plaza Medical Center of Fort Worth	900 Eighth Avenue		Fort Worth	TX	76104
Pocono Medical Center	206 East Brown Street		East Stroudsburg	PA	18301
Pomona Valley Hospital Med Center	1798 N. Garey Avenue		Pomona	CA	91768

Poplar Bluff Regional Medical Center	2620 N. Westwood Boulevard		Poplar Bluff	MO	63901
Port Huron Hospital	1221 Pine Grove Avenue		Port Huron	MI	48060
Porter Adventist Hospital	2525 S. Downing Street		Denver	CO	80210-5817
Porter Valparaiso Hospital Campus	814 Laporte Avenue		Valparaiso	IN	46383
Portneuf Medical Center	651 Memorial Drive		Pocatello	ID	83201
Portsmouth Regional Hospital	333 Borthwick Avenue		Portsmouth	NH	03801
Prairie Lakes Healthcare	401 9th Avenue		Watertown	SD	57201
Presbyterian Healthcare Services	PO Box 26666		Albuquerque	NM	87125
Presbyterian Hospital	200 Hawthorne Lane		Charlotte	NC	28233
Presbyterian Hospital – Denton	3000 I-35 N		Denton	TX	76201
Presbyterian Hospital – Dallas	Presbyterian Hospital	8200 Walnut Hill Lane	Dallas	TX	75231
Presbyterian Intercommunity Hospital	12401 Washington Boulevard		Whittier	CA	90602
Presbyterian/ St.Luke's Medical Center	1719 E. 19th Avenue		Denver	CO	80218-1235
Prince George's Hospital Center	3001 Hospital Drive		Cheverly	MD	20785

Princeton Baptist Medical Center	Princeton BMC, Nursing Administration 701 Princeton Avenue, SW		Birmingham	AL	35211-1399
Proctor Hospital	5409 N. Knoxville Avenue		Peoria	IL	61614
Promise Regional Medical Center – Hutchinson	1701 E. 23rd Avenue		Hutchinson	KS	67502
Protestant Memorial Medical Center	4500 Memorial Drive		Belleville	IL	62226
Provena Covenant Medical Center	1400 West Park Street		Urbana	IL	61801-9901
Provena Mercy Medical Center	1325 North Highland Avenue		Aurora	IL	60506
Provena Saint Joseph Medical Center	333 North Madison Street		Joliet	IL	60435-6595
Provena Saint Marys Hospital	500 West Court Street		Kankakee	IL	60901
Provena St. Joseph Hospital	77 N. Airlite Street		Elgin	IL	60123
Provena United Samaritans Medical Center	812 North Logan Avenue		Danville	IL	61832
Providence Alaska Medical Center	3200 Providence Drive		Anchorage	AK	99508-4662
Providence Health Center	6901 Medical Parkway		Waco	TX	76712
Providence Holy Cross Medical Center	501 South Buena Vista Street		Burbank	CA	91505
Providence Hospital	6801 Airport Boulevard		Mobile	AL	36608

Providence Hospital	2435 Forest Drive		Columbia	SC	29204
Providence Medford Medical Center	1111 Crater Lake Avenue		Medford	OR	97527
Providence Medical Center	8929 Parallel Parkway		Kansas City	KS	66112-1689
Providence Memorial Hospital	2001 North Oregon Street		El Paso	TX	79902
Providence Park Hosptial	16001 W. Nine Mile Road		Novi	MI	48374
Providence Portland Medical Center	9205 SW Barnes Road	9205 South West. Barnes Road	Portland	OR	97225
Providence Regional Medical Center Everett	1321 Coby Avenue		Everett	WA	98206-1147
Providence Saint Joseph Medical Center	501 South Buena Vista Street		Burbank	CA	91505
Providence Saint Vincent Medical Center	Regional Heart Data Services	9205 South West Barnes Road #33	Portland	OR	97225
Providence St. Peter Hospital	413 N. Lilly Road		Olympia	WA	98506
Providence Tarzana Medical Center	18321 Clark Street		Tarzana	CA	91356-3501
Queen of the Valley Medical Center	1000 Trancas Street		Napa	CA	94558
Queens Medical Center	1301 Punchbowl Street		Honolulu	HI	96813

Rankin Medical Center	350 Crossgates Boulevard		Brandon	MS	39042
Rapid City Regional Hospital	353 Fairmont Boulevard		Rapid City	SD	57702
Rapides Regional Medical Center	211 4th Street Box 30101		Alexandria	LA	71301
Raulerson Hospital (HCA)	1796 Highway 441 North		Okeechobee	LA	34972
Redmond Regional Medical Center	501 Redmond Road		Rome	GA	30165
Reedsburg Area Medical Center	2000 N. Dewey Avenue		Reedsburg	WI	53959
Regents of the University of Michigan	2101 Commonwealth Boulevard		Ann Arbor	MI	48105
Regional Hospital of Jackson	367 Hospital Boulevard		Jackson	TN	38305
Regional Medical Center	225 N. Jackson Avenue		San Jose	CA	95116
Regional Medical Center	3000 St. Matthews Road		Orangeburg	SC	29118
Regional Medical Center	900 Hospital Drive		Madisonville	KY	42431-1644
Regional Medical Center Bayonet Point	14000 Fivay Road		Hudson	FL	34667
Regions Hospital	640 Jackson Street	Mail Stop 11102-M	St. Paul	MN	55101
Reid Hospital & Healthcare Services	1401 Chester Boulevard		Richmond	IN	47374

Renown Regional Medical Center	1155 Mill Street	R 11	Reno	NV	89502
Research Medical Center	2316 East Meyer Boulevard	Cardiology Services	Kansas City	MO	64132
Reston Hospital Center	1850 Town Center Parkway		Reston	VA	20190
Resurrection Medical Center	7435 Talcott Avenue		Chicago	IL	60631
Rex Hospital	4420 Lake Boone Trail		Raleigh	NC	27607
Rhode Island Hospital	593 Eddy Street		Providence	RI	02903
Richmond University Medical Center	355 Bard Avenue		Staten Island	NY	10310
Riddle Memorial Hospital	1068 W. Baltimore Pike		Media	PA	19063-5177
Rideout Memorial Hospital	726 4th Street		Maryville	CA	95901
Ridgecrest Regional Hospital	1081 N. China Lake Boulevard		Ridgecrest	CA	93555
Rio Grande Regional Hospital	101 E. Ridge Road		McAllen	TX	78503
River Oaks Hospital	1030 River Oaks Drive		Flowood	MS	39232
River Park Hospital	1559 Spata Road		McMinnville	TN	37110
River Region Medical Center	2100 Highway 61 North		Vicksburg	MS	39183
Riverside Community Hospital	4445 Magnolia Avenue		Riverside	CA	92501

Riverside Medical Center	350 N. Wall Street		Kankakee	IL	60901
Riverside Methodist Hospital	3535 Olentangy River Road		Columbus	OH	43214
Riverside Regional Medical Center	500 J Clyde Morris Boulevard		Newport News	VA	23601
Riverview Hospital	395 Westfield Road		Noblesville	IN	46060
Riverview Regional Medical Center	600 South Third Street	PO Box 268	Gadsden	AL	35901
Robert Packer Hospital	1 Guthrie Square		Gadsden	AL	18840
Robinson Memorial Hospital	6847 N. Chestnut Street		Ravenna	OH	44266
Rochester General Hospital	1425 Portland Avenue		Rochester	NY	14621
Rockford Memorial Hospital	2400 North Rockton Avenue		Rockford	IL	61103
Rogue Valley Medical Cent	2825 E. Barnett Road	Performance Improvement Dept.	Medford	OR	97504
Rome Memorial Hospital	1500 North James Street		Rome	NY	13440
Roper Hospital	316 Calhoun Street		Charleston	SC	29401
Rose Medical Center	4567 E. 9th Avenue		Denver	CO	80220-3941
Round Rock Medical Center	2400 Round Rock Medical Center		Round Rock	TX	78681
Rush Hospital	1314 19th Avenue		Meridian	MS	39301

Rush University Medical Center	1653 West Congress Parkway		Chicago	IL	60612
Rush-Copley Medical Center	2000 Ogden Avenue		Aurora	IL	60504
Russell Medical Center	3316 Highway 280 PO Box 939		Alexander City	AL	35011
Russellville Hospital	15155 Highway 43		Russellville	AL	35653
Rutland Regional Medical Center	160 Allen Street		Rutland	VT	05701
Sacred Heart Hospital of Pensacola	5151 North 9th Avenue		Pensacola	FL	32504-8721
Sacred Heart Hospital Attn: A/P	900 W. Clairemont Avenue		Eau Claire	WI	54701
Sacred Heart Medical Center	770 E. 11th Avenue		Eugene	OR	97401
Sacred Heart Medical Center	101 W. Eighth Avenue		Spokane	WA	99204
Saddleback Memorial Medical Center	24451 Health Center Drive		Laguna Hills	CA	92653
Saint Agnes Medical Center	1303 E. Herndon Avenue		Fresno	CA	93720
Saint Bernadine Medical Center	2101 N. Waterman Avenue	2101 N. Waterman Avenue	San Bernadino	CA	92404-4836
Saint Clare's Hospital	611 St. Joseph's Avenue		Marshfield	WI	54449
Saint Elizabeth Health Center	1044 Belmont Avenue		Youngstown	OH	44511
Saint Elizabeth Hospital	2700 W. 9th Avenue Suite 107		Oshkosh	WI	54904

Saint Elizabeth Medical Center-South	1 Medical Village Drive		Edgewood	KY	41017-3403
Saint Elizabeth Regional Medical Center	555 S. 70th Street		Lincoln	NE	68510-2462
Saint Elizabeth's Hospital	211 South 3rd Street		Belleville	IL	62220-1915
Saint Francis Hospital	2122 Manchester Expressway		Columbus	GA	31904
Saint Francis Hospital	5959 Park Avenue		Memphis	TN	38119
Saint Francis Hospital	6161 S. Yale Avenue		Tulsa	OK	74136
Saint Francis Hospital & Health Center	8111 S. Emerson Avenue		Indianapolis	IN	46237
Saint Francis Hospital & Medical Center	114 Woodland Street		Hartford	CT	06105
Saint Francis Hospital of Evanston	355 Ridge Avenue		Evanston	IL	60202
Saint John Hospital & Medical Center	22151 Moross Road	Professional Bldg #1, #126	Detroit	MI	48236-2148
Saint John Macomb-Oakland Hospital	11800 E. 12 Mile Road	Room # 2510	Warren	MI	48093
Saint Johns Health Center	1328 Twenty-Second Street		Santa Monica	CA	90404
Saint Johns Mercy Medical Center	615 S. New Ballas Road		St. Louis	MO	63141
Saint Joseph – London	310 East 9th Street		London	KY	40741
Saint Joseph Hospital	1100 W. Steward Drive		Orange	CA	92868

Saint Joseph Hospital	3001 W. Martin Luther King Boulevard		Tampa	FL	33607
Saint Joseph Hospital	2900 N. Lake Shore Drive		Chicago	IL	60657
Saint Joseph Regional Health Center	2801 Franciscan Street		Bryan	TX	77802-2544
Saint Joseph's Hospital	1824 Murdoch Avenue		Parkersburg	WV	26102-0327
Saint Joseph's Hospital and Medical Center	350 West Thomas Road		Phoenix	AZ	85013
Saint Josephs Hospital / Marshfield Clinic	611 St. Joseph Avenue		Marshfield	WI	54449-1832
Saint Joseph's Hospital of Atlanta	5665 Peachtree Dunwoody Road		Atlanta	GA	30342
Saint Josephs Regional Medical Center – SB	801 East LaSalle Avenue		South Bend	IN	46617
Saint Louis University Hospital	3635 Vista at Grand		Saint Louis	MO	63110
Saint Luke's East – Lee's Summit	100 NE Saint Luke's Boulevard		Lee's Summit	MO	64086
Saint Luke's Hospital	1026 A Avenue, NE		Cedar Rapids	IA	52406-3026
Saint Luke's Hospital	4401 Wornall Road (MAHI 5th Floor)		Kansas City	MO	64111
Saint Luke's Northland	Saint Luke's Hospital	4401 Wornall Road	Kansas City	MO	64111

Saint Luke's Hospital	232 S. Woods Mill Road		Chesterfield	MO	63017-3417
Saint Luke's Regional Medical Center	190 E. Bannock Street		Boise	ID	83712-6241
Saint Margaret Mercy	5454 Hohman Avenue		Hammond	IN	46320
Saint Mary Corwin Medical Center	1008 Minnequa Avenue		Pueblo	CO	81004-3798
Saint Mary Mercy Hospital	36475 West Five Mile Road		Livonia	MI	48154
Saint Mary's Hospital	56 Franklin Street		Waterbury	CT	06706
Saint Mary's Hospital and Regional Medical Center	2635 N. 7th Street		Grand Junction	CO	81501-8209
Saint Mary's Medical Center	2900 First Avenue		Huntington	WV	25702
Saint Mary's Regional Medical Center	235 W. Sixth Street		Reno	NV	89503
Saint Mary's Medical Center	3700 Washington Avenue		Evansville	IN	47750
Saint Peter's Hospital	315 South Manning Boulevard		Albany	NY	12208
Saint Rita's Medical Center	730 West Market Street		Lima	OH	45801-4602
Saint Rose Dominican – Siena Campus	3001 St. Rose Parkway		Henderson	NV	89052
Saint Thomas Health Care Services	4220 Harding Road		Nashville	TN	37236

Saint Vincent Health Center	252 West 25th Street		Erie	PA	16544
Saint Vincent Hospital	123 Summer Street	Suite 270	Worcester	MA	01608
Saint Vincent Medical Center/Health Center	2 St. Vincent Circle		Little Rock	AR	72205
Saint Vincent's Medical Center	2800 Main Street		Bridgeport	CT	06606
Salem Hospital (Regional Health Services)	665 Winter Street SE		Salem	OR	97301-3919
Salina Regional Health Center	400 S. Santa Fe Avenue		Salina	KS	67401
Salinas Valley Memorial Hospital	450 E. Romie Lane		Salinas	CA	93901-4098
Salt Lake Regional Medical Center	1050 E South Temple		Salt Lake City	UT	84102
San Antonio Community Hospital	999 San Bernardino Road		Upland	CA	91786
San Francisco Heart and Vascular Institute	1900 Sullivan Avenue		Daly City	CA	94015
San Jacinto Methodist Hospital	4401 Garth Road		Baytown	TX	77521
San Joaquin Community Hospital	2615 Eye Street		Bakersfield	CA	93301
San Joaquin General Hospital	500 W. Hospital Road		French Camp	CA	95231
San Juan Regional Medical Center	801 W. Maple Street		Farmington	NM	87401

San Ramon Regional Medical Center	6001 Norris Canyon Road		San Ramon	CA	94583
Sanford USD Medical Center	900 East 54th Street		Sioux Falls	SD	57104
Santa Barbara Cottage Hospital	PO Box 689		Santa Barbara	CA	93102-0689
Santa Rosa Memorial Hospital	1165 Montgomery Drive PO Box 522		Santa Rosa	CA	95402
Sarasota Memorial Hospital	1700 S. Tamiami Trail		Sarasota	FL	34239
Satilla Heart Center	410 Darling Avenue		Waycross	GA	31501
Savoy Medical Center	801 Poincianna Street		Mamou	LA	70554
Scott and White Hospital	2401 South 31st Street		Temple	TX	76508
Scottsdale Healthcare Osborn	7400 E. Osborn Road		Scottsdale	AZ	85260
Scottsdale Healthcare Shea	9003 E. Shea Boulevard – Administration		Scottsdale	AZ	85260
Scottsdale Healthcare Thompson Peak	7400 E. Osborn Road		Scottsdale	AZ	85251
Scripps Green Hospital – La Jolla	10666 North Torrey Pines Road		La Jolla	CA	92037
Scripps Memorial Hospital Encinitas	354 Santa Fe Drive		Encinitas	CA	92024
Scripps Memorial Hospital – La Jolla	9888 Genesee Avenue	Mailstop LJ101	La Jolla	CA	92037
Scripps Mercy Hospital – San Diego	4077 5th Avenue	MER 74	San Diego	CA	92103

Scripps Mercy Hospital – Chula Vista	435 H Street		Chula Vista	CA	91910
Sebastian River Medial Center	13695 S. US Highway 1		Sebastian	FL	32958
Self Regional Healthcare	1325 Spring Street		Greenwood	SC	29646
Sentara Careplex Hospital	600 Gresham Drive		Norfolk	VA	23507
Sentara Leigh Hospital	600 Gresham Drive		Norfolk	VA	23507
Sentara Norfolk General Hospital	600 Gresham Drive		Norfolk	VA	23507
Sentara Obici Hospital	2800 Goodwin Boulevard		Suffolk	VA	23434
Sentara Virginia Beach General Hospital	1060 First Colonial Road		Virginia Beach	VA	23454-0685
Sequoia Hospital	Whipple & Alameda Avenues		Redwood City	CA	94062
Seton Medical Center	1201 W. 38th Street		Austin	TX	78705
Seton Medical Center Williamson	201 Seton Parkway		Round Rock	TX	78665
Shady Grove Adventist Hospital	9901 Medical Center Drive		Rockville	MD	20850
Shands Jacksonville Medical Center	655 West 8th Street		Jacksonville	FL	32209

Shannon Medical Center	120 E. Harris Avenue		San Angelo	TX	76903
Sharon Regional Health System	740 E. State Street		Sharon	PA	16146
Sharp Chula Vista Medical Center	8695 Spectrum Center Court		San Diego	CA	92123
Sharp Grossmont	5555 Grossmont Center Drive		La Mesa	CA	91942
Sharp Memorial Hospital	7901 Frost Street		San Diego	CA	92123
Shasta Regional Medical Center	1100 Butte Street		Redding	CA	96001
Shawnee Mission Medical Center	9100 West 74th Street		Shawnee Mission	KS	66204-4004
Shelby Baptist Medical Center	1000 First Street North		Alabaster	AL	35007
Sherman Hospital	1425 N. Randall Road		Elgin	IL	60123
Shore Health System of Maryland	219 South Washington Street		Easton	MD	21601
Sierra Medical Center	1625 Medical Center Drive		El Paso	TX	79902
Sierra Providence East Medical Center	1625 Medical Center Drive		El Paso	TX	79902
Sierra Vista Regional Medical Center	1010 S. Murray Avenue		San Luis Obispo	CA	93405
Silver Cross Hospital	1200 Maple Road		Joliet	IL	60432
Simi Valley Hospital & Health Care Services	2975 North Sycamore Drive		Simi Valley	CA	93065
Sinai – Grace	6071 W. Outer Drive		Detroit	MI	48235

Hospital					
Sinai Hospital of Baltimore	2401 West Belvedere Avenue		Baltimore	MD	21215-5271
Singing River Hospital	2809 Denny Avenue		Pascagoula	MS	39581
Sisters of Charity Hospital	515 Abbott Road		Buffalo	NY	14220
Skaggs Community Health Center	PO Box 650		Branson	MO	65615-0650
Skagit Valley Hospital Cardiac Cath Lab	1415 E. Kincaid Street		Mount Vernon	WA	98273
Skokie Hospital	9600 Gross Point Road	Cardiac Cath Lab	Skokie	IL	60076-1214
Sky Ridge Medical Center	10101 Ridgegate Parkway		Lone Tree	CO	80124
Skyline Medical Center/ HTI Memorial Hospital Corp.	3441 Dickerson Pike		Nashville	TN	37207
Somerset Hospital	225 South Center Avenue		Somerset	PA	15501-2088
South Baldwin Regional Medical Center	1613 N. McKenzie Street		Foley	AL	36535

South Bay Hospital	4016 Sun City Center Boulevard		Sun City Center	FL	33570
South Central Regional Medical Center	PO Box 607		Laurel	MS	39440
South Crest Hospital	8801 S. 101st Avenue E		Tulsa	OK	74133
South Fulton Medical Center	1170 Cleveland Avenue		East Point	GA	30344
South GA Medical Center	PO Box 1727		Valdosta	GA	31603-1727
South Lake Hospital	1099 Citrus Tower Boulevard		Clermont	FL	34711
South Miami Hospital	6200 SW 73rd Street		Miami	FL	33143
South Nassau Communities Hospital	One Healthy Way		Oceanside	NY	11572
South Shore Hospital	55 Fogg Road`		South Weymouth	MA	02190-2432
Southeast Alabama Medical Center	1108 Ross Clark Circle		Dothan	AL	36301
Southeast Baptist Hospital	730 North Main Avenue	Suite 409	San Antonio	TX	78205
Southeast Missouri Hospital	1701 Lacey Street		Cape Girardeau	MO	63701
Southern Hills Hospital	9300 West Sunset Road		Las Vegas	NV	89148
Southern Hills Medical Center	391 Wallace Road		Nashville	TN	37211

Southern New Hampshire Medical Center	8 Prospect Street		Nashua	NH	03060
Southern Ohio Medical Center	1805 27th Street		Portsmouth	OH	45662
Southern Regional Medical Center	11 Upper Riverdale Road SW		Riverdale	GA	30274
Southside Hospital	301 East Main Street		Bayshore	NY	11706
SouthView Hospital	1997 Miamisburg-Centerville Road		Dayton	OH	45459
Southwest General Health Center	18697 Bagley Road		Middleburg Heights	OH	44130-3417
Southwest General Hospital	7400 Barlite Boulevard		San Antonio	TX	78224
Southwest Medical Center	2810 Ambassador Caffrey Parkway		Lafayette	LA	70506
Southwest MS Regional Medical Center	303 Marion Avenue		McComb	MS	39648
Southwest Washington Medical Center	600 NE 92nd Avenue		Vancouver	WA	98664
Southwestern Medical Center	5602 SW Lee Boulevard		Lawton	OK	73505
Spalding Regional Medical Center	601 South 8th Street		Griffin	GA	30224
Sparks Regional Medical Center	1001 Towson Avenue		Fort Smith	AR	72917-7006

Sparrow Health System	1215 East Michigan Avenue		Lansing	MI	48909-7980
Spartanburg Regional Medical Center	101 East Wood Street	Cardiac Cath Lab / 3rd Floor Heart Center	Spartanburg	SC	29303
Spectrum Health	100 Michigan Street NE	MC 037, Rm 3825A	Grand Rapids	MI	49503-2560
Spring Branch Medical Center	8850 Long Point Road		Houston	TX	77055
Spring Valley Hospital	5400 S. Rainbow Boulevard		Las Vegas	NV	89118
Springhill Memorial Hospital	3719 Dauphin Street		Mobile	AL	36608
Springs Memorial Hospital	800 West Meeting Street		Lancaster	SC	29720
SSM St. Joseph Health Center	300 First Capitol Drive		St. Charles	MO	63301
St. Anthony Central Hospital	4231 W. 16th Avenue		Denver	CO	80204-1335
St. Anthony North Hospital	4231 W. 16th Avenue		Denver	CO	80204
St. James Hospital and Health Centers	3800 West 203rd Street Suite 207		Olympia Fields	IL	60461
St. Joseph Hospital	700 Broadway		Fort Wayne	IN	46802
St. Joseph Hospital-Oakland	44405 Woodward Avenue		Pontiac	MI	48341-5023
St. Joseph Medical Center	1717 South J Street		Tacoma	WA	98405-4933

St. Josephs Hospital	45 W. 10th street		St Paul	MN	55102
St. Joseph Hospital Health Center	301 Prospect Avenue		Syracuse	NY	13203
St. Luke's Cornwall Hospital	70 DuBois Street		Newburgh	NY	12550
St. Mary's Health Care Systems	1230 Baxter Street		Athens	GA	30606
St. Mary's Hospital	400 North Pleasant		Centralia	IL	62801
St. Mary's Regional Medical Center	305 S. 5th Street		Enid	OK	73701
St. Agnes Hospital	900 Caton Avenue		Baltimore	MD	21229
St. Agnes Hospital	430 E. Division Street		Fond du lac	WI	54935
St. Alexius Medical Center	1555 Barrington Road		Hoffman Estates	IL	60194-1018
St. Alphonsus Regional Medical Center	1055 N. Curtis Road		Boise	ID	83706
St. Anthony Hospital	1000 N. Lee Avenue		Oklahoma City	OK	73102
St. Anthony Memorial Health Centers	301 N. Homer Street	Cath Lab	Michigan City	IN	46360
St. Anthony's Health Care	1200 7th Avenue North	MS 2019	St. Petersburg	FL	33705
St. Anthony's Health Center	PO Box 340		Alton	Il	62002
St. Anthony's Medical Center	10010 Kennerly Road		St. Loius	MO	63128-2106

St. Barnabas Medical Center	94 Old Short Hills Road		Livingston	NJ	07039
St. Bernards Medical Center	225 E. Jackson Avenue		Jonesboro	AR	72401
St. Catherine Hospital East Chicago	1500 South Lake Park Avenue		Hobart	IN	46342
St. Catherine of Siena	50 Route 25A		Smithtown	NY	11787
St. Charles Hospital	200 Belle Terre Road		Port Jefferson	NY	11777
St. Charles Medical Center	2500 North East Neff Road		Bend	OR	97701-6015
St. Clair Hospital	St. Clair Hospital	1000 Bower Hill Road	Pittsburgh	PA	15243
St. Cloud Regional Medical Center	2906 17th Street		St. Cloud	FL	34769
St. David's Medical Center	919 East 32nd Street		Austin	TX	78765
St. David's South Austin Hospital	901 W. Ben White Boulevard		Austin	TX	78704
St. Dominic-Jackson Memorial Hospital	969 Lakeland Drive		Jackson	MS	39216
St. Edwards Mercy Medical Center	7301 Rogers Avenue		Ft. Smith	AR	72917-7000
St. Elizabeth Boardman	8401 Market Street		Boardman	OH	44512
St. Elizabeth Healthcare Florence	7380 Turfway Road		Florence	KY	41042
St. Elizabeth Hospital Medical Center	1501 Hartford Street		Lafayette	IN	47904

St. Elizabeth Medical Center	2209 Genesee Street		Utica	NY	13501
St. Francis Health Center	1700 SW 7th Street		Topeka	KS	66605
St. Francis Hospital	One St. Francis Drive		Greenville	SC	29601
St. Francis Hospital	333 Laidley Street	PO Box 44 Culloden, WV 25510	Charleston	WV	25322
St. Francis Hospital	100 Port Washington Boulevard		Roslyn	NY	11576
St. Francis Medical Center	211 Saint Francis Drive		Cape Girardeau	MO	63703-5049
St. Francis Medical Center	601 Hamilton Avenue		Trenton	NJ	08629
St. Helena Hospital	10 Woodland Road		St. Helena	CA	94574
St. John Medical Center	1923 S. Utica Avenue	Heart Institute Education/ Research	Tulsa	OK	74104
St. John Medical Center	1615 Delaware Street		Longview	WA	98632
St. John Providence Hospital	16001 W. Nine Mile Road		Southfield	MI	48075
St. John West Shore Hospital	29000 Center Ridge Road		Westlake	OH	44145
St. John's Hospital	800 E. Carpenter Street		Springfield	IL	62769
St. John's Hospital	1235 East Cherokee Street		Springfield	MO	65804

St. Johns Regional Medical Center	2727 McClelland Boulevard		Joplin	MO	64804
St. Johns Regional Medical Center	1600 N. Rose Avenue		Oxnard	CA	93030-3722
St. Joseph Hospital	2700 Dolbeer Street		Eureka	CA	95501
St. Joseph Hospital	1 Saint Joseph Drive		Lexington	KY	40504
St. Joseph Hospital	172 Kinsley Street		Nashua	NH	03060
St. Jospeh Hospital	2901 Squalicum Parkway		Bellingham	WA	98225
St. Joseph Hospital	360 Broadway		Bangor	ME	04401
St. Joseph Medical Center	2200 E. Washington Street		Bloomington	IL	61701
St. Joseph Medical Center	12th & Walnut Streets		Reading	PA	19603
St. Joseph Medical Center	1401 St. Joseph Parkway		Houston	TX	77002
St. Joseph Medical Center	7601 Olser Drive		Towson	MD	21204
St. Joseph Mercy Hospital	5325 Elliot Drive		Ann Arbor	MI	48106
St. Joseph Regional Medical Center	801 E. Lasalle Avenue		South Bend	IN	46617
St. Joseph Regional Medical Center	703 Main Street		Paterson	NJ	07503
St. Joseph's Hospital	11705 Mercy Boulevard		Savannah	GA	31419
St. Joseph's Hospital	4211 Van Dyke Road		Lutz	FL	33558

– North (Baycare Health					
St. Joseph's Hospital	350 N. Wilmot Road		Tucson	AZ	85711
St. Joseph's Medical Center	127 S. Broadway		Yonkers	NY	10701
St. Josephs Medical Center of Stockton	1800 North California Street		Stockton	CA	95204
St. Josephs Mercy Health Center	300 Werner Drive		Hot Springs	AR	71913
St. Jude Medical Center	101 East Valencia Mesa		Fullerton	CA	92835
St. Luke's Baptist Hospital	730 North Main Avenue	Suite 409	San Antonio	TX	78205
St. Luke's Community Medical Center (The Woodlands)	17200 St. Luke's Way		The Woodlands	TX	77384
St. Luke's Episcopal Hospital	3100 Main Street	MC5-313	Houston	TX	77030
St. Lukes Hospital	363 Highland Avenue		Falls River	MA	02720
St. Lukes Hospital	5901 Monclova Road		Maumee	OH	43537
St. Luke's Hospital	915 E. First Street		Duluth	MN	55805
St. Luke's Hospital & Health Network	801 Ostrum Street	St. Luke's Hospital & Health Network	Bethlehem	PA	18015
St. Luke's Hospital and Health Network (Allentown Campus)	801 Ostrum Street	St. Luke's Hospital & Health	Bethlehem	PA	18015

		Network			
St. Luke's Lakeside Hospital	3100 Main Street 647D	MC 5-313	Houston	TX	77002
St. Luke's Medical Center	2901 West Oklahoma Avenue		Milwaukee	WI	53215-4330
St. Luke's Medical Center	1800 E. Van Buren Street		Phoenix	AZ	85006
St. Luke's Regional Medical Center	2720 Stone Park Boulevard		Sioux City	IA	51104
St. Luke's South Hospital	Saint Luke's Hospital	4401 Wornal Road	Kansas City	MO	64111
St. Luke's Sugar Land Hospital	3100 Main Street Suite 647D		Houston	TX	77002
St. Luke's-Roosevelt Hospital Center	1111 Amsterdam Avenue		New York City	NY	10025
St. Mark's Hospital/ Northern Utah Healthcare Corporation	1200 East 3900 South		Salt Lake City	UT	84124
St. Mary Hospital	1201 Langhorne Newton Road		Langhorne	PA	19047
St. Mary Medical Center	18300 Highway 18		Appple Valley	CA	92307
St. Mary Medical Center	1050 Linden Avenue		Long Beach	CA	90813-3321
St. Mary Medical Center	1500 South Lake Park Avenue		Hobart	ID	46342
St. Mary of Nazareth Hospital Center	2233 W. Division Street		Chicago	IL	60622

St. Mary's Health Center	6420 Clayton Road		St. Louis	MO	63117
St. Mary's Hospital	1800 East Lake Shore Drive		Decatur	IL	62521
St. Mary's Hospital	700 S. Park Street		Madison	WI	53715-1849
St. Mary's Hospital (Passaic)	350 Boulevard		Passaic	NJ	07055
St. Mary's Medical Center	450 Stanyan Street		San Francisco	CA	94117
St. Mary's Medical Center	901 45th Street		West Palm Beach	FL	33407
St. Mary's Medical Center	400 East Third Street		Duluth	MN	55805
St. Mary's Medical Center	900 E. Oak Hill Avenue		Knoxville	TN	37917
St. Mary's of Michigan	800 S. Washington Avenue		Saginaw	MI	48601
St. Mary's Regional Medical Center	PO Box 291 Campus Avenue		Lewiston	ME	04243-0291
St. Michael's Medical Center	111 Central Avenue		Newark	NJ	07102
St. Patrick Hospital and Health Sciences Center	500 W. Broadway		Missoula	MT	59802
St. Rose Dominican – De Lima Campus	102 E. Lake Mead Boulevard		Henderson	NV	89015
St. Rose Hospital	27200 Calaroga Avenue		Hayward	CA	94539
St. Tammany Parish	1202 S. Tyler Street		Covington	LA	70433

Hospital					
St. Vincent Charity Hospital	2351 East 22nd Street		Cleveland	OH	44115
St. Vincent Healthcare	1233 N. 30th Street		Billings	MT	59101
St. Vincent Hospital	2660 10th Avenue South #738		Birmingham	AL	35205
St. Vincent Hospital	835 S. Van Buren Street		Green Bay	WI	54301
St. Vincent Medical Center	2131 W. 3rd Street		Los Angeles	CA	90703
St. Vincent's Medical Center	1800 Barrs Street		Jacksonville	FL	32204
St.Vincent's East	50 Medical Park East Drive		Birmingham	AL	35235-3499
Stamford Hospital Health Sciences Library	30 Shelbourne Road PO Box 9317		Stamford	CT	06904-9317
Staten Island University Hospital	475 Seaview Avenue		Staten Island	NY	10305
Stone Crest Medical Center	200 Stonecrest Boulevard		Smyrna	TN	37167
Stony Brook University Medical Center	3 Technology Drive		East Setauket	NY	11733-4073
Stormont-Vail Regional Medical Center	929 SW Mulvane Street		Topeka	KS	66606
Straub Clinic & Hospital: Cath Lab	888 S. King Street		Honolulu	HI	96813
Stringfellow Memorial Hospital	301 East 18th Street		Anniston	AL	36202

Suburban Hospital	8600 Old Georgetown Road		Bethesda	MD	20814
Summerlin Hospital Medical Center	657 Town Center Drive		Las Vegas	NV	89144
Summit Medical Center	5655 Frist Boulevard		Hermitage	TN	37076
Sunrise Hospital and Medical Center	3186 S. Maryland Parkway		Las Vegas	NV	89109
Sutter Delta Medical Center	3901 Lone Tree Way		Antioch	CA	94509
Sutter Medical Center – Sacramento	3528 Eisenhower Drive		Sacramento	CA	95826
Sutter Medical Center of Santa Rosa	3325 Chanate Road		Santa Rosa	CA	95404
Sutter Roseville Medical Center	One Medical Plaza		Roseville	CA	95661
Swedish American Hospital	1401 E. State Street		Rockford	IL	61104
Swedish Covenant Hospital	5145 N. California Avenue		Chicago	IL	60625
Swedish Health Services	500 17th Avenue #A85C		Seattle	WA	98104
Swedish Medical Center	501 East Hampden Avenue		Englewood	CO	80113
T. J. Samson Community Hospital	1301 North Race Street		Glasgow	KY	42141
Tacoma General Hospital	315 Martin Luther King, Jr. Way		Tacoma	WA	98415
Tahlequah City Hospital	1400 East Downing Street		Tahlequah	OK	74465-1008

Tallahassee Memorial Hospital	1300 Miccosukee Road	Attn: Performance Improvement	Tallahassee	FL	32308
Tampa General Hospital	1 Tampa General Circle		Tampa	FL	33601-1289
Temple University Hospital	3401 North Broad Street	1 PP Cardiology	Philadelphia	PA	19140
Terre Haute Regional Hospital	3901 South 7th Street		Terre Haute	IN	47802
Terrebonne General Medical Center	8166 Main Street		Houma	LA	70360
Texas Health Presbyterian Hospital Plano	6200 West Parker Road		Plano	TX	75093-7914
Texoma Medical Center	8701 Broadway		Merrillville	IN	46410
TexSAn Heart Hospital	6700 IH-10 West		San Antonio	TX	78201-2009
The Christ Hospital	2139 Auburn Avenue		Cincinnati	OH	45219
The George Washington University Hospital	900 23rd Street, NW		Washington	DC	20037
The Good Samaritan Hospital	PO Box 1281	4th and Walnut Streets	Lebanon	PA	17042
The Heart Hospital at Deaconess Gateway, LLC	600 Mary Street		Evansville	IN	47747

The Heart Hospital Baylor Plano	1100 Allied Drive		Plano	TX	75093
The Heart Hospital of Northwest Texas	1501 S. Coulter Street	PO Box 1110	Amarillo	TX	79175
The Hospital at Westlake Medical Center	5656 Bee Caves Road M-302		Austin	TX	78746
The Hospital of West Central Connecticut	100 Grand Street PO Box 100		New Britain	CT	06050
The Indiana Heart Hospital	8075 North Shadeland Avenue		Indianapolis	IN	46250
The Medical Center (TMC)	1000 Dutch Ridge Road		Beaver	PA	15009
The Medical Center of Southeast Texas	2555 Jimmy Johnson Boulevard		Port Arthur	TX	77640
The Methodist DeBakey Heart Center	6565 Fannin Street		Houston	TX	77030
The Monroe Clinic	515 22nd Avenue		Monroe	WI	53566
The Mount Sinai Medical Center	1 Gustave L Levy Place		New York	NY	10029
The Nebraska Medical Center	987551 Nebraska Medical Center		Omaha	NE	68198-7551
The Ohio State University Medical Center	410 W. 10th Avenue	142 Doan Hall	Columbus	OH	43210
The Reading Hospital and Medical Center	Sixth Avenue and Spruce Street		West Reading	PA	19611

The Surgery Center on Soncy	3501 Soncy Road Suite 118		Amarillo	TX	79119
The Toledo Hospital	2142 North Cove Boulevard	Jobst Tower Suite 200	Toledo	OH	43606
The Uniontown Hospital	500 West Berkeley Street		Uniontown	PA	15401
The Valley Hospital	223 North Van Dien Avenue		Ridgewood	NJ	07450
The Village Regional Hospital	600 East Dixie Avenue		Leesburg	FL	34748
The Washington Hospital	155 Wilson Avenue		Washington	PA	15301-3398
The Western Pennsylvania Hospital	4800 Friendship Avenue	CVI	Pittsburgh	PA	15224
Thomas Hospital	750 Morphy Avenue		Fairhope	AL	36532
Thomas Jefferson University Hospital	TJUH	111 S. 11th Street Gibbon Building	Philadelphia	PA	19107
Tift Regional Medical Center	PO Box 747	901 E. 18th Street	Tifton	GA	31794
Timpanogos Regional Hospital	750 W. 800 S.		Orem	UT	84057
Tobey Hospital	363 Highland Avenue		Fall River	MA	
Tomball Regional Hospital	605 Holderrieth Boulevard		Tomball	TX	77375
Torrance Memorial Medical Center	3330 Lomita Boulevard		Torrance	CA	90505

Tri-City Medical Center	3909 Waring Road		Oceanside	CA	92056
Trident Regional Medical Center	9330 Medical Plaza Drive		Charleston	SC	29406
Trinity Hospitals	PO Box 5020		Minot	ND	58702
Trinity Medical Center	Attn: CardioVascular Services	800 Montclair Road	Birmingham	AL	35213
Trinity Medical Center West	4000 Johnson Road		Steubenville	OH	43952
Trinity Regional Medical Center	802 Kenyon Road		Ft. Dodge	IA	50501
Trinity Regional Medical Center	2701 17th Street		Rock Island	IL	61201
Truman Medical Centers	2301 Holmes Street		Kansas City	MO	64108
Tucson Heart Hospital	4888 North Stone Avenue		Tucson	AZ	85704
Tucson Medical Center	5301 E. Grant Road		Tucson	AZ	85712
Tufts Medical Center	750 Washington Street		Boston	MA	02111
Tulane Medical Center	1415 Tulane Avenue		New Orleans	LA	70112
Tuomey Healthcare System Tuomey Regional Medical Center	129 N. Washington Street		Sumter	SC	29150

UC San Diego Medical Center	200 W. Arbor Drive		San Diego	CA	92103
UMASS Memorial Medical Center	55 Lake Ave North		Worcester	MA	01655-0002
Union Hospital	106 Bow Street		Elkton	MD	21921
Union Memorial Hospital	201 E. University Parkway		Baltimore	MD	21218-2891
United Health Services Hospitals/Wilson Regional Medical Center	33 – 57 Harrison Street	Decker 4 Lobby	Johnson City	NY	13790
United Hospital	333 N. Smith Avenue		St. Paul	MN	55102
United Hospital Center, Inc.	PO Box 1680		Clarksburg	WV	53143
United Hospital System	6308 8th Avenue		Kenosha	WI	53143
United Regional Healthcare System	1600 11th Street		Wichita Falls	TX	76301
Unity Health Center	1102 West MacArthur		Shawnee	OK	74804
Unity Hospital	550 Osbourne Road NE		Minneapolis	MN	55432
Unity Hospital	1555 Long Pond Road		Rochester	NY	14626
University Community Hospital	3100 East Fletcher Avenue		Tampa	FL	33613
University Community Hospital Carrollwood Campur	3100 East Fletcher Avenue		Tampa	FL	33613

University of Alabama Hospital	620 19th Street South		Birmingham	AL	35249
University Hospital	234 Goodman Street		Cincinnati	OH	45219
University Hospitals Bedford Medical Center	44 Blaine Avenue		Bedford	OH	44146
University Hospital	1350 Walton Way		Augusta	GA	30901
University Hospitals Case Medical Center	11100 Euclid Avenue		Cleveland	OH	44106
University Hospitals Geauga Medical Center	13207 Ravenna Road		Chardon	OH	44024
University Hospitals Richmond Medical Center	27100 Chardon Road		Richmond Heights	OH	44143
University Hospital UMDNJ	150 Bergen Street		Newark	NJ	07101
University Medical Center	1501 N. Campbell Avenue		Tucson	AZ	85724
University Medical Center	1411 Baddour Parkway		Lebanon	TN	37087
University Medical Center	602 Indiana Avenue		Lubbock	TX	79410
University Medical Center LSU	2390 W. Congress Street		Lafayette	IA	70506
University Medical Center Southern Nevada	1800 W. Charleston Boulevard		Las Vegas	NV	89102

University Medical Center of El Paso	4815 Alameda Avenue		El Paso	TX	79905
University of Arkansas Medical Sciences	4301 West Markham Street Suite 532		Little Rock	AR	72205
University of California, Irvine	101 The City Drive		Orange	CA	92868
University of California (Santa Monica)	1250 16th Street		Santa Monica	CA	90404
University of California (UCLA)	757 Westwood Boulevard	Room 2412	Los Angeles	CA	90095
University Of California Davis Medical Center	2315 Stockton Boulevard Main Hospital, Rm 6312		Sacramento	CA	95817
University of California San Francisco Medical Center	350 Parnassus Avenue Suite 404 Box 0447		San Franciso	CA	94143-0447
University of Chicago Hospitals	5841 S. Maryland Avenue	University of Chicago Medical Center	Chicago	IL	60637
University of Colorado Hospital Authority	12401 E. 17th Avenue	Mailstop B-132	Aurora	CO	80045
University of CT Health Center/John Dempsey Hospital	263 Farmington Avenue		Farmington	CT	06030

University of Florida (Shands)College of Medicine	1600 SW Archer Road		Gainesville	FL	32610
University of Illinois Medical Center at Chicago	1740 W. Taylor Street	Building 949 Room 2181	Chicago	IL	60610
University of Iowa Hospitals and Clinics	200 Hawkins Drive	UIHC UI Heart	Iowa City	IA	52242
University of Kentucky	800 Rose Street		Lexington	KY	40536
University of Louisville Hospital	530 S. Jackson Street		Loiusville	KY	40202
University of Maryland Medical Center Cardiology	22 S. Greene Street		Baltimore	MD	21201-1544
University of Miami	1400 NW 12th Street		Miami	FL	33136
University of Minnesota Medical Center Fairview	420 Delaware Street SE MMC 815		Minneapolis	MN	55455
University of Mississippi Medical Center	2500 N. State Street		Jackson	MS	39216
University of Missouri Hospital and Clinics	1 Hospital Drive C4003		Columbia	MO	65212
University of New Mexico Hospital	2211 Lomas Boulevard		Albuquerque	NM	87106
University of North Carolina Hospitals	UNC Hospitals	101 Manning Drive	Chapel Hill	NC	27514

		CB#7075			
University of Rochester Medical Center	601 Elmwood Avenue		Rochester	NY	14642
University of Tennessee Medical Center	1924 Alcoa Highway	Box 95	Knoxville	TN	37920-6999
University of Texas Medical Branch at Galveston	301 University Boulevard		Galveston	TX	77555-0294
University of Texas Southwestern-University Hospital	5323 Harry Hines Boulevard		Dallas	TX	75390-9013
University of Toledo Medical Center	3065 Arlington Avenue	DH2261	Toledo	OH	43614
University of Utah Hospitals and Clinics	50 North Medical Drive	4040b	Salt Lake City	UT	84132
University of Virginia Medical Center	2441 Barringer West Complex	PO Box 800134	Charlottesville	VA	22908-0679
University of Washington Medical Center	1959 NE Pacific Street		Seattle	WA	98195-6422
University of Wisconsin Hospital & Clinics	600 Highland Avenue MC 3204		Madison	WI	53792
University Physicians HealthCare	2800 E. Ajo Way		Tucson	AZ	85713
UPMC Mercy	1400 Locust Street		Pittsburgh	PA	15219

UPMC Passavant Hospital	9100 Babcock Boulevard		Pittsburgh	PA	15237
UPMC Presbyterian Hospital	461 Baum Road	2nd Floor	Pittsburgh	PA	15213
UPMC Shadyside Hospital	461 Baum Road	2nd Floor	Pittsburgh	PA	15213
Upper Chesapeake Medical Center, Inc.	500 Upper Chesapeake Drive		Bel Air	MD	21014
Upstate Medical University (SUNY)	750 East Adams Street		Syracuse	NY	13120
USC University Hospital	1500 San Pablo Street		Los Angeles	CA	90033
Utah Valley Regional Medical Center	1034 S. 500 W		Provo	UT	84605
Val Verde Regional Medical Center	801 Bedell Avenue		Del Rio	TX	78840
Valley Baptist Medical Center	2101 Pease Street		Harlingen	TX	78550
Valley Care Medical Center	1111 East Stanley Boulevard		Livermore	CA	94550
Valley Hospital Medical Center	620 Shadow Lane		Las Vegas	NV	89106
Valley Medical Center	400 South 43rd Street		Renton	WA	98058
Valley Presbyterian Hospital	15107 Vanowen Street		Van Nuys	CA	91405
Valley Regional Medical Center	Valley Regional Medical Center	100A East Alton Gloor Boulevard	Brownsville	TX	78526

Vanderbilt Heart Institute	1215 21st Avenue	MCE 5th floor	Nashville	TN	37232
Vassar Brothers Medical Center	45 Reade Place		Poughkeepsie	NY	12601
Vaughan Regional Medical Center	1015 Medical Center Parkway		Selma	AL	36701
VCU-Medical College of Virginia	PO Box 980036		Richmond	VA	23298
Venice Regional Medical Center	540 The Rialto		Venice	FL	34285
Verde Valley Medical Center	269 South Candy Lane		Cotttonwood	AZ	86326
Verdugo Hills Hospital	1812 Verdugo Boulevard		Glendale	CA	91208
Via Christi Wichita Health Network	929 N. St. Francis Street		Wichita	KS	67214
Ville Platte Medical Center	800 East Main Street		Ville Platte	LA	70586
Virginia Hospital Center	1701 N. George Mason Drive		Arlington	VA	22205-3698
Virginia Mason Medical Center	1100 Ninth Avenue	X3-CVL	Seattle	WA	98111
WakeMed Cary Hospital	3218 Smoketree Court		Raleigh	NC	27604
WakeMed Raleigh Campus	3218 Smoketree Court		Raleigh	NC	27604
Walker Regional Medical Center	3400 Highway 78 E		Jasper	AL	35501

Washington Adventist Hospital	7600 Carroll Avenue		Takoma Park	MD	20912
Washington County Hospital	251 East Antietam Street		Hagerstown	MD	21740
Washington Hospital	2000 Mowry Avenue		Fremont	CA	94538
Washington Hospital Center	110 Irving Street NW Rm 5A14		Washington	DC	20010
Washington Regional Medical Center	1125 N College Avenue		Fayetteville	AR	72703-1994
Waterbury Hospital	PO Box 2153		Waterbury	CT	06722-2153
Watsonville Community Hospital	75 Nielson Street		Watsonville	CA	75076
Waukesha Memorial Hospital	N-17 W24100 Riverwood Drive		Waukesha	WI	53188-1187
Weatherford Regional Medical Center	713 East Anderson Street		Weatherford	TX	76086
Weiss Memorial Hospital	4646 N. Marine Drive		Chicago	IL	60640
Wellmont Holston Valley Medical Center	130 W Ravine Road		Kingsport	TN	37660
Wellstar Cobb Hospital	677 Church Street		Marietta	GA	30066
Wellstar Kennestone Hospital	677 Church Street		Marietta	GA	30066
Wesley Medical Center	550 N. Hillside Street		Wichita	KS	67214
West Florida Hospital	8383 North Davis Highway		Pensacola	FL	32514
West Georgia Medical Center	1514 Vernon Road		LaGrange	GA	30240

West Hills Hospital	7300 Medical Center Drive		West Hills	CA	91307
West Houston Medical Center	12141Richmond Avenue		Houston	TX	77082
West Jefferson Medical Center	1101 Medical Center Boulevard		Marrero	LA	70072
West Penn Hospital Forbes Regional Campus	2570 Haymaker Road		Monroeville	PA	15146
West Suburban Medical Center	3 Erie Court		Oak Park	Il	60302
West Valley Hospital	13677 W. McDowell Road		Goodyear	AZ	85338
West Virginia University Hospitals, Inc.	PO Box 8003	Medical Center Drive	Morgantown	WV	26506-8003
Westchester County Medical Center	95 Grasslands Road Suite 114		Valhalla	NY	10595
Western Arizona Regional Medical Center	2735 Silver Creek Road		Bullhead City	AZ	86442
Western Baptist Hospital	2501 Kentucky Avenue		Paducah	KY	42003
Western Maryland Health System Regional Medical Center	12500 Willowbrook Road	Third Floor Interventional Cardiology	Cumberland	MD	21502-1850
Western Medical Center Santa Ana	1001 North Tustin Avenue		Santa Ana	CA	92705
Western Plains Medical Center	3001 Avenue A		Dodge City	KS	67801

Westside Regional Medical Center	8201 West Broward Boulevard		Plantation	FL	33324
Wheaton Franciscan Healthcare-All Saints, Inc.	WFHC Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheaton Franciscan Healthcare-St. Francis, Inc.	WFHC Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheaton Franciscan Healthcare-St. Joseph, Inc.	WFH Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheaton Franciscan - The Wisconsin Heart Hospital Center	WFH Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheeling Hospital	1 Medical Park		Wheeling	WV	26003
White County Medical Center	3214 E. Race Avenue		Searcy	AR	72143
White Memorial Medical Center	1720 Cesar E. Chavez Avenue		Los Angeles	CA	90033
White River Medical Center	1710 Harrison Street		Batesville	AR	72501
William Beaumont Hospital	54373 Samara Drive		Macomb	MI	48042-2213
William Beaumont Hospital – Troy	44201 Dequindre Road		Troy	MI	48085

William W. Backus Hospital	326 Washington Street		Norwich	CT	06360
Willis-Knighton Pierremont	2600 Greenwood Road		Shreveport	LA	71103
Willis-Knighton Medical Center	2600 Greenwood Road		Shreveport	LA	71103
Wilson Memorial Hospital	915 West Michigan Street		Sidney	OH	45365
Wilson N. Jones Medical Center	500 N Highland Avenue		Sherman	TX	75092
Winchester Medical Center Inc.	220 Campus Boulevard	Suite 313	Winchester	VA	22601
Winter Haven Hospital	20005 Avenue F Northeast		Winter Haven	FL	33881
Winthrop University Hospital	19600 E. 39th Street		Independence	MO	64057
Wise Regional Health System	609 Medical Center Drive		Decatur	TX	76234
Woman's Christian Association Hospital	207 Foote Avenue		Jamestown	NY	14701
Woodland Healthcare	1325 Cottonwood Street		Woodland	CA	95695
Woodland Heights Medical Center	505 S. John Redditt Drive		Lufkin	TX	75904
Wooster Community Hospital	1761 Beall Avenue		Wooster	OH	44691
Wuesthoff Health System	110 Longwood Avenue		Rockledge	FL	32956-5002

Wyckoff Heights Medical Center	374 Stockholm Street	Division of Cardiology - 3rd Floor	Brooklyn	NY	11237
Wyoming Medical Center	1233 East 2nd street		Casper	WY	82601-2988
Wyoming Valley Health Care System	575 North River Street		Wilkes-Barre	PA	18764
Yakima Regional Medical Center/Cardiac Center	110 S. 9th Avenue		Yakima	WA	98902
Yakima Valley Memorial Hospital	2811 Tieton Drive		Yakima	WA	98902
Yale New Haven Hospital	20 York Street		New Haven	CT	06510
Yavapai Regional Medical Center	1003 Willow Creek Road		Prescott	AZ	86301
York Hospital	15 Hospital Drive		York	ME	03909
York Hospital	1001 South George Street		York	PA	17405
Yuma Regional Medical Center	2400 S. Avenue A		Yuma	AZ	85364

Addendum X

Active CMS Coverage-Related Guidance Documents [January Through March 2010]

On September 24, 2004, we published a notice in the **Federal Register** (69 FR 57325), in which we explained how we would develop coverage-related guidance documents. These guidance documents are required under section 731 of the MMA. In our notice, we committed to the public that, "At regular intervals, we will update a list of all guidance documents in the **Federal Register**."

Addendum X includes a list of active CMS guidance documents as of the ending date of the period covered by this notice. To obtain full-text copies of these documents, visit the CMS Coverage Web site at *http://www.cms.hhs.gov/mcd/index_list.asp?list_type=mcd_1.*

Document Name: Factors CMS Considers in Commissioning External Technology Assessments.

Date of Issuance: April 11, 2006.

Document Name: Factors CMS Considers in Opening a National Coverage Determination.

Date of Issuance: April 11, 2006.

Document Name: (Draft) Factors CMS Considers in Referring Topics to the Medicare Coverage Advisory Committee.

Date of Issuance: March 9, 2005.

Document Name: National Coverage Determinations with Data Collection as a Condition of Coverage: Coverage With Evidence Development.

Date of Issuance: July 12, 2006.

Addendum XI

List of Special One-Time Notices Regarding National Coverage Provisions [January Through March 2010]

As medical technologies, the contexts under which they are delivered, and the health needs of Medicare beneficiaries grow increasingly complex, our national coverage determination (NCD) process must adapt to accommodate these complexities. As part of this adaptation, our national coverage decisions often include multi-faceted coverage determinations, which may place conditions on the patient populations eligible for coverage of a particular item or service, the providers who deliver a particular service, or the methods in which data are collected to supplement the delivery of the item or service (such as participation in a clinical trial).

We outline these conditions as we release new or revised NCDs. However, details surrounding these conditions may need to be shared with the public as "one-time notices" in the **Federal Register**. For example, we may require that a particular medical service may be delivered only in the context of a CMS-recognized clinical research study, which was not named in the NCD itself. We would then use Addendum XI of this notice, along with our coverage Web site at *http://www.cms.hhs.gov/coverage*, to provide the public with information about the clinical research study that it ultimately recognizes.

Addendum XI includes any additional information we may need to share about the conditions under which an NCD was issued as of the ending date of the period covered by this notice.

There were no Special One-Time Notices Regarding National Coverage Provisions published this quarter.

Addendum XII—National Oncologic PET Registry (NOPR)

In January 2005, we issued our decision memorandum on positron emission tomography (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the Registry. The following facilities have met the CMS's requirements for performing PET scans under National Coverage Determination CAG–00181N.

Facility Name	Provider Number	Date Approved	State	Other Information
Barnes-Jewish Hospital Barnes-Jewish Plaza Mailstop # 90-72-374 St. Louis, MO 63110	E40080o	03/07/2006	MO	
Duke University Medical Center PET Facility Room 0402 Duke So. Durham, NC 27710	34003	03/07/2006	NC	Yellow Zone Box 3949
VCU Health System-Molecular Imaging Center Dept of Nuclear Medicine - North Hospital 7th Floor Richmond, VA 23298	490032	03/07/2006	VA	1300 East Marshall-PO Box 980001
Acadiana Oncologic Imaging 2311 Kaliste Saloom Lafayette, LA 70508	5CA64	03/06/2006	LA	
Adler Institute for Advanced Imaging 261 Old York Road Suite 106 Jenkintown, PA 19046		03/07/2006	PA	
Advanced Medical Imaging San Saba 215 N San Saba Suite 107 San Antonio, TX 78207	00BC90	03/07/2006	TX	
Advanced Medical Imaging Stone Oak 540 Oak Centre Suite 100 San Antonio, TX 78258	00BC90	03/07/2006	TX	
Advanced Radiological PET Imaging, PC 2334 30th Avenue Astoria, NY 11102	05677	03/07/2006	NY	Lower Level

Akron Regional PET Scan, LLC 3009 Smith Road Suite 350 Akron, OH 44333	AKID01691	03/07/2006	OH	
American Radiology Services-Owings Mills 21 Crossroads Drive, Suite 100 Owings Mills, MD 21117	434L	03/07/2006	MD	
American Radiology Services-Bethesda 6430 Rockledge Drive, Suite 100 Bethesda, MD 20817	G00000	03/07/2006	MD	
American Radiology Services-Waldorf 3510 Old Washington Road Suite 101 Waldorf, MD 20602	435L	03/07/2006	MD	
American Radiology Services-Columbia 8820 Columbia Parkway 100 Columbia, MD 21045	434L	03/07/2006	MD	
American Radiology Services-Frederick 141 Thomas Johnson Drive Suite 170 Frederick, MD 21702	435L	03/07/2006	MD	
American Radiology Services-Timonium 2080 York Road Suite 160 Timonium, MD 21093	434L	03/07/2006	MD	
Angel Williamson Imaging Center- Ft. Walton Beach 1013-D Mar-Walt Drive Ft. Walton Beach, FL 32547	39953A	03/07/2006	FL	

Angel Williamson Imaging Center-Pensacola 5120 Bayou Boulevard Suite 9 Pensacola, FL 32503	39953	03/07/2006	FL	
Edison Imaging Center 3900 Park Avenue Suite 107 Edison, NJ 08820	AS008835	03/07/2006	NJ	
Avon Medical Diagnostic Center 1480 Center Road Suite C Avon, OH 44011	MC4039571	03/07/2006	OH	
Baltimore Imaging Centers 3708 Mountain Road Pasadena, MD 21122	H476	03/07/2006	MD	
Baptist Hospital PET/CT 1000 West Moreno Street Pensacola, FL 32501	100093	03/07/2006	FL	
Bethesda Health City 2623 S Seacrest Boulevard Boynton Beach, FL 33435	40237	03/07/2006	FL	
PET/CT Imaging at White Marsh 9900 Franklin Square Drive Suite D Nottingham, MD 21236	FMNX01	03/07/2006	MD	
Biomedical Research Foundation PET Imaging Center 1505 Kings Highway Shreveport, LA 71103	5D914	03/07/2006	LA	

BodyScan of Louisville LLC 807 Shelbyville Road Suite 201 Louisville, KY 40222	9372701	03/07/2006	KY	
Bradley Regional PET Imaging Cleveland, TN 37311	3373976	03/07/2006	TN	2305 Chambliss Ave NW
PET Imaging Institute of NJ 1608 Rte 88 West Suite 302 Brick, NJ 08724	070684	03/07/2006	NJ	
Broward PET Imaging Center, LLC 4850 W. Oakland Park Boulevard Suite A Fort Lauderdale, FL 33313	E5709	03/07/2006	FL	
Camelback Imaging 15215 S. 48th Street, #110 Phoenix, AZ 85044	100488	03/07/2006	AZ	
California Imaging and Treatment Center 3000 Oak Road, #111 Walnut Creek, CA 95497	ZZZ27175Z	03/07/2006	CA	
Cancer Care Centers of Brevard 1430 S Pine Street Melbourne, FL 32901	39835	03/07/2006	FL	
Center for Medical Imaging-Florida Hospital. 1922 Salk Avenue Tavares, FL 32778	100057	03/07/2006	FL	

Cancer Center of Colorado Springs 320 E. Fontanero Suite 200 Colorado Springs, CO 80907	79804	03/07/2006	CO	
Centro Sononuclear de Rio Piedras 1028 Los Angeles Street. San Juan, PR 00926	83910	03/07/2006	PR	
Chattanooga Imaging East 1710 Gunbarrel Road Chattanooga, TN 37421	3716643	03/07/2006	TN	
Chester County PET Associates 701 East Chester Marshall Street West Chester, PA 19380	085698	03/07/2006	PA	
Cincinnati PET Scan, LLC-Kenwood 7730 Montgomery Road Suite 120 Cincinnati, OH 45236	311754291	03/07/2006	OH	
Cincinnati PET Scan, LLC Monfort Heights 5575 Cheviot Road Cincinnati, OH 45247	311754291	03/07/2006	OH	
Clinical PET of Hernando 4003 Mariner Boulevard Spring Hill, FL 34609	L13228	03/07/2006	FL	
Clinical PET of Citrus 6140 W Corporate Oaks Drive Crystal River, FL 34429	U0121	03/07/2006	FL	

Clinical PET of Lake City 484 SW Commerce Drive Suite 145 Lake City, FL 32025	V2683	03/07/2006	FL	
Clinical PET of Ocala 3143 SW 32nd Avenue, Suite 100 Ocala, FL 34474	E7179	03/07/2006	FL	
Columbus Regional Hospital 2400 East 17th Street Columbus, IN 47201	150112	03/07/2006	IN	
Concord Imaging 18802 Meisner Drive San Antonio, TX 78258	00126Z	03/07/2006	TX	
Dartmouth Hitchcock Medical Center One Medical Center Drive. Lebanon, NH 03756		03/07/2006	NH	
Dedicated PET Imaging 2315 Sunset Boulevard, Suite E Steubenville, OH 43952	01181	03/07/2006	OH	
Diablo Valley Oncology & Hematology Medical Group 3000 Oak Road, #111 Walnut Creek, CA 94597	ZZZ26796Z	03/07/2006	CA	
Diagnostic Imaging at Baywalk 129 1st Avenue N St. Petersburg, FL 33701	00022	03/07/2006	FL	
DMS Imaging 2101 N. University Drive Fargo, ND 58109		03/07/2006	ND	PO Box 8070

Doylestown PET Associates 599 W. State Street Doylestown, PA 18901	059536	03/07/2006	PA	Suite 202
East Bay Medical Oncology-Hematology Assoc., Inc 3000 Oak Road, #111 Walnut Creek, CA 94597	ZZZ267792	03/07/2006	CA	
East River Medical Imaging 519 East 72 Street Suite 103 New York, NY 10021	W11781	03/07/2006	NY	
El Camino Imaging Center 8020 Constitution Place NE Albequerque, NM 87110	237150	03/07/2006	NM	
Elite Imaging, LLC 2845 Aventura Boulevard Suite 145 Aventura, FL 33180	K3535	03/07/2006	FL	
EPIC Imaging Center 233 NE 102nd Avenue Portland, OR 97220	0000WCGNQ	03/07/2006	OR	
Evergreen Radia 11521 NE 128th Street Kirkland, WA 98034	GAB39931	03/07/2006	WA	
Excel Diagnostics Imaging Clinics 9701 Richmond Avenue Suite 122 Houston, TX 77042	FTA109	03/07/2006	TX	
First Imaging of the Carolinas 30 Memorial Drive Pinehurst, NC 29374	2346997	03/07/2006	NC	

Florida Hospital Advanced Nuclear Imaging PET 328 Spruce Street Orlando, FL 32804	100007	03/07/2006	FL	
Fort Jesse Imaging Center, LLC 2200 Fort Jesse Road Suite 120 Normal, IL 61761	209824	03/07/2006	IL	
Fox Chase Cancer Center 333 Cotman Avenue Philadelphia, PA 19111	390196	03/07/2006	PA	
Frederick Imaging Centers 46B Thomas Johnson Drive Frederick, MD 21702	H476	03/07/2006	MD	
Fusion Diagnostic Group, LLC 1700 California Street Suite 260 San Francisco, CA 94109	00G366470	03/07/2006	CA	
Fusion Imaging Institute 2419 E. Commercial Boulevard Suite 101 Ft. Lauderdale, FL 33308	18281	03/07/2006	FL	
Future Diagnostics Group 254 N. Republic Avenue Joliet, IL 60435	200825	03/07/2006	IL	
Greater Niagra PET, LLC 1 Columbia Drive Suite 3 Niagra Falls, NY 14305	BA0213	03/07/2006	NY	Witmer Park Medical Center
Hematology Oncology Associates of Baton Rouge 4950 Essen Lane Baton Rouge, LA 70809	5C696	03/07/2006	LA	

Gulf Coast Cancer & Diagnostic of Southeast 12811 Beamer Road Houston, TX 77089	149949301	03/07/2006	TX	
Henry Ford, Department of Radiology 2799 W. Grand Boulevard Detroit, MI 48202	230053	03/07/2006	MI	
High Point Regional Health System 601 N. Elm Street High Point, NC 27262	3400040	03/07/2006	NC	
Highlands Oncology Group 3232 N. North Hills Boulevard Fayetteville, AR 27203	5B823	03/07/2006	AR	
Holy Name Hospital 718 Teaneck Road Teaneck, NJ 07666	310008	03/07/2006	NJ	PET/CT Center
Holy Family Memorial Medical Center PO Box 1450 Manitowoc, WI 54221	520107	03/07/2006	WI	2300 Western Ave
Hospital of Saint Raphael 1450 Chapel Street New Haven, CT 05611	070001	03/07/2006	CT	
San Patricio MRI & CT Center 1508 Roosevelt Avenue, Suite 103 San Juan, PR 00920	84997	03/07/2006	PR	

Imaging Center of Hartford Hospital 80 Seymour Street PO Box 5037 Hartford, CT 06102	070025	03/07/2006	CT	
Indian Wells PET/CT Center 74785 Highway 111, #101 Indian Wells, CA 92210	1264523891	03/07/2006	CA	
Imaging Technology Associates 3800 Reservoir Road NW Washington, DC 20007	FDNCX1	03/07/2006	DC	Gorman 2043, PET Scan
San Francisco Magnetic Resonance Center 1180 Post Street San Francisco, CA 94109	ZZZ27498Z	03/07/2006	CA	
Intermountain Medical Imaging 2929 E Magic View Drive Meridian, ID 83642	82-05144-22	03/07/2006	ID	
Jefferson Center City Imaging 850 Walnut Street Philadelphia, PA 19107	66277	03/07/2006	PA	
Kansas City Cancer Center-Kansas 12200 W. 110th Street Overland Park, KS 66210	5650000D	03/07/2006	KS	
Kansas City Cancer Center-Missouri 4881 Goodview Circle Lee's Summit, MO 66064	5650000E	03/07/2006	MO	
Kreitchman PET Center 180 Ft. Washington Avenue, HP3-315 New York, NY 10032	WEM661	03/07/2006	NY	

LakePointe PET 10914 Hefner Pointe Drive Suite 100 Oklahoma City, OK 73120	700522143	03/07/2006	OK	
Lakeshore PET Imaging, LLC 4932 W 95th Street Oak Lawn, IL 60453	200108	03/07/2006	IL	
Larchmont Imaging Associates, LLC 210 Ark Road Mt. Laurel, NJ 08054	517216	03/07/2006	NJ	
Las Cruces PET/CT Imaging 1121 Mall Drive Suite D Las Cruces, NM 88011	300521065	03/07/2006	NM	
Lehigh Valley Diagnostic Imaging PET/CT 1230 S. Cedar Crest Boulevard Suite 104 Allentown, PA 18103	563802	03/07/2006	PA	
LifeScan Louisville, LLC 4046 Dutchmans Lane Louisville, KY 40207	9365601	03/07/2006	KY	
Limerick PET Associates 420 W. Linfield-Trappe Road Limerick, PA 19468	075015	03/07/2006	PA	Suite 3400, Third Floor, Rear
LifeScan Minnesota 6525 France Avenue S Suite 225 Edina, MN 55435	470000014	03/07/2006	MN	
Louisiana PET Imaging of Alexandra, LLC 5419 A Jackson Street Exit Alexandria, LA 71303	5C743	03/07/2006	LA	
LMR PET 12600 Creekside Lane Ft. Meyers, FL 33919	E5725	03/07/2006	FL	

Louisiana PET Imaging of Lake Charles, LLC 1750 Ryan Street Lake Charles, LA 70601	5C905	03/07/2006	LA	
Insight Diagnostic Center-Forest Lane 11617 N. Central Expressway #132 Dallas, TX 75243	FTA016	03/07/2006	TX	
MDI of Thousand Oaks 300 Lombard Street Thousand Oaks, CA 91360	W14186	03/07/2006	CA	
Meadowbrook PET Associates 1695 Huntington Pike Meadowbrook, PA 19046	064866	03/08/2006	PA	
Medical Imaging of Baltimore 6715 N. Charles Street Baltimore, MD 21204	258L	03/08/2006	MD	
Metabolic Imaging of Laredo 2344 Laguna Del Mar Suites 5 & 6 Laredo, TX 78045	FTN029	03/08/2006	TX	
Methodist Hospital PET Imaging Center 301 W. Huntington Drive Suite 120 Arcadia, CA 91007	9511643336	03/08/2006	CA	
Metro Region PET Center at Chevy Chase 5454 Wisconsin Avenue Suite 810 Chevy Chase, MD 20815	724811	03/08/2006	MD	
Clinical PET of St. Charles County 1475 Kisker Road St. Charles, MO 63304	000047047	03/08/2006	MO	

Metro Region PET Center at Woodburn Nuclear Medicine 3289 Woodburn Road Annandale, VA 22003	724811	03/08/2006	VA	
Michiana Hematology-Oncology, PC 100 Navarre Place Suite 5550 South Bend, IN 46601	216950	03/08/2006	IN	
Michigan State University-Radiology 184 Radiology Building East Lansing, MI 48824	OC36350	03/08/2006	MI	
Clinical PET of West County 450 N. New Ballas Road Creve Coeur, MO 63141	000093043	03/08/2006	MO	
Modality Integration Services, Inc. 1854 SW Greenway Circle West Linn, OR 97068		03/08/2006	OR	
Molecular Imaging Center 1733 Curie Drive Suite 305 El Paso, TX 79912	00315U	03/08/2006	TX	
Molecular Imaging of Suburban Chicago, LLC 908 N. Elm Street Suite 110 Hinsdale, IL 60521	212300	03/08/2006	IL	
Montclair Road Imaging LLC 924 Montclair Road Suite 108 Birmingham, AL 35213	000056277	03/08/2006	AL	
Montefiore Medical Center 1695A Eastchester Road Bronx, NY 10461	W06552	03/08/2006	NY	

Neurodiagnostics, PSC 1725 Harrodsburg Road Suite 100 Lexington, KY 40504	0406	03/08/2006	KY	
New Century Imaging 555 Kinderkamack Road Oradel, NJ 07649	085146	03/08/2006	NJ	
Newport Diagnostic Center 1605 Avocado Avenue Newport Beach, CA 92660	W13396	03/08/2006	CA	
Next Generation Radiology PET/CT 560 Northern Boulevard Suite 111 Great Neck, NY 11021	WR6091	03/08/2006	NY	
North Valley MRI and CT 1638 Esplanade Chico, CA 95926	ZZZ247802	03/08/2006	CA	
Northwest Alabama Cancer Center Radiology Services 302 W. Dr. Hicks Boulevard Florence, AL 35630	051552219	03/08/2006	AL	
Northern Kentucky PET Scan, LLC 651 Centre View Boulevard Crestview Hills, KY 41017	311754291	03/08/2006	KY	
Northwest Cancer Center 17323 Red Oak Drive Houston, TX 77090	00D29C	03/08/2006	TX	
Northwestern Memorial Hospital 251 East Huron Street Chicago, IL 60611	140281	03/08/2006	IL	Galter 8-113
Northern Shared Medical Services-Atlantic, IA 1501 East Tenth Street Atlantic, IA 50022	I16068	03/08/2006	IA	Cass County Memorial Hospital

Northern Shared Medical Services-Audubon, IA 515 Pacific Street Audubon, Iowa 50025	I16068	03/08/2006	IA	Audobon County Memorial Hospital
Northern Shared Medical Services- Beloit, KS 400 West Eighth Beloit, KS 67420	130618	03/10/2006	KS	Mitchell County Hospital
Northern Shared Medical Services-Bloomfield, IA 507 North Madison Street Bloomfield, IA 52537	I16068	03/10/2006	KS	Davis County Hospital
Northern Shared Medical Services-Carrollton, MO 1502 North Jefferson Carrollton, MO 64633	000047013	03/10/2006	MO	Carroll County Memorial Hospital
Northern Shared Medical Services-Centerville, IA 1st St. Joseph Drive Centerville, IA 52544	I16068	03/10/2006	IA	Mercy Medical Center
Northern Shared Medical Services-Carthage, IL 160 S. Adams Street Carthage, IL 62321	208196	03/10/2006	IL	Memorial Hospital
Northern Shared Medical Services-Clarinda, IA 823 S. 17th Street Clarinda, IA 51632	I16068	03/10/2006	IA	Clarinda Regional Health Center
Northern Shared Medical Services-Chanute, KS 629 South Plummer Avenue Chanute, KS 66720	130618	03/10/2006	KS	Neosho Memorial Regional Medical Center

Northern Shared Medical Services-Edwardsville, IL 1121 University Drive Edwardsville, IL 62025	208196	03/10/2006	IL	Edwardsville Health Center
Northern Shared Medical Services- El Dorado, AR 700 West Grove Street. El Dorado, AR 71730	5F168	03/10/2006	AR	Medical Center of South Arkansas
Northern Shared Medical Services-Farmington, MO 1212 Weber Road Farmington, MO 63640	000047013	03/10/2006	MO	Mineral Area Regional Medical Center
Northern Shared Medical Services-Janesville, WI 1321 Creston Park Drive Janesville, WI 53545	000092420	03/10/2006	WI	Janesville Occupational Health & Medical Center
Northern Shared Medical Services-Hiawatha, KS 300 Utah Street Hiawatha, KS 66434	130618	03/10/2006	KS	Hiawatha Community Hospital
Northern Shared Medical Services-Keokuk, IA 1600 Morgan Street Keokuk, IA 52632	I16068	03/10/2006	IA	Keokuk Area Hospital
Northern Shared Medical Services-Macomb, IL 525 East Grant Street Macomb, IL 61455	208196	03/10/2006	IL	McDonough District Hospital
Northern Shared Medical Services-Mexico, MO 620 East Monroe Street Mexico, MO 65265	000047013	03/10/2006	MO	Audrain Medical Center
Northern Shared Medical Services-Moberly, MO 1515 Union Avenue Moberly, MO 65270	000047013	03/10/2006	MO	Moberly Regional Medical Center

Northern Shared Medical Services-Mountain Home, AR 899 Burnett Drive Mountain Home, AR 72653	5F168	03/10/2006	AR	Cogburn Cancer Clinic
Northern Shared Medical Services- Poplar Bluff, MO 221 Physicians Park Drive Poplar Bluff, MO 63901	000047013	03/10/2006	MO	Poplar Bluff Medical Partners
Northern Shared Medical Services-Perryville, MO 434 North West Street Perryville, MO 63775	000047013	03/10/2006	MO	Perry County Memorial Hospital
Northern Shared Medical Services- Rolla, MO 1000 West Tenth Street Rolla, MO 65401	000047013	03/10/2006	MO	Phelps Co Regional Medical Center
Northern Shared Medical Services-Virginia, MN 901 Ninth Street North Virginia, MN 55792	470000057	03/10/2006	MN	Virginia Regional Medical Center
Northern Shared Medical Services-Russellville, AR 2504 West Main Street Russellville, AR 72801	5F168	03/10/2006	AR	Russellville Land Co
Northern Shared Medical Services- West Plains, MO 1100 Kentucky Avenue West Plains, MO 65775	000047013	03/10/2006	MO	Ozarks Medical Center
Oakwood Hospital Medical Center 18101 Oakwood Boulevard Dearborn, MI 48124	230020	03/10/2006	MI	

Oakwood Southshore Medical Center 5450 Fort Street Trenton, MI 48183	230176	03/10/2006	MI	
Ocean Medical Imaging Center 21 Stockton Drive Toms River, NJ 08755	158432	03/10/2006	NJ	
Orange County Regional PET Center, LLC 16300 Sand Canyon Avenue Suite 103 Irvine, CA 92618	TP018	03/10/2006	CA	
Orange Advanced Imaging Center 230 Main Street, #101 Orange, CA 92868	TP016A	03/10/2006	CA	
Pacific Coast Imaging-Irvine 250 E Yale Loop Suite A Irvine, CA 92604	WG87478B	03/10/2006	CA	
Pacific Coast Imaging-Newport 3300 West Coast Highway Newport Beach, CA 92663	WG87478	03/10/2006	CA	
Pacific Imaging and Treatment Center 5395 Ruffin Road Suite 202 San Diego, CA 92123	TP126	03/10/2006	CA	
Palm Beach Cancer Institute 1395 State Road 7 Suite 310 Wellington, FL 33414	34754	03/10/2006	FL	
Pennsylvania PET Associates 800 Spruce Street Philadelphia, PA 19107	066282	03/10/2006	PA	Second Floor, Widener Building
PET Center of Western NY 127 North Street	187140	03/10/2006	NY	

Batavia, NY 14020				
Pet Imaging at CDR 7600 N 15th Street Suite 102 Phoenix, AZ 85020	WCFDG	03/10/2006	AZ	
PET Imaging at the Lake 5000 Hennessy Boulevard Baton Rouge, LA 70809	5C868	03/10/2006	LA	
PET Imaging Center at Harford County 602 S. Atwood Road Suite 201 Bel Air, MD 21014	FMN006	03/10/2006	MD	
PET Imaging Institute of South Florida East 150 N 35th Avenue #665 Hollywood, FL 33021	E3783	03/10/2006	FL	
PET Imaging Institute of South Florida-West 603 N Flamingo Road S-155 Pembroke Pines, FL 33028	E3783	03/10/2006	FL	
PET Scan Arizona-Peoria 13460 N 94th Drive Suite J1 Peoria, AZ 85381	75400	03/10/2006	AZ	
PET Scan Arizona-Phoenix 6036 N 19th Avenue Suite 305 Phoenix, AZ 85015	66860	03/10/2006	AZ	

PET/CT Diagnostic Medical Imaging, PC 1200 Waters Place Suite M108 Bronx, NY 10461	W31091	03/10/2006	NY	
Precision Imaging 4416 East West Highway Suite 410 Bethesda, MD 20814	FMN005	03/10/2006	MD	
Preferred PET Imaging of Kansas, LLC 928 N. St. Francis Street Wichita, KS 67214	110693	03/10/2006	KS	
Premium Diagnostics Center 5319 Hoag Drive Suite 130 Elyria, OH 44035	ID01851	03/10/2006	OH	
PET Center Ft. Worth 800 W. Magnolia Avenue Fort Worth, TX 76104	0J062	03/10/2006	TX	Suite 100
Radiology Associates, LLP 6001 S. Staples Street Corpus Christi, TX 78413	00E816	03/10/2006	TX	
S. Arlington Imaging Center 4601 Matlock Road Arlington, TX 76018	0J062	03/10/2006	TX	
Radiology Group Imaging Center, LLC 1970 E. 53rd Street Davenport, IA 52807	16031	03/10/2006	IA	
PET/CT Scan Center Pembroke 11325 Pembroke Square Suite 116 Waldorf, MD 20603	521454775	03/10/2006	MD	
New York MedScan 751 Second Avenue New York, NY 10017	978701	03/10/2006	NY	

Rex Healthcare 4420 Lake Boone Trail Raleigh, NC 27607	340114	03/10/2006	NC	
San Fernando Regional PET Center 6855 Noble Avenue Van Nuys, CA 91405	TP078	03/10/2006	CA	
PET/CT Imaging Center of Northwest Florida 5149 North 9th Avenue Suite 124 Pensacola, FL 32504	U4696	03/10/2006	FL	
Saint Joseph's Hospital-Nuclear Medicine 611 St. Joseph Avenue Marshfield, WI 54449	520037	03/10/2006	WI	
Shared PET Imaging, LLC-Brooklyn, NY 6300 Eight Avenue Brooklyn, NY 11220	97Z661	03/10/2006	NY	
SC Cancer Specialists 25 Hospital Center Boulevard #301 Hilton Head Island, SC 29926	1285633289	03/10/2006	SC	
Shared PET Imaging, LLC-Granger, IN 6901 N. Main Street Granger, IN 46530	232800	03/10/2006	IN	
University Hospital-Cincinnati Eden Avenue & Albert Sabin Way Cincinnati, OH 45219		03/10/2006	OH	
Shared PET Imaging, LLC – Marion, OH 1050 Delaware Avenue Marion, OH 43302	ID01511	03/10/2006	OH	
Shared PET Imaging, LLC-Terre	201320	03/10/2006	IN	

Haute IN 3702 South Fourth Street Terre Haute, IN 47802				
South Jersey Radiology Associates, PA 100 Carnie Boulevard Suite B5 Voorhees, NJ 08043	S0429966	03/10/2006	NJ	
Southwest PET/CT Institute-Tucson 3503 N. Campbell Avenue Suite 155 Tucson, AZ 85719	1396736922	03/10/2006	AZ	
Southwest PET/CT Institute-Yuma 1951 W. 25th Street Suite G Yuma, AZ 85364	106077	03/10/2006	AZ	
St. Francis Health Center 1700 SW 7th Street Topeka, KS 66606	17-0016	03/10/2006	KS	
Southwoods PET Scan, LLC 250 Debartolo Place Building B Youngstown, OH 44512	PCN05210036	03/10/2006	OH	
St. Louis PET Centers, LLC 12637 Olive Boulevard Creve Coeur, MO 63376	1861470734	03/10/2006	MO	
St. Vincent's PET Center, LLC 2660 10th Avenue S, POBI Suite 104 Birmingham, AL 35205	051555054	03/10/2006	AL	
Sun Molecular Imaging -Peoria 13090 N. 94th Drive #103 Peoria, AZ 85381	71585	03/10/2006	AZ	
Sun Molecular Imaging -Sun	71585	03/10/2006	AZ	

City West 13909 W Camino Del Sol #101 Sun City West, AZ 85375				
Tarzana Advanced Imaging 5536 Reseda Boulevard Tarzana, CA 91356	TP051A	03/10/2006	CA	
The Methodist Hospital PET Center 6565 Fannin Street MBI-066 Houston, TX 77030	450358	03/10/2006	TX	
Texarkana PET Imaging Institute, LP 1929 Moores Lane Texarkana, TX 75503	FTN008	03/10/2006	TX	
The PET/CT Center of North Florida 5742 Booth Road Jacksonville, FL 32207	K7038P	03/10/2006	FL	
The Washington Hospital 155 Wilson Avenue Washington, PA 15301	390042	03/10/2006	PA	
The PET/CT Scanning Center 235 18th Street, SE Hickory, NC 28602	2881788	03/10/2006	NC	
Thompson Cancer Survival Center PET Imaging Center 9711 Sherrill Boulevard Knoxville, TN 37923	3791106	03/10/2006	TN	
Thunderbird MRI and PET Center 6591 W. Thunderbird Road Suite A-1 Glendale, AZ 85306	79467	03/10/2006	AZ	

Tower Imaging Roxsan 465 N. Roxbury Drive Suite 101 Beverly Hills, CA 90210	TP114	03/10/2006	CA	
Tower Hematology Oncology Medical Group 9090 Wilshire Boulevard Suite 200 Beverly Hills, CA 90211	W11793	03/10/2006	CA	
TRA Medical Imaging 2202 S Cedar Street Suite 200 Tacoma, WA 98405	001055600	03/10/2006	WA	
Trident PET of Fayette 1275 Highway 54 West Suite 102 Fayetteville, GA 30214	47BBBJJ	03/10/2006	GA	
Trident PET of Gwinnett 545 Old Norcross Road Lawrenceville, GA 30045	47BBBGX	03/10/2006	GA	Suite 200
Trident PET of Savannah 7135 Hodgson Memorial Drive Savannah, GA 31406	47BBBKP	03/10/2006	GA	Suite 10A
Tristan Associates 4520 Union Deposit Road Harrisburg, PA 17111	112344	03/10/2006	PA	
Union Square Diagnostic Imaging 144 Fourth Avenue New York, NY 10003	WR7502	03/10/2006	NY	

UCLA–Dept. of Molecular & Medical Pharmacology 10833 Le Conte Avenue Los Angeles, CA 90095	HW13029	03/10/2006	CA	AR-115-CHS
UCLA-Dept. of Molecular & Medical Pharmacology 10833 Le Conte Avenue Los Angeles, CA 90095	HW13029	03/10/2006	CA	AR-115-CHS
University Nuclear Medicine, Inc. 105 Parker Hall Buffalo, NY 14214	14414A	03/10/2006	NY	3435 Main St
University Radiology Group 75 Veronica Avenue Suite 102 Somerset, NJ 08873	425699	03/10/2006	NJ	
Anne Arundel Medical Center 2001 Medical Parkway Annapolis, MD 21401	210023	03/10/2006	MD	
US Imaging Center Corp., LLC 842 Sunset Lake Boulevard Suite 301 Venice, FL 34292	U0331	03/10/2006	FL	
USC PET Imaging Science Center 1510 San Pablo Street Suite 350 Los Angeles, CA 90033	W11874	03/10/2006	CA	
Rolling Oaks Radiology 415 Rolling Oak Drive, Suite 160 Thousand Oaks, CA 91361	W10746	03/10/2006	CA	

Vero Radiology Associates, Inc. 777 37th Street Suite A-103 Vero Beach, FL 32960	97445	03/10/2006	FL	
Ventura Coast Imaging Center 4601 Telephone Road Suite 101 Ventura, CA 93003	W11335	03/10/2006	CA	
Washington Imaging Services, LLC 1135-116th Avenue, NE Bellevue, WA 98004	GAB23386	03/10/2006	WA	
Washington Hospital Center 110 Irving Street, NW Washington, DC 20010	090011	03/10/2006	DC	
Washoe Med Imaging Services at 75 Kirman 75 Kirman Avenue Reno, NV 89502	WCHBB	03/10/2006	NV	
Wesley Long Hospital-Moses Cone Health System 501 North Elam Avenue Greensboro, NC 27403	34-0091	03/10/2006	NC	
Westcoast Radiology 36463 US Highway, 19 N. Palm Harbor, FL 34684	E4187	03/10/2006	FL	
Western Washington Oncology 4525 3rd Avenue SE Lacey, WA 98503	1497749642	03/10/2006	WA	
Windber Medical Center 600 Somerset Avenue Windber, PA 15963	390112	03/10/2006	PA	

Wyoming Valley PET Associates 190 Welles Street Forty Fort, PA 18704	045012	03/10/2006	PA	
Youngstown Regional PET Scan 850 McKay Court Youngstown, OH 44512	Y0ID0174	03/10/2006	OH	
X-RAY Associates at Santa Fe 490 A West Zia Road Suite 130 Santa Fe, NM 87505	2258263	03/10/2006	NM	
Sibley Memorial Hospital 5255 Loughboro Road, NW Washington, DC 20016	090005	03/10/2006	DC	
Lerman Diagnostic Imaging 6511 Fort Hamilton Parkway Brooklyn, NY 11215	16H771	03/10/2006	NY	
XRC Medical Imaging 53940 Carmichael Drive South Bend, IN 46635	187390	03/10/2006	IN	
St. Luke's Hospital 1026 A. Avenue N.E. Cedar Rapids, IA 52406-3026	160045	03/10/2006	IA	P.O. Box 3026
University Imaging at Science Park 110 Science Parkway Suite 100 Rochester, NY 14620	16624A	03/10/2006	NY	
Kadlec Medical Center/Nuclear Medicine Dept. 945 Goethals Street Richland, WA 99352	1972507580	03/10/2006	WA	
Central Georgia PET, LLC 1650 Hardmon Macon, GA 31201	47BBBKC	03/10/2006	GA	

PET/CT Imaging at Swedish Cancer Institute 1221 Madison Street First Floor Seattle, WA 98104	8857387	03/10/2006	WA	
National PET Scan Duval, LLC 425 North Lee Street Jacksonville, FL 32204	E7348	03/10/2006	FL	
National PET Scan Pinellas, LLC 805 Executive Center Drive W St. Petersburg, FL 33702	E7503	03/10/2006	FL	
National PET Scan Dade, LLC 7867 North Kendall Drive Suite 121 Miami, FL 33156	E5427	03/10/2006	FL	
National PET Scan Broward, LLC 6290 North Federal Highway Fort Lauderdale, FL 33308	E5432	03/10/2006	FL	
Scottsdale Medical Imaging, Ltd. 7624 E. Indian School Road Suite 109-1 Scottsdale, AZ 85251	WCFKX	03/10/2006	AZ	
Lakes Regional General Hospital 80 Highland Street Laconia, NH 03246	300005	03/10/2006	NH	
Northern California PET Imaging Center 3195 Folsom Boulevard Sacramento, CA 95816	ZZZ15725Z	03/10/2006	CA	
Northern California PET Imaging Center-Mobile 3195 Folsom Boulevard Sacramento, CA 95816	ZZZ25157Z	03/10/2006	CA	

Northern California PET Imaging Center-VAPA 3801 Miranda Avenue Palo Alto, CA 94304	ZZZ21308Z	03/10/2006	CA	
Advanced Medical Imaging 3548 Route 9 South Old Bridge, NJ 08857	595865	03/10/2006	NJ	
St. Vincent Infirmary Medical Center PET/CT Center 2 St. Vincent Circle Little Rock, AR 72205-5499	04-0007	03/10/2006	AR	
Lincoln Trail Diagnostics 1111 Woodland Drive Elizabethtown, KY 42701	470001408	03/10/2006	KY	
LifeScan Imaging 607 Clifty Street Somerset, KY 42503	7614	03/10/2006	KY	
St. John's Hospital Springfield Nuclear Medicine 1235 E. Cherokee Street Springfield, MO 65804	26-0065	03/10/2006	MO	
City of Hope 1500 E. Duarte Road Duarte, CA 91010	050146	03/10/2006	CA	Dept. of Nuclear Medicine
Hackettstown Regional Medical Center 651 Willow Grove Street Hackettstown, NJ 07840	310115	03/10/2006	NJ	

Imaging Alliance-Nashville PET, LLC 52 White Bridge Road. Nashville, TN 37205	3791068	03/10/2006	TN	
Molecular Imaging of Bradenton 2301 60th Street Court West Suite A Bradenton, FL 34209	U1334	03/10/2006	FL	
Molecular Imaging of Charlotte County 4130 Tamiami Trail Port Charlotte, FL 33952	U1934	03/10/2006	FL	
Imaging For Life 3830 Bee Ridge Road Suite A Sarasota, FL 34233	E6704	03/10/2006	FL	
Seattle Nuclear Medicine/Ultrasound Associates 1229 Madison Street Suite 1050 Seattle, WA 98104	G000158400	03/10/2006	WA	
Columbus Circle Imaging 1790 Broadway, 9th Floor Yonkers, NY10704	W00691	03/10/2006	NY	
Bryn Mawr Imaging Center-PET 100 Lancaster Avenue Wynnewood, PA 19096	473120	03/10/2006	PA	
Beth Israel Deaconess Medical Center 330 Brookline Avenue Boston, MA 02215	220086	03/10/2006	MA	
Boca Raton Community Hospital 800 Meadows Road Boca Raton, FL 33486	100168	03/10/2006	FL	

Centro Tomograficio de PR, Inc. 1409 Ashford Avenue San Juan, PR 00907	0087834	03/10/2006	PR	
Comprehensive Cancer Centers of Nevada 3730 S. Eastern Avenue Las Vegas, NV 89109	WCHCX	03/10/2006	NV	
Grossman Imaging Center of CMH 2151 E. Gonzales Road Suite 101 Oxnard, CA 93036	W17252	03/10/2006	CA	
Cookeville Regional Medical Center 142 W. 5th Street Cookeville, TN 38501	440059	03/10/2006	TN	
Instituto Central de Diagnostico, Inc. 1er. Floor Oncologic Hospital San Juan, PR 00928	007835	03/10/2006	PR	PR Medical Center
Mercy Medical Center-Cedar Rapids 701 Tenth Street SE Cedar Rapids, IA 52403	16-0079	03/10/2006	IA	
Midwest Radiologic Imaging-1144217241 4087 Gateway Boulevard Newburgh, IN 47630	1144217241	03/10/2006	IN	
Miami Valley Hospital 1 Wyoming Street Dayton, OH 45409	360051	03/10/2006	OH	

Midwest Radiologic Imaging-214790 4087 Gateway Boulevard Newburgh, IN 47630	214790	03/10/2006	IN	
Midwest Regional PET/CT Center 6001 S. Sharon Avenue Suite #2 Sioux Falls, SD 57108	41406	03/10/2006	SD	
Mission Hospital PET Center 222 Asheland Avenue Asheville, NC 28801	3400002	03/10/2006	NC	
Mobile Molecular Imaging, LLC 100 Memorial Hospital Drive Suite 1E Mobile, AL 36608	1003804345	03/10/2006	AL	
Nebraska Health Imaging 7819 Dodge Street Omaha, NE 68114	098975	03/13/2006	NE	
Montgomery Metabolic & Memory Imaging Center 7100 University Court Montgomery, AL 36117	057554625	03/13/2006	AL	
Orange County Diagnostic Radiology, Inc. 17150 Euclid Street Suite 101 Fountain Valley, CA 92708	TD057	03/13/2006	CA	
Northwest PET Imaging 265 N. Broadway Portland, OR 97227	105512	03/13/2006	OR	
Nevada Cancer Institute Medical Group One Breakthrough Way, 10441 W. Twain Avenue Las Vegas, NV 89135	100505	03/13/2006	NV	

Positron Emission Tomography Institute at Hampton 5357 Henneman Drive Norfolk, VA 23513	FVN001	03/13/2006	VA	
Positron Imaging Facility 1311 Record Crossing Road Mail Code 9140 Dallas, TX 75235	UT000F626	03/13/2006	TX	
Premier Diagnostic Imaging 10019 Forest Green Boulevard Louisville, KY 40299	9375201	03/13/2006	KY	
Positron PET/CT of the Southern Tier 169 Riverside Drive Binghamton, NY 13905	AA1047	03/13/2006	NY	
Radiology Regional Center, PA, Inc.-Naples 700 Goodlette Road Naples, FL 34102	77185	03/13/2006	FL	
Somascan Plaza, Inc. Suite 405 Torre de Plaza Plaza Las Americas San Juan, PR 00917	0089178	03/13/2006	PR	
Somascan, Inc. Jose Marti #56 San Juan, PR 00917	0082435	03/13/2006	PR	
Southern Indiana Radiological Associates 500 Landmark Avenue Bloomington, IN 47403	214160	03/13/2006	IN	
Southern Illinois Cancer Center 10286 Fleming Road Carterville, IL 62918	643740	03/13/2006	IL	
South Nassau PET One Healthy Way Oceanside, NY 11572	97z851	03/13/2003	NY	

Southwest Diagnostic Center for Molecular Imaging 8440 Walnut Hill Lane Suite 100 Dallas, TX 75231	FTN-015	03/13/2006	TX	
St. Mary's Health Systems 900 E. Oakhill Avenue Knoxville, TN 37917	440120	03/13/2006	TN	
Tower Diagnostic Center 4719 N. Habana Avenue Tampa, FL 33614	00169	03/13/2003	FL	
Torrance Morial Medical Center 3330 Lomita Boulevard Torrance, CA 90505	050351	03/13/2006	CA	
University of Colorado Hospital (AOP) 1635 N. Ursula Street Aurora, CO 80045	06-0024	03/13/2006	CO	
William Beaumont Hospital-Royal Oak 3601 West 13 Mile Road Royal Oak, MI 48073-6769	23030	03/13/2006	MI	
Esther Quijoy Catalya, M.D. 3000 Oak Road #111 Walnut Creek, CA 94597	00A449120	03/13/2006	CA	
Valley PET Institute 311 S. Ham Lane Lodi, CA 95242	00C283720	03/13/2006	CA	
Dan Ben-Zeev, M.D. 3000 Oak Road #111 Walnut Creek, CA 94597	00G129831	03/13/2006	CA	
Midwest Center for Advanced Imaging 1307 Macom Drive Naperville, IL 60564	L72461	03/13/2006	IL	

Crittenton Hospital Medical Center 1101 W. University Drive Rochester, MI 48307	230054	03/13/2006	MI	
Medical Specialists of Palm Beaches, Inc. 5700 Lake Worth Road Suite 204 Lake Worth, FL 33463	33941A	03/13/2006	FL	
PET Medical Imaging Center 3264 North Evergreen Drive Grand Rapids, MI 49525	0P02650	03/13/2006	MI	
Radiology Regional Center, PA, Inc.-RPET 6100 Winkler Road Suite A Fort Myers, FL 33919	77185	03/13/2006	FL	
Good Samaritan Hospital 520 S. 7th Street Vincennes, IN 47591	150042	03/13/2006	IN	
Central Indiana Cancer Center 6845 Rama Drive Indianapolis, IN 46219	065910	03/13/2006	IN	
Decatur PET Imaging 2774 W. Decatur Road Decatur, GA 30033	47BBBLP	03/13/2006	GA	
Community Memorial Hospital, Medical Imaging 855 S. Main Street Oconto Falls, WI 54154	00439MPN	03/13/2006	WI	
Olympic Radiology 2700 Clare Avenue Bremerton, WA 98310	000242100	03/13/2006	WA	
Capitol Imaging 3161 L Street Sacramento, CA 95816	1285615294	03/13/2006	CA	

National Medical Imaging-Bryn Mawr 574 W. Lancaster Avenue Bryn Mawr, PA 19010	024513	03/13/2006	PA	
National Medical Imaging-Langhorne 2 Doublewoods Road Suite B Langhorne, PA 19047	024513	03/13/2006	PA	
National Medical Imaging-Philadelphia 1903-05 South Broad Street Philadelphia, PA 19148	024513	03/13/2006	PA	
University of VA Health System, Radiology 1215 Lee Street Charlottesville, VA 22908	490009	03/13/2006	VA	
Florida Institute for Advanced Diagnostic Imaging 9238 US 19 Port Richey, FL 34668	59-3475930	03/13/2006	FL	
Roseville PET & Nuclear Medicine Imaging 2241 Douglas Boulevard #110 Roseville, CA 95661	1194706689	03/13/2006	CA	
Memorial Sloan Kettering Cancer Center 1275 York Avenue New York, NY 10021	330154	03/13/2006	NY	
Northeast PET Imaging Center 8400 Roosevelt Boulevard Suite 208 Philadelphia, PA 19152	083723	03/13/2006	PA	Medical Arts Center at Parte Ridge
UAMS PET Center 4301 West Markham Street Little Rock, AR 72205	50528	03/13/2006	AR	

Joliet Oncology-Hematology Assoc., Ltd. 1600 W. Route 6 Morris, IL 60450	205474	03/13/2006	IL	
Saint Luke's Hospital 4323 Wornall Road Kansas City, MO 64111	26-0138	03/13/2006	MO	AH Peet Center
Mercy Medical Center 1320 Mercy Drive Canton, OH 44708	360070	03/13/2006	OH	
Dayton Medical Imaging Center 7901 Schatz Pointe Drive Dayton, OH 45459	US1D00231	03/13/2006	OH	
Community Radiology of Virginia 2000 Leatherwood Lane Bluefield, VA 24605	FVA002	03/13/2006	VA	
Bab Radiology-Huntington 75 East Main Street Huntington, NY 11743	W1L612	03/13/2006	NY	
Bab Radiology-Hauppauge 521 Route 111 Suite 312 Hauppauge, NY 11788	W1L601	03/13/2006	NY	
Center for Diagnostic Imaging-37 5775 Wayzata Boulevard #190 St. Louis Park, MN 55416	470000037	03/13/2006	MN	
Center for Diagnostic Imaging 5775 Wayzata Boulevard Suite 190 St. Louis Park, MN 55416	C01307	03/13/2006	MN	
Center for Diagnostic Imaging-Mendota Heights 910 Sibley Memorial Highway Mendota Heights, MN 55118	470000038	03/13/2006	MN	

Huntsville Hospital Imaging Center 1963 Memorial Parkway Huntsville, AL 35801	010039	03/13/2006	AL	
Long Beach PET Imaging Center 2888 Long Beach Boulevard Suite 110 Long Beach, CA 90806	TG167	03/13/2006	CA	
Highway Imaging Associates, LLP 2095 Flatbush Avenue Brooklyn, NY 11234	W10671	03/13/2006	NY	
St. Vincent Hospital PO Box 13508 Green Bay, WI 54307	520075	03/13/2006	WI	
Park South Imaging Center 6215 21st Avenue West #A Bradenton, FL 34209	E1858	03/13/2006	FL	
Mary Bird Perkins Cancer Center 4950 Essen Lane Baton Rouge, LA 70809	57290	03/13/2006	LA	
Boston Diagnostic Imaging 398 Altamonte Drive Altamonte Springs, FL 32701	E3510	03/13/2006	FL	
Sioux Valley Hospital Medical Center 1305 W. 18th Street Sioux Falls, SD 57117	430027	03/13/2000	SD	
Indianapolis Regional PET Scan, LLC 3830 Shore Drive Indianapolis, IN 46254	207260	03/13/2006	IN	

St. Joseph's PET Center 1 Mercy Lane Suite 105 Hot Springs, AR 71913	5C739	03/13/2006	AR	
Hinsdale PET Scan, LLC 812 Ogden Avenue Westmont, IL 60559	206271	03/13/2006	IL	
Del Amo PET Imaging Center 3531 Fashion Way Torrance, CA 90501	TP120	03/13/2006	CA	
North Shore PET Imaging Center 85 Herrick Street Beverly, MA 1915	327110	03/13/2006	MA	Beverly Hospital
Robert D. Russo & Associates Radiology, PC PO Box 6128 Bridgeport, CT 06606	C02013	03/13/2006	CT	
Advanced Medical Specialties 9035 Sunset Drive Suite 102 Miami, FL 33173	K7806	05/03/2006	FL	
Baptist M & S Imaging Center-Downtown 215 E. Quincy Street #100 San Antonio, TX 78215	FTA078	05/03/2006	TX	
Community Cancer Center 545 W. Umpqua Street Roseburg, OR 97470	R116571	05/03/2006	OR	
Baptist M & S Imaging Center 7888 Fredericksburg Road San Antonio, TX 78228	FTA078	05/03/2006	TX	

Evanston Northwestern Healthcare-Highland Park 757 Park Avenue West Highland Park, IL 60035	14-0010	05/03/2006	IL	
Grenada Diagnostic Radiology 1300 Sunset Drive Suite U Grenada, MS 38901	470000034	05/03/2006	MS	
Huntsman Cancer Hospital 2000 Circle of Hope Suite 2121 Salt Lake City, UT 84112-5550	460009	05/03/2006	UT	
High Tech Medical Park 11800 Southwest Highway Palos Heights, IL 60463	0703070	05/03/2006	IL	
Cyrus Diagnostic Imaging, Inc. 165 Waymont Court Lake Mary, FL 32746	40586	05/03/2006	FL	
Indiana Regional PET Imaging 7891 Broadway Suite A Merrillville, IN 46410	229400	05/03/2006	IN	
Lancaster PET Imaging 2100 Harrisburg Pike Lancaster, PA 17601	054504	05/03/2006	PA	
James PET/CT Imaging Center 236 Doan Hall Columbus, OH 43210	360242	05/03/2006	OH	410 w. 10th Ave
Mary Lanning Memorial Hospital 715 N. St. Joseph Avenue Hastings, NE 68901	280032	05/03/2006	NE	

Maplewood Cancer Center-MOHPA 1580 Beam Avenue Maplewood, MN 55109	C01828	05/03/2006	MN	
Titusville Area Hospital 406 W. Oak Street Titusville, PA 16354	390122	05/03/2006	PA	
Memorial Hospital 325 S. Belmont Street York, PA 17403	390101	05/03/2006	PA	
Mercy Regional Health Center 1823 College Avenue Manhattan, KS 66502	17-0142	05/03/2006	KS	
Northshore Regional PET Scan, LLC 1464 Waukegan Road Glenview, IL 60025	206272	05/03/2006	IL	
Northwest Indiana PET/CT Center 1505 S. Calument Road Suites 7 & 8 Chesterton, IN 46304	229810	05/03/2006	AL	
Parkway Ventures, Inc. 9000 Franklin Square Drive Baltimore, MD 21237	FMN002	05/03/2006	MD	Franklin Square Hospital
PET Fusion Imaging 3707 New Vision Drive Fort Wayne, IN 46845	190320	05/03/2006	IN	
River Oaks Imaging & Diagnostics PO Box 4346 Houston, TX 77210	FTA059	05/03/2006	TX	Dept 848
Regional PET Scan, LLC-Beachwood 2000 Auburn Road Beachwood, OH 44122	REID02211	05/03/2006	OH	

Regional PET Scan, LLC-Fairview 20455 Lorain Road Fairview Park, OH 44126	REID02211	05/03/2006	OH	
Regional PET Scan, LLC-Ridgepark 7575 Northcliff Avenue Brooklyn, OH 44144	REID02211	05/03/2006	OH	
Saint Francis Hospital 114 Woodland Street Hartford, CT 06105	07-0002	05/03/2006	CT	
St Nicholas Hospital 3100 Superior Avenue Sheboygan, WI 53081	520044	05/03/2006	WI	
Swedish Medical Center 501 E. Hampton Avenue Englewood, CO 80113	060034	05/03/2006	CO	
St Bernards PET Center 225 E. Jackson Avenue Jonesboro, AR 72401	5C658	05/03/2006	AR	
Toledo Regional PET Scan, LLC 3442 Granite Circle Toledo, OH 43617	T0ID01881	05/03/2006	OH	
University MRI 3848 F.A.U. Boulevard Suite 200 Boca Raton, FL 33431	E1765	05/03/2006	FL	
Tucson PET Imaging 5355 E. Erickson Drive Tucson, AZ 85712	WCBBM	05/03/2006	AZ	
Via Christi Oklahoma Regional Medical Center 1900 N. 14th Street Ponca City, OK 74601	370006	05/03/2006	OK	

Christian Hospital 11133 Dunn Road St Louis, MO 63136	260180	05/03/2006	MO	
DRA Imaging PC 1 Columbia Street Poughkeepsie, NY 12601	W18691	05/03/2006	NY	
Cleveland Clinic Star Imaging 921 Jasonway Avenue Columbus, OH 43214	34-1932969	05/03/2006	OH	
Norman PET Associates, LLC 3750 W. Robinson Street Suite 130 Norman, OK 73072	900522224	05/03/2006	OK	
Rhode Island PET Services–St. Josephs 200 High Service Avenue N Providence, RI 02904	479003556	05/03/2006	RI	
Rhode Island PET Services-South County Hospital 100 Kenyon Avenue Wakefield, RI 02879	479003556	05/03/2006	RI	
Rhode Island PET Services-Roger Williams 825 Chalkstone Avenue Providence, RI 02908	479003556	05/03/2006	RI	
Rhode Island PET Services-Landmark 115 Cass Avenue Woonsocket, RI 02895	479003556	05/03/2006	RI	
Forest City Diagnostic Imaging 735 Perryville Road Rockford, IL 61107	546450	05/03/2006	IL	Lower Level 2

New England Molecular Imaging-York 15 Hospital Drive York, ME 03909	479003556	05/03/2006	ME	
Pavilion Imaging 750 Wellington Avenue Grand Junction, CO 81502	060023	05/03/2006	CO	
Lifescan Chicago 2242 W. Harrison Street Chicago, IL 600612	470000014	05/03/2006	IL	
Southeast Medical Imaging 300 Evergreen Drive Suite 210 Glen Mills, PA 19342	092801	05/03/2006	PA	
The Western Pennsylvania Hospital 4800 Friendship Avenue Pittsburgh, PA 15224	390090	05/03/2006	PA	
Southtowns PET/CT 550 Orchard Park Road West Seneca, NY 14224	14422A	05/03/2006	NY	
Main Street Radiology-Bayside 44-01 Francis Lewis Boulevard Bayside, NY 11361	04217	05/03/2006	NY	
Main Street Radiology-Bayside 44-01 Francis Lewis Boulevard Bayside, NY 11361	04217A	05/03/2006	NY	
West VA University Center for Advanced Imaging 1 Medical Center Drive Morgantown, WV 26506	9121131	05/03/2006	WV	PO Box 9236, Health Center South

Twin Lakes Medical Specialist, PA 228 Bucher Drive Mountain Home, AR 72653	5B019	05/03/2006	AR	
Valley Metabolic Imaging, LLC 6121 N Thesta Street Fresno, CA 93710	ZZZ23924Z	05/03/2006	CA	Suite 207
Johnson City Medical Center 400 North State of Franklin Johnson City, TN 37642	440063	05/03/2006	TN	
St Louis University Hospital 3665 Vista Avenue St Louis, MO 63110	000050109	05/03/2006	MO	
Margaret R. Pardee Memorial Hospital 800 North Justice Street Hendersonville, NC 28791	340017A	05/03/2006	NC	
Valley Imaging Partnership 1401 W. Merced Avenue #103 West Covina, CA 91790	TP035	05/03/2006	CA	
Sierra Imaging 155 Calle Portal Sierra Vista, AZ 85635	Z68496	05/03/2006	AZ	
Aspirus Wausau Hospital 333 Pine Ridge Boulevard Wausau, WI 54401	520030A	05/03/2006	WI	
Cancer Care Northwest PET Center 910 W 5th Avenue Spokane, WA 99204	1922072081	05/03/2006	WA	Suite 130

PET/CT Imaging of North Texas 2900 North I-35 Denton, TX 76201	00088Y	05/03/2006	TX	Suite 119
Loyola University Health System 2160 S. First Avenue Maywood, IL 60153	140276	05/03/2006	IL	
St. Elizabeth Medical Center One Medical Village Drive Edgewood, KY 41017	180035	05/03/2006	KY	
Cleveland Clinic 9500 Euclid Avenue Cleveland, OH 44195	9925511	05/03/2006	OH	
Ingalls Family Care Center 6701 159th Street Tinley Park, IL 60477	14-0191	05/03/2006	IL	
PET Fusion Center 4204 Houma Boulevard Metairie, LA 70006	5CB31	05/03/2006	LA	
United Regional Medical Center 1001 McArthur Drive Manchester, TN 37355	440007	05/03/2006	TN	
Joel Bernstein, MD 5395 Ruffin Road Suite 202 San Diego, CA 92123	W18972	05/03/2006	CA	
Hasnat Ahmed, MD 5395 Ruffin Road Suite 202 San Diego, CA 92123	W18370	05/03/2006	CA	

Meridian North Imaging Center 12188 N. Meridian Street Carmel, IN 46280	026010	05/03/2006	IN	Suite 100
Cancer Center Oncology Medical Group 5395 Ruffin Road Suite 202 San Diego, CA 92123	W12245A	05/06/2006	CA	
Firelands Regional Medical Center 1101 Decatur Street Sandusky, OH 44870	360025	05/03/2006	OH	
United Radiology-Greenbelt PO Box 34979 West Bethesda, MD 20827	FMN007	05/03/2006	MD	
Richard Just, MD 5395 Ruffin Road Suite 202 San Diego, CA 92123	W16197	05/03/2006	CA	
Michael Kipper, MD 5395 Ruffin Road Suite 202 San Diego, CA 92123	A24091	05/03/2006	CA	
McLaren Regional Medical Center 401 S. Ballenger Highway Flint, MI 48532	230141	05/03/2006	MI	
United Radiology-Silver Spring PO Box 34979 West Bethesda, MD 20827	FMN007	05/03/2006	MD	

United Radiology-Rockville PO Box 34979 West Bethesda, MD 20827	FMN007	05/03/2006	MD	
St Mary's Health Center 6420 Clayton Road St Louis, MO 63117	260091	05/03/2006	MO	
Bay Regional Medical Center 1900 Columbus Avenue Bay City, MI 48708	230041	05/03/2006	MI	
Lapeer Regional Medical Center 1375 N. Main Street Lapeer, MI 48446	230193	05/03/2006	MI	
Scottsdale Medical Imaging, Ltd.- SW Diagnostics 9003 E. Shea Boulevard Scottsdale, AZ 85260	1902896236	05/03/2006	AZ	
Valley Medical Oncology Consultants, Inc. 3000 Oak Road #111 Walnut Creek, CA 94597	ZZZ29659Z	05/03/2006	CA	
Northwest Community Hospital 800 W Central Road Arlington Heights, IL 60005	36-2340313	05/03/2006	IL	
PET Imaging of Dallas 8333 Douglas Avenue C-20 Dallas, TX 75225	FTN017	05/03/2006	TX	
PET Imaging of Dallas-Northeast 1250 R Northwest Highway Garland, TX 75041	FTN028	05/03/2006	TX	
St Joseph's Regional Medical Center 703 Main Street Paterson, NJ 07503	310019	05/03/2006	NJ	

PET Imaging of Houston 2493-A South Braeswood Blvd. Houston, TX 77030	FTN010	05/03/2006	TX	
Goshen General Hospital 200 High Park Avenue Goshen, IN 46526	150026	05/03/2006	IN	
PET Imaging of ELMC 8550 West 38th Avenue Suite 102 Wheat Ridge, CO 80033	800665	05/03/2006	CO	
PET Imaging of Houston-Southeast 6021 Fairmont Parkway Suite 120 Pasadena, TX 77505	FTN030	05/03/2006	TX	
Peninsula Imaging, LLC 560 Riverside Drive Suite A104 Salisbury, MD 21801	481L	05/03/2006	AL	
Zwanger-Pesiri 126 Hicksville Road Massapequa, NY 11758	W13931	05/03/2006	NY	
Las Calinas PET Imaging, LLP 1110 Cottonwood Lane Irving, TX 75038	FTN019	05/03/2006	TX	Suite 220
Mt Carmel Regional Medical Center 1102 East Centennial Drive Pittsburg, KS 66762	014041	05/03/2006	KS	
Iowa Blood & Cancer Care, PLC 855 A. Avenue NE Cedar Rapids, IA 52402	I6672	05/03/2006	IA	Medical Office Plaza, LL4
Hackensack University Medical Center 30 Prospect Avenue Hackensack, NJ 07601	310001	05/03/2006	NJ	

McLeod PET Imaging Center 800 East Cheves Street Florence, SC 29501	570370242001	05/03/2006	SC	Suite 170
St Alexius Medical Center 900 E. Broadway Avenue Bismarck, ND 58506	35-0002	05/03/2006	ND	PO Box 5510
Center for Diagnostic Imaging 1295 Orange Avenue Winter Park, FL 32789	K0097	05/03/2006	FL	
Charleston Radiologists, PA 9313 Medical Plaza Drive Charleston, SC 29406	1709	05/03/2006	SC	Suite 302
PET Imaging of Houston-West 9525 Katy Freeway Suite 102 Houston, TX 77024	FTN023	05/03/2006	TX	
University Hospitals of Cleveland 11100 Euclid Avenue Cleveland, OH 44106	36-0137	05/03/2006	OH	Mailstop BSHB5056
PET Imaging of Sugar Land 17320 W Grand Parkway S. Suite A Sugar Land, TX 77479	FTN027	05/03/2006	TX	
PET Imaging of Oklahoma City 1000 N. Lincoln Boulevard Suite 250 Oklahoma City, OK 73104	800522283	05/03/2006	OK	
PET Imaging of Tulsa 6711 S. Yale Avenue #104 Tulsa, OK 74136	400522320	05/03/2006	OK	

PET Imaging of The Woodlands 3091 College Park Drive Suite 340 The Woodlands, TX 77384	FTN021	05/03/2006	TX	
Tarrant Diagnostic Imaging 1121 8th Avenue Fort Worth, TX 76104	FTN012	05/03/2006	TX	
Wyandot Memorial Hospital 85 North Sandusky Avenue Upper Sandusky, OH 43351	361329	05/03/2006	OH	
Oregon Health & Science University 3181 SW Sam Jackson Park Road Portland, OR 97229	380009	05/03/2006	OR	
Saint John's Health System 2015 Jackson Street Anderson, IN 46016	150088	05/03/2006	IN	
Hudson Valley PET Imaging, LLC 160 North Midland Avenue Nyack, NY 10960	W1L903	05/03/2006	NY	
Kingston Diagnostic Center 167 Schwenk Drive Kingston, NY 12401	W1L921	05/03/2006	NY	
Appleton Medical Center 1818 N. Meade Street Appleton, WI 54911	520160	05/03/2006	WI	
St. Elizabeth Health Center 1044 Belmont Avenue Youngstown, OH 44501	360064	05/03/2006	OH	
Sinai Hospital of Baltimore 2401 West Belvedere Avenue Baltimore, MD 21215	210012	05/03/2006	MD	

Associates in Radiology of Plattsburgh, NY 762 Route 3 Suite 14 Plattsburgh, NY 12901	33572A	05/03/2006	NY	
Affiliated PET Systems-Rockville 9711 Medical Center Drive Rockville, MD 20850	FDNX01	05/03/2006	MD	
Lake Medical Imaging & Breast Center 1400 US Highway 441 North Suite 510 The Villages, FL 32159	59-3522082	05/03/2006	FL	
Affiliated PET Systems-Silver Spring 1400 Forest Glen Road Silver Spring, MD 20910	FDNX01	05/03/2006	MD	Suite 430
North Texas Clinical PET Institute 3535 Worth Street Suite 150 Dallas, TX 75246	99R339	05/03/2006	TX	
Lake Imaging Center 801 E. Dixie Avenue Suite 104 Leesburg, FL 34748	59-3635297	05/06/2006	FL	
Edwards Comprehensive Cancer Center 1400 Hal Greer Boulevard Huntington, WV 25701	510055	05/03/2006	WV	

Allison Cancer Center 301 North N Street Midland, TX 79701	140414744	05/03/2006	TX	
Clinical PET of Leesburg 8525 US Highway 441 Leesburg, FL 34748	E7179A	05/03/2006	FL	
Greene Medical Imaging, PC 159 Jefferson Heights D-106 Catskill, NY 12414	W25021	05/03/2006	NY	
Caritas PET Imaging, LLC-Norwood Hospital 70 Walnut Street Foxboro, MA 02035	32-7092	05/03/2006	MA	Caritas Norwood Hospital - Foxboro Campus
Caritas PET Imaging, LLC-New England Medical Center 750 Washington Street Boston, MA 02111	32-7092	05/03/2006	MA	Tufts - New England Medical Center
Austin, Radiological Assn.-San Marcos 1348 B Highway 123 South San Marcos, TX 78666	74-1597116	05/03/2006	TX	
ARA Imaging-Rock Creek 2120 N Mays Street #220 Round Rock, TX 78664	20-1651590	05/03/2006	TX	
ARA Imaging-Southwood 1701 W. Ben White Boulevard #170 Austin, TX 78704	20-1651590	05/03/2006	TX	

Elkhart General Hospital 600 East Boulevard Elkhart, IN 46514	15-0018	05/03/2006	IN	
Austin, Radiological Assn.-Midtown 1301 W. 38th Street Suite 100 Austin, TX 78705	74-1597116	05/03/2006	TX	
Caritas PET Imaging, LLC-St. Elizabeth's 736 Cambridge Street Boston, MA 02135	32-7092	05/03/2006	MA	St. Elizabeth's Medical Center
Global PET Imaging, LLC 1800 Hollister Drive Suite G-10 Libertyville, IL 60048	309590	05/03/2006	IL	Grand Oaks Health Center
Caritas PET Imaging, LLC-Carney Hospital 2100 Dorchester Avenue Dorchester, MA 02124	32-7092	05/03/2006	MA	Caritas Carney Hospital
Caritas PET Imaging, LLC-Milton Hospital 92 Highland Street Milton, MA 02186	32-7092	05/03/2006	MA	
Caritas PET Imaging, LLC–St. Anne's Hospital 795 Middle Street Fall River, MA 02721	32-7087	05/03/2006	MA	St. Anne's Hospital
Caritas PET Imaging, LLC-Good Samaritan 235 North Pearl Street Brockton, MA 02301	32-7087	05/03/2006	MA	Caritas Good Samaritan Medical Center
Panhandle PET Imaging 6700 W. 9th Avenue Amarillo, TX 79106	TFN0007	05/03/2006	TX	

PET Imaging of San Francisco 1700 California Street Suite 480 San Francisco, CA 94109	ZZZ-223-782	05/03/2006	CA	
PET/CT Imaging of Berkeley 2855 Telegraph Avenue Suite 100 Berkeley, CA 94705	ZZZ-288-837	05/03/2006	CA	
Western Maryland Health System-Sacred Heart Campus 902 Seton Drive Cumberland, MD 21502	210027	05/03/2006	MD	Western Maryland Health System-Sacred Heart Campus
Desert PET Imaging, LLC 1180 N. Indian Cyn Drive Palm Springs, CA 92262	ZZZ28648Z	05/03/2006	CA	
First PET of Stockton 4744 Quail Lake Drive Stockton, CA 95207	00A484230	05/03/2006	CA	
Utah Cancer Specialist 3838 South 700 East Salt Lake City, UT 84106	57172	05/03/2006	UT	Suite 100
Washington Radiology Associates, PC 2121 K Street, NW Washington, DC 20006	WA409885	05/03/2006	DC	Suite T-120
New Rochelle Radiology Associates, PC 175 Memorial Highway New Rochelle, NY 10801	W05571	05/03/2006	NY	
North Little Rock PET Associates, LLC 3500 Springhill Drive North Little Rock, AR 72117	5F437	05/03/2006	AR	Suite 100

Advanced Imaging Concepts, PL 13063 Cortez Boulevard Brooksville, FL 34613	94774	05/03/2006	FL	
Mansfield Imaging Center 536 S. Trimble Road Mansfield, OH 44906	MAD10921	05/03/2006	OH	
West Tennessee Imaging Center 300 Coatsland Drive Jackson, TN 38305	44-0002	05/03/2006	TN	
Imaging Center of North Central Indiana, Inc. 2201 W. Boulevard Kokomo, IN 46902	224110	05/03/2006	IN	
University of Kansas Hospital 3901 Rainbow Boulevard Kansas City, KS 66160	17-00040	05/03/2006	KS	Division of Nuclear Medicine
PET Imaging of SWLA, LLC 600 Bayou Pines East Lake Charles, LA 70601	5CK63	05/03/2006	LA	Suite A
Community Imaging Partners of Frederick 67 Thomas Johnson Drive Frederick, MD 21702	980M	05/03/2006	MD	
Community Imaging Partners of Olney 18111 Prince Phillip Drive #T-20 Olney, MD 20832	409410	05/03/2006	MD	Community Imaging Partners
The West Clinic, PC 100 N. Humphreys Boulevard Memphis, TN 38120	3704066	05/03/2006	TN	

Imaging Central LLC 7111 W. Central Avenue Toledo, OH 43617	IMID01641	05/03/2006	OH	
Advanced Radiology-Dixon 291 Stoner Avenue Westminster, MD 21157	527L	05/03/2006	MD	
Advanced Radiology-Harford Imaging 104 Plumtree Road Bel Air, MD 21015	527L	05/03/2006	MD	Suite 106
Advanced Radiology-Cross Roads 4801 Dorsey Hall Road Ellicott City, MD 21042	527L	05/03/2006	MD	Suite 101
Advanced Radiology-PET Imaging of MD 1700 Reisterstown Road Baltimore, MD 21208	527L	05/03/2006	MD	Suite 119
Cancer & Blood Disease Center 521 N. Lecanto Highway Lecanto, FL 34461	72840	05/03/2006	FL	
Huntington Outpatient Imaging Center, Inc. 800 S. Fairmount Avenue Pasadena, CA 91105	W1575B	05/03/2006	CA	Suite 120
Universal Imaging, Inc. 4600 Investment Drive Troy, MI 48083	ON69130	05/03/2006	MI	
Berger Health System 1170 North Court Street Circleville, OH 43113	360710	05/03/2006	OH	
Contemporary Imaging-Trenton 1676 Fort Street Trenton, MI 48183	0P23200	05/03/2006	MI	
South Tulsa PET, LLC 7712 S. Yale Avenue Tulsa, OK 74136	800522360	05/03/2006	OK	Ste 100

Cancer Center of the Carolinas 200 Andrews Street Greenville, SC 29601	6526	05/03/2006	SC	Suite 100
OSF Saint Francis Medical Center 530 NE Glen Oak Avenue Peoria, IL 61637	14-0067	05/03/2006	IL	
Sacred Heart-St. Mary's Hospitals, Inc. 2251 Northshore Drive Rhinelander, WI 54501	1100700	05/03/2006	WI	
Capital Region Radiation Therapy & Imaging 3400 W. Truman Boulevard Jefferson City, MO 65109	260047	05/03/2006	MO	PO 150832
University PET/CT Imaging 19 Bradhurst Avenue Hawthorne, NY 10532	W2Y371	05/03/2006	NY	Suite 1200
Aztech Radiology-Apache Trail 1840 W. Apache Trail Apache Junction, AZ 85222	Z72398	05/03/2006	AZ	
Aztech Radiology-Casa Grande 1669 E McMurray Boulevard Casa Grande, AZ 85222	Z25341	05/03/2006	AZ	
Missouri Cancer Associates 105 N. Keene Street Columbia, MO 65201	000012700	05/03/2006	MO	Suite 100
White River Medical Center 1710 Harrison Street Batesville, AR 72501	040119	05/03/2006	AR	
Englewood Hospital & Medical Center 350 Engle Street Englewood, NJ 07631	310045	05/03/2006	NJ	

Regional Imaging & Therapeutic Radiology Services 360 Bard Avenue Staten Island, NY 10310	1023095445	05/03/2006	NY	
Rocky Mountain Cancer Centers-South 7951 E. Maplewood Avenue Suite 300 Greenwood Village, CO 80111	204508	05/03/2006	CO	
Rocky Mountain Cancer Centers-North 7951 E. Maplewood Avenue Suite 300 Greenwood Village, CO 80111	204508	05/03/2006	CO	
Molecular Imaging of Hamilton County-Bethesda 4197 Fulton Road NW, Suite C Canton, OH 44718	MOID01221	05/03/2006	OH	
Molecular Imaging of Hamilton County-Good Sam 4197 Fulton Road NW, Suite C Canton, OH 44718	MOID01221	05/03/2006	OH	
Kettering Medical Center 3535 Southern Boulevard Kettering, OH 45429	360079	05/03/2006	OH	
St. Mary's Hospital 5801 Bremo Road Richmond, VA 23226	540793767	05/03/2006	VA	

Columbus Medical Institute of NY 97-85 Queens Boulevard Rego Park, NY 11374	05679	05/03/2006	NY	
Meadville Medical Center 1034 Grove Street Meadville, PA 16335	39-0113	05/03/2006	PA	
Chambersburg Hospital-Radiology 112 North Seventh Street Chambersburg, PA 17201	390151	05/03/2006	PA	
Oregon Advanced Imaging 881 O'Hare Parkway Medford, OR 97504	R114546	05/03/2006	OR	
Singing River Hospital 2809 Denny Avenue Pascagoula, MS 39581	250040	05/03/2006	MS	
East Texas Medical Center-Tyler 1000 S. Beckham Avenue Tyler, TX 75701	4500833	05/03/2006	TX	
Columbia, St. Mary's Hospital 2025 E. Newport Avenue Columbia Campus Milwaukee, WI 53211	520051	05/03/2006	WI	
Sharon Regional Health System 740 East State Street Sharon, PA 16146	390211	05/03/2006	PA	
Northern Ohio Imaging Center 1900 West River Road Elyria, OH 44035	36-0172	05/03/2006	OH	
Oxford Valley Diagnostic Center 940 Town Center Drive Langhorne, PA 19047	232745550	05/03/2006	PA	Suite F50>

The Emory Clinic 1365 Clifton Road Building C Room Court 048 Atlanta, GA 30322	582030692	05/03/2006	GA	
Alegent Health Bergan Mercy Medical Center 7500 Mercy Road Omaha, NE 68124	280060	05/03/2006	NE	
University Center Imaging 1065 Delaware Avenue Marion, OH 43302	20-3873307	05/03/2006	OH	
Elk Regional Health Center 763 Johnsonburg Road St Mary's, PA 15857	39-0154	05/03/2006	PA	
Health Park Hospital 1636 Higdon Ferry Road Hot Springs, AR 71913	04-0142	05/03/2006	AR	
Johnsonburg Health Center 81 Clarion Road Johnsonburg, PA 15845	39-0104	05/03/2006	PA	
Jane Phillips Medical Center 3500 E. Frank Phillips Boulevard Bartlesville, OK 74006	370015	05/03/2006	OK	
North Main Imaging Center 7650 First Place Suite B Oakwood Village, OH 44146	NEID01521	05/03/2006	OH	
PET Imaging Center of Delaware County-DCMH 501 North Lansdowne Avenue Drexel Hill, PA 19026	390081	05/03/2006	PA	

NEO-PET CRC Imaging 7650 First Place Suite B Oakwood Village, OH 44146	NEID01521	05/03/2006	OH	
PET Imaging Center of Delaware County-Springfield 190 West Sproul Road. Springfield, PA 19064	381080	05/03/2006	PA	
Harper University Hospital 3990 John R Street Detroit, MI 48201	230104	05/03/2006	MI	
Sinai-Grace Hospital 6071 W. Outer Drive Detroit, MI 48235	23-0024	05/03/2006	MI	
Seattle Radiologists APC 1229 Madison Street Seattle, WA 98104	G0001589600	05/03/2006	WA	#900
Huron Valley-Sinai Hospital 1 William Carl Drive Commerce, MI 48382	23-0277	05/03/2006	MI	
East Memphis PET Imaging 6005 Park Avenue Memphis, TN 38119	3374526	05/03/2006	TN	Suite 101B
UPMC-PET Imaging Facility 200 Lothrop Street Pittsburgh, PA 15213	390164	05/03/2006	PA	9th Floor B-Wing PUH
UPMC-PET Imaging Facility 300 Halket Street Pittsburgh, PA 15213	390114	05/03/2006	PA	
Rhode Island Hospital 593 Eddy Street Providence, RI 02903	05-025-8954	05/03/2006	RI	
David C. Pratt Cancer Center 607 South New Bulbs Road St Louis, MO 63141	260020	05/03/2006	MO	

Lewistown Hospital 400 Highland Avenue Lewistown, PA 17044	390048	05/03/2006	PA	
Lawrence Memorial Hospital 325 Maine Street Lawrence, KS 66044	170137	05/03/2006	KS	
Jameson Hospital 1211 Wilmington Avenue New Castle, PA 16105	39-0016	05/03/2006	PA	
Diagnostic Clinic of Houston 1200 Binz Street Houston, TX 77004	76-0203506	05/03/2006	TX	
Arlington Heights Radiology Center, LLC 121 South Wilke Road Arlington Heights, IL 60005	212301	05/03/2006	IL	
Oregon Imaging Center 1200 Hilyard Street Eugene, OR 97401	R0000WCPGH	05/03/2006	OR	#330
Arlington Heights Radiology Center, LLC 121 South Wilke Road Arlington Heights, IL 60005	212301	05/03/2006	IL	
Indiana Univ Radiology Assoc PET Imaging Center 950 W. Walnut Street Room E124 Indianapolis, IN 46202	959090	05/03/2006	IN	
Morristown Memorial Hospital 100 Madison Avenue Morristown, NJ 07962	310015	05/03/2006	NJ	
Baton Rouge Radiology Group 5422 Dijon Drive Baton Rouge, LA 70808	5B039	05/03/2006	LA	

North Texas PET Imaging 3720 South I-35E Denton, TX 76210	752131429	05/03/2006	TX	
Children's Hospital of Michigan PET Center 3901 Beaubien Street Detroit, MI 48201	23-3300	05/03/2006	MI	
Winchester Medical Center 1840 Amherst Street Winchester, VA 22601	490005	05/03/2006	VA	
Decatur Health Imaging, LLC 1123 16th Avenue SE Decatur, AL 35601	051555161	05/03/2006	AL	
Health Imaging Services, LLC 1760 Warnke Circle NE Cullman, AL 35058	051553273HEA	05/03/2006	AL	
PET/CT Imaging of the Mainline 21 Industrial Boulevard Suite 103 Paoli, PA 19301	097715	05/03/2006	PA	
PET Imaging of Brevard 1430 Pine Street Melbourne, FL 32901	39254	05/03/2006	FL	
North Carolina Baptist Hospital Medical Center Boulevard Winston Salem, NC 27157	34-0047	05/03/2006	NC	

St Francis Hospital 34515 9th Avenue S Federal Way, WA 98003	500108	05/03/2006	WA	
Saint Barnabas Outpatient Center 200 S. Orange Avenue Livingston, NJ 07039	440149	05/03/2006	NJ	
PET/CT Imaging of Ramapa Radiology 972 Route 45 Suite 106 Pomona, NY 10970	W21711	05/03/2006	NY	
Medical University of South Carolina PET/CT 169 Ashley Avenue Charleston, SC 29425	420004	05/03/2006	SC	
Akron General Medical Center 300 Wabash Avenue Akron, OH 44307	36-0027	05/03/2006	OH	
New England Molecular Imaging-Mercy Hospital 144 State Road Portland, ME 04103	NE327075	05/03/2006	ME	
New England Molecular Imaging-Penobscot Bay 6 Glenn Cove Drive Rockport, ME 04856	NE327076	05/03/2006	ME	
Center for Outpatient Services-St. Joseph 3900 Hollywood Road St. Joseph, MI 49085	23-0021	05/03/2006	MI	
New England Molecular Imaging-Central Maine 12 High Street Lewiston, ME 04240	NE327076	05/03/2006	ME	

Imaging Consultants, Inc.-Berkshire 8 Conte Drive Pittsfield, MA 01210	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Boston Medical 840 Harrison Avenue Boston, MA 02118	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Boston PET One Brookline, Place Brookline, MA 02445	327083	05/03/2006	MA	
Baptist Memorial Hospital PET Center 6027 Walnut Grove Road Memphis, TN 38120	44-0048	05/03/2006	TN	
Southern Oklahoma PET/CT Imaging 701 E. Robinson Street Norman, OK 73071	90015477	05/03/2006	OK	
Ann G. Fetters Diagnostic Imaging Center 2151 N. Harbor Boulevard Fullerton, CA 92835	050168	05/03/2006	CA	
Pitt County Memorial Hospital 2100 Stantonsburg Road Greenville, NC 27835	56-0585243	05/03/2006	NC	
Inland Imaging, LLC 105 W. 8th Avenue Spokane, WA 99202	AB01749	05/03/2006	WA	Suite 100C
University of Chicago Hospitals 5758 S. Maryland Avenue Chicago, IL 60637	140088	05/03/2006	IL	Room #0150

Birch Medical Imaging Center 20162 SW Birch Street Newport Beach, CA 92660	W19353	05/03/2006	CA	
Tennessee Oncology PET Services 2018 Murphy Avenue Nashville, TN 37203	3709319	05/03/2006	TN	Suite 200
Tennessee PET Scan 1020 N. Highland Avenue Murfreesboro, TN 37130	3791187	05/03/2006	TN	Suite A
Texas Oncology-Harris Center HEB 1615 Hospital Parkway Bedford, TX 76022	00R66C	05/03/2006	TX	Suite 300
Greater Dayton Cancer Center 3120 Governor's Place Boulevard Kettering, OH 45409	9295791	05/03/2006	OH	
Martha Jefferson Hospital 459 Locust Avenue Charlottesville, VA 22902	490077	05/03/2006	VA	
Modern Diagnostic Imaging 600 S. Dobson Road Chandler, AZ 85224	107628	05/03/2006	AZ	Suite B-16
Christiana Care Nuclear Medicine/PET 4755 Ogletown-Stanton Road Newark, DE 19718	080001	05/03/2006	DE	

Advanced Imaging of Port Charlotte, LLC 2625 Tamiami Trail Port Charlotte, FL 33952	K6802	05/03/2006	FL	Suite 1
St. Joseph's Diagnostic Center-MLK 3003 Martin Luther King, Jr. Boulevard Tampa, FL 33067	97779	05/03/2006	FL	
South Carolina Oncology Associates 166 Stoneridge Drive Columbia, SC 29210	6275	05/03/2006	SC	
South Carolina Oncology Associates 166 Stoneridge Drive Columbia, SC 29210	6276	05/03/2006	SC	
Access Health Imaging 5257 Highway 82, East Lake Village, AR 71653	5M809	05/03/2006	AR	
PET/CT Services of Florida-Beverly Hills 3404 N. Lecanto Highway Beverly Hills, FL 34465	V0103	05/03/2006	FL	Beverly Hills Medical Park
PET/CT Services of Florida-Ocala 1541 SW 1st Avenue Ocala, FL 34474	V0103	05/03/2006	FL	Suite 101B
Blanchard Valley Regional Health Center 145 W. Wallace Street Findlay, OH 45840	360095	05/03/2006	OH	

Papastavros Associates Medical Imaging 1701 Augustine Cut-Off Wilmington, DE 19803	1083615561	05/03/2006	DE	
PET Imaging of Willowbrook 13300 Hargrave Road Houston, TX 77070	FTN032	05/03/2006	TX	Suite 130
PET Imaging of Northern Colorado 1915 Wilmington Drive Ft Collins, CO 80528	804621	05/03/2006	CO	Suite 101
Temecula Valley Advanced Imaging 25395 Hancock Avenue Murrieta, CA 92592	ZZZ-150752	05/03/2006	CA	Suite 110
Saint Anthony Memorial Health Center 301 West Homer Street Michigan City, IN 46360	A150015	05/03/2006	IN	
Salina Regional Health Center 400 S. Santa Fe Avenue Salina, KS 67401	170012	05/03/2006	KS	PO Box 5080
Cancer Center of Kansas 818 N. Emporia Street Wichita, KS 67214	110217	05/03/2006	KS	Suite 100
Clinton Crossings Imaging 995 Senator Keating Boulevard Rochester, NY 14618	14439A	05/03/2006	NY	
NSMS-Shelby County 4253 Argosy Court Madison, WI 53714	I16068	05/03/2006	WI	
Verrazano Radiology, PC 256A Mason Avenue Staten Island, NY 10305	200011201	05/03/2006	NY	

Imaging Consultants, Inc.-Brockton Hospital 680 Centre Street Brockton, MA 02301	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Cape Cod 252 Long Pond Drive Harwich, MA 02645	327085	05/03/2006	MA	Fontain Medical Center
Imaging Consultants Inc - Falmouth 100 Ter Hewn Drive Falmouth, MA 02540	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Jordan 275 Sandwich Street Plymouth, MA 02360	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Holyoke 575 Beech Street Holyoke, MA 01040	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Mercy Medical 271 Carew Street Springfield, MA 01089	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Lawrence Memorial 170 Governors Avenue Medford, MA 02155	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Metro West 115 Lincoln Street Framingham, MA 01701	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Milford 14 Prospect Street Milford, MA 01757	327085	05/03/2006	MA	

Imaging Consultants, Inc.-Quincy 114 Whitwell Street Quincy, MA 02196	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Saints Memorial 2 Hospital Drive Lowell, MA 01852	327083	05/03/2006	MA	
Imaging Consultants, Inc.-Truesdale 1030 Presidents Avenue Fall River, MA 02720	327085	05/03/2006	MA	
Imaging Consultants, Inc.-Twin City 76 Summer Street Fitenburg, MA 01420	N/A	05/03/2006	MA	
Imaging Consultants, Inc.-Worcester 20 Worcester Center Boulevard Worcester, MA 01608	327085	05/03/2006	MA	
Sentara Mobile PET/CT-Careplex 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	
Sentara Mobile PET/CT-Lake Wright 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	
Sentara Mobile PET/CT-Princess Anne 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	

Sentara Mobile PET/CT-Williamsburg 5900 Lake Wright Drive Suite B Norfolk, VA 23502	250605	05/04/2006	VA	
Memorial Hospital of South Bend 615 N. Michigan Street South Bend, IN 46601	150058	05/04/2006	IN	
NSMS-Belleville, IL 4253 Argosy Court Madison, WI 53714	208196	05/04/2006	WI	
NSMS-Flora, IL 4253 Argosy Court Madison, WI 53714	208196	05/04/2006	WI	
NSMS-Breese, IL 4253 Argosy Court Madison, WI 53714	208196	05/04/2006	WI	
SSM DePaul Health Center 12303 DePaul Drive St Louis, MO 63044	260104	05/04/2006	MO	
Lutheran Hospital 7950 W. Jefferson Boulevard Fort Wayne, IN 46804	150017	05/11/2006	IN	
Memorial MRI and Diagnostic 1346 Campbell Road Houston, TX 77055	00941U	05/11/2006	TX	
Shields Imaging of Eastern Mass 55 Fogg Road Weymouth, MA 2190	327088	05/11/2006	MA	
Baystate MRI and Imaging Center 3300 Main Street Springfield, MA 1107	327039	05/11/2006	MA	

Advanced Imaging Center 16110 Jog Road, 200 Delray Beach, FL 33446	U2049	05/11/2006	FL	
UMASS Memorial MRI and Imaging Center 214 Shrewsburg Street Worcester, MA 1604	327040	05/11/2006	MA	
RCOA Imaging Services 1108 Minnequa Avenue Pueblo, CO 81004	475748	05/11/2006	CO	
Adventist Health PET/CT-Hanford 450 N. Greenfield Avenue Hanford, CA 93230	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-Feather River 5974 Pertz Road Paradise, CA 95969	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-Sonora 1000 Greenley Road Sonora, CA 95370	ZZZ318852	05/11/2006	CA	
Sarasota Memorial PET 5350 University Parkway Sarasota, FL 34238	U1775	05/11/2006	FL	
Adventist Health PET/CT-Redbud 18th Ave. at Highway 53 PO Box 6710 Clear Lake, CA 95422	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-St. Helena 10 Woodland Road St. Helena, CA 94574	ZZZ318852	05/11/2006	CA	
Adventist Health PET/CT-Ukiah 275 Hospital Drive Ukiah, CA 95482	ZZZ318852	05/11/2006	CA	

Mease Outpatient Imaging 1840 Mease Drive Safety Harbor, FL 34685	100265	05/11/2006	FL	
Bardmoor Outpatient Center 8787 Bryan Dairy Road Largo, FL 33777	00594C	05/11/2006	FL	
Trinity Outpatient Center 2102 Trinity Oaks Boulevard New Port Richey, FL 34655	00594D	05/11/2006	FL	
Walnut Creek Imaging Center 114 La Casa Via, #200 Walnut Creek, CA 94598	ZZZ13902Z	05/11/2006	CA	
Carlisle Imaging Center 1240 S. Ft. Harrison Clearwater, FL 33756	594	05/11/2006	FL	
Valley Radiology Imaging at Samaritan 2581 Samaritan Drive, #100 San Jose, CA 95124	ZZZ139851Z	05/11/2006	CA	
Forest Hills PET Imaging 102-02 Queens Boulevard Forest Hills, NY 11375	06998G	05/11/2006	NY	
Roper LowCountry PET Imaging Center 316 Calhoun Street Charleston, SC 29401	Q326280001	05/11/2006	SC	
Premier PET Imaging of NJ 119 Cherry Hill Road Parsippany, NJ 07054	68433	05/11/2006	NJ	Suite 100
Methodist Medical Center of Illinois 221 NE Glen Oak Avenue Peoria, IL 61636	370661223	05/11/2006	IL	
Medical Imaging of Baltimore 6715 N. Charles Street Baltimore, MD 21204	258L	05/12/2006	MD	

Yagnesh Oza, MD 4117 Velerous Memorial Drive Mt Vernon, IL 62864	212702	05/12/2006	IL	
Moffitt Cancer Center 12902 Magnolia Drive Tampa, FL 33612	100271	05/12/2006	FL	
PrimeMed Imaging 5 Morgan Highway Suite 7 Scranton, PA18505	260	05/12/2006	PA	Morgan Medical Complex
Rockville PET Imaging, PC 119 North Park Avenue Rockville Centre, NY 11570	WTC601	05/12/2006	NY	Suite 101
Porter Adventist Hospital 2525 South Downing Street Denver, CO 80210	60064	05/12/2006	CO	
Rapid City Regional Hospital Medical Imaging Services 353 Fairmont Boulevard Rapid City, SD 57701	43007	05/12/2006	SD	
Advanced Radiolgy Consultants 56 Quarry Road Trumbull, CT 06611	C02747	05/12/2006	CT	
Northeastern PA Imaging Center 2601 Stafford Avenue Scranton, PA 18505-0305	475385	05/12/2006	PA	PO BOX 3305
Billings MRI Center 1041 North 29th Street Billings, MT 59101-1075	81030	05/12/2006	MT	
Aurora St. Luke's Medical Center 2900 W. Oklahoma Avenue Milwaukee, WI 53215	520138	05/12/2006	WI	Nuclear Medicine Department

Memorial & St. Elizabeth's Healthcare Services, LLC 4000 N. Illinois Lane Swansea, IL 62226	201339	05/12/2006	IL	PET/CT Imaging Center
Palm Beach Cancer Institute-West Palm Beach 1309 North Flagler Drive West Palm Beach, FL 33401-2710	34754	05/12/2006	FL	
Overlook Hospital 99 Beauvoir Avenue Summit, NJ 07902	8772966189	05/12/2006	NJ	
Ashland Bellefonte Cancer Center 122 Saint Christopher Drive Ashland, KY 41101	2150	05/12/2006	KY	
Bryn Mawr Imaging Center 101 S. Bryn Mawr Avenue Bryn Mawr, PA 19010	473120	05/12/2006	PA	
Oncology Alliance 1055 N. Mayfair Road Suite 100 Wauwatosa, WI 53220	32836000	05/12/2006	WI	
Shared PET Maimonides 6300 Eighth Avenue Brooklyn, NY 11220	97Z661	05/12/2006	NY	
Hoboken Radiology, LLC 79 Hudson Street Suite 100 Hoboken, NJ 07030	80395	05/12/2006	NJ	
Akron City Hospital 525 E. Main Street Akron, OH 44309	360020	05/12/2006	OH	

Park Avenue Radiologists, PC 525 E. Main Street Rome, GA 30165	W21771	05/12/2006	NY	
Comprehensive Blood & Cancer Center 6501 Truxtun Avenue Bakersfield, CA 93309	zzz238732	05/12/2006	CA	
Rome Imaging Center 309 West 10th Street Rome, GA 30165	GRP1221	05/12/2006	GA	
Hawaii PET Imaging 2230 Liliha Street Honolulu, HI 96817	54537	05/12/2006	HI	
Imaging Consultants, Inc. at Henry Heywood Hospital 242 Green Street Gardner, MA 01440	327085	05/12/2006	MA	
Imaging Consultants, Inc. at Nashoba Valley Medical Center 200 Groton School Road Ayer, MA 01432	327085	05/12/2006	MA	
Rhode Island PET Services at Memorial Hospital 111 Brewster Street Pawtucket, RI 2860	479003556	05/12/2006	RI	
Osceola Cancer Center 737 W. Oak Street Kissimmee, FL 34741	1629034202	05/12/2006	FL	
Valley Radiologists, Ltd.-Paseo II Office 5605 W. Eugie Avenue Suite 110 Glendale, AZ 85304	1902896236	06/13/2006	AZ	
Southeast GYN, Oncology PET 5210 Belfort Road Suite 130 Jacksonville, FL 32256	45542	06/13/2006	FL	

The Johns Hopkins PET Center 600 N. Wolfe Street Baltimore, MD 21287	210009	06/13/2006	MD	Nelson Basement
Maklansky, Grunter, Kurzban, Cohen, Zimmer, Hyman 165 East 84th Street New York, NY 10028	W20393	06/13/2006	NY	
Methodist Medical Center of Illinois 112 Crescent Avenue Peoria, IL 61636	370661223	06/13/2006	IL	
Phoebe Putney Memorial Hospital 417 Third Avenue PO Box 1828 Albany, GA 31702-1828	110007	06/13/2006	GA	
Eiber Radiology/PET Premier Imaging 21 West 49th Street Hialeah, FL 33012	k3166	06/13/2006	FL	
Botsford Hospital 28050 Grand River Avenue Farmington Hills, MI 48336	230151	06/13/2006	MI	
Middletown Regional Hospital 105 McKnight Drive Middletown, OH 45044	360076	06/13/2006	OH	
Waukesha Memorial Hospital 725 American Avenue Waukesha, WI 53188	390910727	06/13/2006	WI	
Battle Creek Health System 300 North Avenue Battle Creek, MI 49016	230075	06/13/2006	MI	

Orlando Regional Medical Center 1414 Kuhl Avenue Orlando, FL 32806	100006	06/13/2006	FL	
NorthEast Medical Center 1065 NorthEast Gateway Court NE Concord, NC 28025	340001	06/13/2006	NC	
Premier Medical Imaging 7651 Stagers Loop Delaware, OH 43015	9912921	06/13/2006	OH	
Advanced Radiolgy Consultants 15 Corporate Drive Trumbull, CT 6611	C02747	06/13/2006	CT	
Advance PET Imaging 23 Technology Drive East Setauket, NY 11733	46a401	06/13/2006	NY	
Premier PET Imaging of Wichita 500 S. Main Street Suite B Wichita, KS 67202	110682	06/13/2006	KS	
Health Center Northwest 320 Sunnyview Lane Kalispell, MT 59901	270087	06/13/2006	MT	
Olympic Medical Center 844 N. 5th Avenue Sequim, WA 98382	500072	06/13/2006	WA	
Premier PET Imaging of Jacksonville 5210 Belfort Road Suite 130 Jacksonville, FL 32256	K3166	06/13/2006	FL	
PET/CT Imaging of San Jose 2211 Moorpark Avenue Suite 220	ZZZ19866Z	06/13/2006	CA	

San Jose, CA 95128				
The Reading Hospital and Medical Center 6th and Spruce Streets West Reading, PA 19611	390044	06/13/2006	PA	
Julia Rackley Perry Memorial Hospital 530 Park Avenue East Princeton, IL 61356	141337	06/13/2006	IL	
Ashland Bellefonte Cancer Center 122 Saint Christopher Drive Ashland, KY 41101	2150	06/13/2006	KY	
Tower Imaging BBD 14231 Bruce B Down Boulevard Tampa, FL 33613	169	06/13/2006	FL	
VyMed Diagnostic Imaging Tampa, LLC 10010 N. Dale Mabry Suite 160 Tampa, FL 33618	U4068	06/13/2006	FL	
Texas Oncology Cancer Center Sugar Land 1350 First Colony Boulevard Sugar Land, TX 77479	00073F	06/13/2006	TX	
Samaritan North Health Center 9000 N. Main Street Dayton, OH 45415	360052	06/13/2006	OH	
The PET Center of Oxford 1612 US Highway 78 East Suite 102 Oxford, AL 36203	51554888	06/13/2006	AL	
Shared PET Mem Lighthouse 6901 N. Main Street Granger, IN 46530	232800	06/13/2006	IN	
Shared PET Hope Cancer Center	201320	06/13/2006	IN	

3702 South Fourth Street Terre Haute, IN 47802				
Athens Regional Medical Center 1199 Prince Avenue Athens, GA 30606	110074	06/13/2006	GA	
Muskogee PET & Nuclear Imaging 3300 Chandler Road Suite #106 Muskogee, OK 74403	400522529	06/13/2006	OK	
Lubbock Imaging Center 4011 19th Street Lubbock, TX 79410	00027K	06/13/2006	TX	
Memorial Medical Center 701 N. First Street Springfield, IL 62781	140148	06/13/2006	IL	
Hamamatsu/Queen's PET Imaging Center 1301 Punchbowl Street Honolulu, HI 96813		06/13/2006	HI	
Aurora BayCare Medical Center 2845 Greenbrier Road Green Bay, WI 54308	520193	06/13/2006	WI	
Medical Center of Plano 3901 W. 15th Street Plano, TX 75002	450651	06/13/2006	TX	
Carolinas Medical Center 1000 Blythe Boulevard Charlotte, NC 28203	340113	06/13/2006	NC	
Redwood Regional Medical Group d.b.a. Santa Rosa Radiology 121 Sotoyome Street Santa Rosa, CA 95405	680344865	06/13/2006	CA	
Boone Hospital Center 1600 East Broadway Columbia, MO 65201	260068	06/13/2006	MO	

River Radiology 45 Pine Grove Avenue Kingston, NY 12401	W30681	06/13/2006	NY	
University of Washington Medical Center 1959 NE Pacific Street Seattle, WA 98195	142700	06/13/2006	WA	
Mid American Imaging-Salem 1987 E. 4th Street Salem, OH 44460	ID00804	06/13/2006	OH	
Piedmont Medical Center 222 S. Herlong Avenue Rock Hill, SC 29732	420002	06/13/2006	SC	
Alliance Imaging-Sparks 1311 South I Street Fort Smith, AR 72817	5F463	06/13/2006	AR	
Radiology Imaging Associates 1825 SE Tiffany Avenue Suite 104 Port St. Lucie, FL 34952	52	06/13/2006	FL	
Mount Sinai Medical Center One Gustave L. Levy Place New York, NY 10029	H23620	06/13/2006	NY	
NSMS-Ottawa, IL 4253 Argosy Court Madison, WI 53714	208196	06/13/2006	WI	
Center for Diagnostic Imaging 1550 E. Chestnut Avenue Vineland, NJ 08360	53290	06/13/2006	NJ	Bldg 4 Suite A
St. Mary Mercy Hospital-Livonia 36475 Five Mile Road Livonia, MI 48154	230002	06/13/2006	MI	
Harold Leever Regional Cancer 1075 Chase Parkway Waterbury, CT 06708	470000025	06/13/2006	CT	

Kentucky Metabolic Imaging 2425 Regency Road Suite B Lexington, KY 40503	9366001	06/13/2006	KY	
Western Baptist Hospital 2501 Kentucky Avenue Paducah, KY 42001	180104	06/13/2006	KY	
St. Anthony Regional Hospital 311 South Clark Street Box 628 Carroll, IA 51401	1720067127	06/13/2006	IA	
Alliance Imaging-Sequoia Hospital 170 Alameda De Las Pulgas Redwood City, CA 94062	ZZZ28890Z	06/13/2006	CA	
Craven Regional Medical Center 2000 Neuse Boulevard New Bern, NC 28560	340131	06/13/2006	NC	
Alliance Imaging-Tri City Medical Center 4002 Vista Way Oceanside, CA 92056	TG281C	06/13/2006	CA	
Alliance Imaging-Yavapai Del Webb Outpatient Center Prescott Valley, AZ 86314	76103	06/13/2006	AZ	3262 Windsong Drive
Saint Vincent's Comprehensive Cancer Center 325 West 15th Street New York, NY 10011	330290	06/13/2006	NY	
Alliance Imaging-Southwest Medical Imaging 3104 Stockton Hill Road Kingman, AR 86401	76103	06/13/2006	AZ	
Alliance Imaging-North Idaho Imaging 700 Ironwood Drive Coeur d'Alene, ID 93814	1790291	06/13/2006	ID	

Froedtert Hospital 9200 W. Wisconsin Avenue Milwaukee, WI 53226	520177	06/13/2006	WI	
Alliance Imaging-Flagstaff Medical Center 1200 N. Beaver Street Flagstaff, AZ 86001	71855	06/13/2006	AZ	
South Florida Oncology and Hematology Consultants 4850 W. Oakland Park Boulevard Lauderdale Lakes, FL 33313	33873	06/13/2006	FL	Suite A
Alliance Imaging-Sierra Vista 300 El Camino Real Sierra Vista, AZ 85635	71855	06/13/2006	AZ	
Alliance Imaging-St. Joseph Eureka 2700 Dolbeer Street Eureka, CA 95501	zzz23046z	06/13/2006	CA	
Alliance Imaging-Corvallis Clinic 3680 NW Samaritan Drive Corvallis, OR 97330	132104	06/13/2006	OR	
Bridgeport Hospital 267 Grant Street Bridgeport, CT 06610	70010	06/13/2006	CT	
Valley Radiologists, Ltd.-Paseo II Office 5605 W. Eugie Avenue Glendale, AZ 85304	1902896236	06/13/2006	AZ	Suite 110
Central Texas Medical Center 1301 Wonder World Drive San Marcos, TX 78666	450272	06/13/2006	TX	

Alliance Imaging-Verde Valley Medical Center 269 S. Candy Lane Cottonwood, AZ 86326	76103	06/13/2006	AZ	
Alliance Imaging-Union Hospital Cecil 106 Bow Street Elkton, MD 21821	FMN008	06/13/2006	MD	
St. Joseph Mercy Hospital – Ann Arbor 5301 E. Huron River Road Ann Arbor, MI 48106	230156	06/13/2006	MI	
Alliance Imaging-Navapache 2200 E. Show Low Lake Show Low, AZ 85901	76103	06/13/2006	AZ	
St. Clare Medical Center 1710 Lafayette Road Crawfordsville, IN 17933	150022	06/13/2006	IN	
Boynton Beach EFL Imaging Center, LLC 2300 S. Congress Avenue Boynton Beach, FL 33426	272376000	06/13/2006	FL	#105
Aurora Medical Center Oshkosh 855 N. Westhaven Drive Oshkosh, WI 54904	590198	06/13/2006	WI	
Southeast GYN, Oncology PET 5210 Belfort Road Jacksonville, FL 32256	45542	06/13/2006	FL	Suite 130

Stockton MRI & Molecular Imaging Medical Center 2320 N. California Street, #2 Stockton, CA 95219	ZZZ290872	06/13/2006	CA	
South Texas Cancer Center 2150 N. Expressway 83 Brownsville, TX 78521	14041756	06/13/2006	TX	
Southwest Cancer Care Medical Group 5395 Ruffin Road San Diego, CA 92123	W4957B	06/13/2006	CA	#202
Radiology Associates of Venice and Englewood, PA 512-516 S. Nokomis Avenue Venice, FL 34285	99390	06/13/2006	FL	
Langlade Memorial Hospital Oncology 112 E. 5th Avenue Antigo, WI 54409	521350	06/13/2006	WI	
RCOA Imaging Services 305 South 5th Street Enid, OK 73701	400522301	06/13/2006	OK	
North Shore Hematology Oncology Associates, PC 235 N. Belle Mead Road East Setauket, NY 11733	W04051	06/13/2006	NY	
Providence Holy Cross Imaging Center 26357 McBean Parkway Suite 155 Santa Clarita, CA 91355	TP129	06/13/2006	CA	
Alaska Open Imaging Center, LLC 6911 DeBarr Road Anchorage, AK 99504	K153149	06/13/2006	AK	

Temecula Valley Nuclear Medicine 25485 Medical Center Drive Murrieta, CA 92562	00A417170	06/13/2006	CA	Suite 102
Hematology Oncology Assoc. of the Treasure Coast 1801 SE Hillmoor Drive Port Saint Lucie, FL 34952	40806	06/13/2006	FL	Suite B-107 (Mobile)
The Center for Cancer and Blood Disorders 800 W. Magnolia Avenue Fort Worth, TX 76104	00L79L	06/13/2006	TX	
Alliance Imaging-South Coast Medical Center 31872 Pacific Coast Highway Laguna Beach, CA 92651	TG281B	06/13/2006	CA	
The Medical Center at Bowling Green 250 Park Street Bowling Green, KY 42101	180013	06/13/2006	KY	PET/CT Center
Johns Hopkins Bayview Medical Center 4940 Eastern Avenue Baltimore, MD 21224	210029	06/13/2006	MD	Imaging Department-Nuclear Medicine
University of Michigan, Department of Radiology 1500 E. Medical Center Drive Ann Arbor, MI 48109	230046	06/13/2006	MI	Box 0028, B1H418 University Hospital
Carmichael Imaging, LLC 4147 Carmichael Road Montgomery, AL 36106	51551742	06/13/2006	AL	
Clearfield Hospital 809 Turnpike Avenue Clearfield, PA 16830	390052	06/13/2006	PA	
Clinical Pet of Hernando 4003 Mariner Boulevard Spring Hill, FL 34609	V2683	06/13/2006	FL	

Booth Radiology 105 Kings Way W. Hurffville-Crosskeys Road Sewell, NJ 08080	39460	06/13/2006	NJ	
Clinical PET of Zepherhills 38044 Daughtery Road Zephyrhills, FL 33542	E7179B	06/13/2006	FL	
Radiology & Diagnostic Imaging 2200 East Parrish Avenue Owensboro, KY 42303	3641	06/13/2006	KY	Building D
Santa Monica Bay Physicians 12524 W. Washington Boulevard Los Angeles, CA 90066	W14560	06/13/2006	CA	
Missouri Baptist Medical Center 3023 N. Ballas Road. St. Louis, MO 63141	260108	06/13/2006	MO	Suite 150, Building D
Radiology Associates of Tallahassee, PA 1600 Phillips Road Tallahassee, FL 32308	60	06/13/2006	FL	
Pacific Imaging-Oakland 3200 Telegraph Avenue Oakland, CA 94609	1265480099	06/13/2006	CA	
Medical Group of North County 5395 Ruffin Road, #202 San Diego, CA 92123	W11609	06/13/2006	CA	#202
Somerset Community Hospital 225 South Center Avenue Somerset, PA 15501	390039	06/13/2006	PA	

Elmbrook Memorial Hospital 19333 W. North Avenue Brookfield, WI 53045	520170	06/13/2006	WI	
San Luis Diagnostic Medical Associates 1100 Monterey Street San Luis Obispo, CA 93401	W14221	06/13/2006	CA	Suite 210
Cancer Care Centers of S.Texas, PA (New Braunfels) 1448 Common Street New Braunfels, TX 78130	00U40Q	06/13/2006	TX	
Cancer Care Centers of S.Texas, PA (San Antonio) 8109 Fredericksburg Road San Antonio, TX 78229	00U40Q	06/13/2006	TX	
Cancer Care Centers of S.Texas, PA (Kerrville) 694 Hill Country Drive Kerrville, TX 78028	00U40Q	06/13/2006	TX	
San Antonio Molecular Imaging SAMI 9102 Floyd Curl Drive San Antonio, TX 78240	FTN025	06/13/2006	TX	Suite 193
Pacific Medical Imaging and Oncology Center, Inc. 707 South Garfield Avenue Alhambra, CA 91801	W19267	06/13/2006	CA	Suite B-001
Northern IL Cancer Treatment Center 327 IL Route 2 Dixon, IL 61021	210699	06/13/2006	IL	
Cancer Care Center 2210 Green Valley Road New Albany, IN 47150	243690	06/13/2006	IN	Suite 1
Northeast Radiology 3839 Danbury Road Brewster, NY 10509	1134118607	06/13/2006	NY	

New England PET Imaging System 70 East Street Methuen, MA1844	M20762	06/13/2006	MA	
Southeast Texas PET Imaging 690 North 14th Street Beaumont, TX 77702	0004CC	06/13/2006	TX	
Sun City West PET Scan 14418 W. Meeker Boulevard Sun City West, AZ 85374	102496	06/13/2006	AZ	Suite 105
Butler Memorial Hospital 911 East Brady Street Butler, PA 16001	390168	06/13/2006	PA	
Diagnos, Inc., d.b.a. Diagnos PET/CT Imaging 2000 North Loop West Houston, TX 77018	ftnx11	06/13/2006	TX	Suite 100
Alliance Imaging-Washington Hospital 38950 Civic Center Drive Fremont, CA 94538	ZZZ28890Z	06/13/2006	CA	
Providence Saint Joseph Hospital 201 S. Buena Vista Street Burbank, CA 91505	50235	06/13/2006	CA	#125
Alliance Imaging-Centinela Freeman 333 Prairie Avenue Inglewood, CA 90301	TG281	06/13/2006	CA	
Alliance Imaging-Corona Regional Hospital 800 S. Main Street Corona, CA 91720	ZZZ23042Z	06/14/2006	CA	
Alliance Imaging-St. Mary's Regional Medical Center 235 W. 6th Street Reno, NV 89503	37860	06/14/2006	NV	235 W. 6th Street

Alliance Imaging-Downey Regional Medical Center 11500 Brookshire Avenue Downey, CA 90241	TG490	06/14/2006	CA	
Alliance Imaging-Visalia Medical Clinic 5400 W. Hillsdale Drive Visalia, CA 93291	ZZZ23046Z	06/14/2006	CA	
Alliance Imaging-Anaheim Memorial Medical Center 1111 W. La Palma Avenue Anaheim, CA 92801	TD017C	06/14/2006	CA	Anaheim Memorial Medical Center
Glendale Diagnostic Imaging Network Medical Office 403 South Glendale Avenue Glendale, CA 91205	W19100	06/14/2006	CA	
Advanced Imaging at Baybrook 11 Murray Street Glens Falls, NY 12801	33554a	06/14/2006	NY	
Elizabethtown Hematology-Oncology PLC 1107 Woodland Drive Elizabethtown, KY 42701	3638	06/14/2006	KY	Suite 105
Northern Arizona Radiology 77 W. Forest Avenue Suite 101 Flagstaff, AZ 86001	WCGJX	06/14/2006	AZ	
Suburban Imaging-Coon Rapids 8990 Springbrook Drive Suite 140 Coon Rapids, MN 55433	3087	06/14/2006	MN	
Covenant Medical Center 200 East Ridgeway Avenue Waterloo, IA 50702	421264647	06/14/2006	IA	

Mayo Clinic Rochester 10 3rd Avenue NW Rochester, MN 55905	1922074434	06/14/2006	MN	Charlton Building
Thousand Oaks Diagnostic Imaging Center 2180 Lynn Road Thousand Oaks, CA 91360	TP118	06/14/2006	CA	
InnerVision Advanced Medical Imaging 3801 Amelia Avenue Lafayette, IN 47905	167840	06/14/2006	IN	
UT-M. D. Anderson Cancer Center-PET Facility 1220 Holcombe Boulevard Houston, TX 77030	450076	06/14/2006	TX	ACB 6th Floor
Emory University Hospital 1364 Clifton Road, NE Atlanta, GA 30322	110010	06/14/2006	GA	Rm. E121 Nuclear Medicine/PET
Glendale MRI Institute 624 S. Central Avenue Glendale, CA 91204	HW9951	06/14/2006	CA	
Princeton Radiology 9 Centre Drive Jamesburg, NJ 08831	526492	06/14/2006	NJ	
Caromont Imaging Services 620 Summit Crossing Place Gastonia, NC 28054	340032	06/14/2006	NC	Suite 106
North Central Imaging 155 Sonterra Boulevard Suite 100 San Antonio, TX 78258	00867N	06/14/2006	TX	

Robert L. B. Tobin Diagnostic Imaging Center 7979 Wurzbach Drive Suite U113 San Antonio, TX 78229	00867N	06/14/2006	TX	
Edwards Comprehensive Cancer Center 1400 Hal Greer Boulevard Huntington, WV 25701	510055	06/14/2006	WV	
Home Hospital GLHS 2400 South Street Lafayette, IN 47904	150109	06/14/2006	IN	
St. Luke's North PET 153 Brodhead Road Bethlehem, PA 18017	390049	06/14/2006	PA	
Alamance Regional Medical Center 1240 Huffman Mill Road Burlington, NC 27216-0202	340070	06/14/2006	NC	PO Box 202
Verrazano Radiology 256 Mason Avenue Staten Island, NY 10305	1698	06/14/2006	NY	
Total Imaging Sun City 3862 Sun City Center Sun City Center, FL 33571	U4840	06/14/2006	FL	
Ortonville Area Health Services 450 Eastvold Avenue Ortonville, MN 56278	241342	06/14/2006	MN	
Merle West Medical Center 2865 Daggett Avenue Klamath Falls, OR 97601	380050	06/14/2006	OR	
Elite Imaging, LLC 2845 Aventura Boulevard Aventura, FL 33180	K3535	06/14/2006	FL	Suite 145

St. Mary Centralia 400 N. Pleasant Avenue Centralia, IL 62801	140034	06/14/2006	IL	
North Texas Regional Cancer Center 3705 W. 15th Street. Plano, TX 75075	00543K	06/14/2006	TX	
Centegra Health System 4201 Medical Center Drive McHenry, IL 60050	140116	06/14/2006	IL	
Boston Diagnostic Imaging 398 East Altamonte Drive Altamonte Springs, FL 32701	77022	06/14/2006	FL	
William W. Backus Hospital 326 Washington Street Norwich, CT 06360	70024	06/14/2006	CT	
NSMS-Sparta, IL 4253 Argosy Court Madison, WI 53714	208196	06/14/2006	WI	
LaPorte Hospital & Healthcare Services 1007 Lincolnway LaPorte, IN 46350	150006	06/14/2006	IN	
Skagit Valley Hospital 1415 E. Kincaid Street Mt.Vernon, WA 98273	500003	06/14/2006	WA	
Alliance Imaging-Fairfield Hospital 303 NW 11th Street Fairfield, IL 62837	213393	06/14/2006	IL	

Anderson Hospital 6800 State Route 162 Maryville, IL 62062	212761	06/14/2006	IL	
Alliance Imaging-Dean 1313 Fish Hatchery Road Madison, WI 53715	92170	06/14/2006	WI	
Alliance Imaging-Research 2316 E. Meyer Boulevard Kansas City, MO 64112	9004263A	06/14/2006	MO	
Alliance Imaging- St. Joseph 1000 Carondelet Drive Kansas City, MO 64114	9004263A	06/14/2006	MO	
Beebe Health Campus, d.b.a. Beebe Medical Center 18941 John J. Williams Highway Rehoboth, DE 19971	80007	06/14/2006	DE	
Medical Outsourcing Services, LLC 1200 Maple Road Joliet, IL 60432	211223	06/14/2006	IL	
Silver Spring Radiology 10801 Lockwood Drive Silver Spring, MD 20901	FDX009	06/14/2006	MD	STE 170
New England PET of Greater Lowell 295 Varnum Avenue Lowell, MA 01854	327080	06/14/2006	MA	
Stanford University 900A Blake Wilbur Drive Stanford, CA 94305	50441	06/14/2006	CA	
Medical Outsourcing, Services, LLC 3333 W. DeYoung Street Marion, IL 62959	211224	06/14/2006	IL	

Medical Outsourcing Services, LLC 1700 Clinton Street Muskegon, MI 49443	230066	06/14/2006	MI	
Medical Outsourcing Services, LLC 1001 Bellefontaine Avenue Lima, OH 45807	MEID02391	06/14/2006	OH	
Golf Diagnostic Imaging Center 9680 Golf Road Des Plaines, IL 60016	378810	06/14/2006	IL	
Medical Outsourcing Services, LLC 2816 South Ellis Avenue Chicago, IL 60616	211222	06/14/2006	IL	
Medical Outsourcing Services, LLC 1100 E. Norris Drive Ottawa, IL 61350	211224	06/14/2006	IL	
Medical Outsourcing Services, LLC 111 E. Spring Street Streator, IL 61364	211224	06/14/2006	IL	
Mansfield Imaging Center 536 S. Trimble Road Mansfield, OH 44906	MAD10921	06/14/2006	OH	Suite A
Manhattan Diagnostic Radiology 400 East 66th Street New York, NY 10021	W23211	06/14/2006	NY	
Riverside Walter Reed Hospital 7519 Hospital Drive Gloucester, VA 23061	490130	06/14/2006	VA	
Good Shepherd Hospital 450 West Highway 22 Barrington, IL 60010	140291	06/14/2006	IL	

Alliance Imaging-Presbyterian Intercomm Hospital 12401 Washington Boulevard Whittier, CA 90602	TG281A	06/14/2006	CA	Presbyterian Intercommunity Hospital
Altru Hospital 1200 S. Columbia Road. Grand Forks, ND 58201	350019	06/14/2006	ND	
Mid American Imaging-Union Hospital 659 Boulevard Street Dover, OH 44622	ID00805	06/14/2006	OH	
Gundersen Clinic 1900 South Avenue Lacrosse, WI 54601	34217	06/14/2006	WI	
University of Minnesota Medical Center, Fairview 500 Harvard Street, SE Box 292 Minneapolis, MN 55455	C02390	06/14/2006	MN	
The Christ Hospital 2139 Auburn Avenue Cincinnati, OH 45219	360163	06/14/2006	OH	
West Michigan Cancer Center 200 N. Park Street Kalamazoo, MI 49007	0N66660	06/14/2006	MI	
Cyrus Diagnostic Imaging, Inc. 165 Waymont Court Lake Mary, FL 32746	40586	06/14/2006	FL	
Cancer Centers of Florida 1561 West Fairbanks Avenue Winter Park, FL 32789	K1833	06/14/2006	FL	

Cedars-Sinai Medical Center Adler-Nail PET Center 8700 Beverly Boulevard Los Angeles, CA 90048	951644600	06/14/2006	CA	S. Mark Taper Foundation Imaging Center
Cancer Centers of Florida 52 West Gore Street Orlando, FL 32806	K1833	06/14/2006	FL	
Cancer Centers of Florida 1111 Blackwood Avenue Ocoee, FL 34761	K1833	06/14/2006	FL	
Mt. Clemens Regional Medical Center 1000 Harrington Street Mt. Clemens, MI 48043	230227	06/14/2006	MI	
Truxtun Radiology Medical Group, LP 1818 16th Street Bakersfield, CA 93301	ZZZ25213Z	06/14/2006	CA	
Medical Outsourcing Services, LLC 1515 North Madison Avenue Anderson, IN 46011	223260	06/14/2006	IN	
Medical Outsourcing Services, LLC 1215 Franciscan Drive Litchfield, IL 62056	211224	06/14/2006	IL	
Piedmont Medical Center 1968 Peachtree Road, NW Atlanta, GA 30305	110083	06/14/2006	GA	
Medical Outsourcing Services, LLC 1400 West Park Street Urbana, IL 61801	211224	06/14/2006	IL	

Central Indiana PET, LLC 8301 Harcourt Road Suite 100 Indianapolis, IN 46260	201930	06/14/2006	IN	
Medical Outsourcing Services, LLC 812 North Logan Avenue Danville, IL 61832	211224	06/14/2006	IL	
Queens Medical Imaging, PC 69-15 Austin Street Forest Hills, NY 11375	1023011285	06/14/2006	NY	
NYOH PET/CT Imaging 43 New Scotland Avenue Albany, NY 12208	56917A	06/14/2006	NY	
Conroe Regional Medical Center 504 Medical Center Boulevard Conroe, TX 77304	450222	06/14/2006	TX	
Northeast Georgia Health System, Inc. Northeast Georgia Medical Center; 743 Spring Street Gainesville, GA 30501	110029	06/14/2006	GA	
Texas Oncology, PA-Mckinney 4510 Medical Center Drive Mckinney, TX 75069	00543K	06/14/2006	TX	#215

Medical Outsourcing Services, LLC 7150 Clearwater Drive Indianapolis, IN 46256	223260	06/14/2006	IN	
Medical Outsourcing Services, LLC 1402 East County Line Road Indianapolis, IN 46227	223260	06/14/2006	IN	
Texas Cancer Center-Sherman 2800 Highway 75 North Sherman, TX 75090	00543K	06/14/2006	TX	
Medical Outsourcing Services, LLC 120 Ralston Avenue Defiance, OH 43512	MEID02391	06/14/2006	OH	
Medical Outsourcing Services, LLC 2400 N. Rockton Avenue Rockford, IL 61103	211224	06/14/2006	IL	
Arlington Cancer Center 906 W. Randol Mill Road Arlington, TX 76012	00LK20	06/14/2006	TX	
Jupiter Medical Center 2055 Military Trail Jupiter, FL 33458	100253	06/14/2006	FL	
Cheyenne Radiology Group and MRI, PC 2003 Bluegrass Circle Cheyenne, WY 82009	W309142	06/14/2006	WY	
Hunterdon Imaging, PA 2100 Wescott Drive MRI Suite Flemington, NJ 08822	714119	06/14/2006	NJ	

Medical Outsourcing Services, LLC 200 Berteau Avenue Elmhurst, IL 60126	211223	06/14/2006	IL	
Magnolia Regional Center 611 Alcorn Drive Corinth, MS 38834	250009	06/14/2006	MS	
Monroe Clinic 515 22nd Avenue Monroe, WI 53566	520028	06/14/2006	WI	
Jupiter Hematology-Oncology Associates 345 Jupiter Lakes Boulevard Jupiter, FL 33458	34922	06/14/2006	FL	Ste.100
Southwest Regional Cancer Center 901 West 38th Street Austin, TX 78705	0080BY	06/14/2006	TX	
Positron Imaging Of Austin 6101 Balcones Drive Austin, TX 78731	00538K	06/14/2006	TX	
Southern Ocean County Hospital 1140 Route 72 West Manahawkin, NJ 08050	310113	06/14/2006	NJ	Radiology
Medical Outsourcing Services, LLC 9830 S. Ridgeland Road Chicago Ridge, IL 60145	211222	06/14/2006	IL	
Medical Outsourcing Services, LLC 430 West Votaw Street Portland, IN 47374	223260	06/14/2006	IN	

Saint Agnes Medical Center 1303 E. Herndon Avenue Fresno, CA 93720	50093	06/14/2006	CA	
Central Physicians Imaging 100 Southland Drive Lexington, KY 40503	9375001	06/14/2006	KY	Suite B
NEA Medical Center 3024 Stadium Boulevard Jonesboro, AR 72401	1386699353	06/14/2006	AR	
Northgate Medical Imaging, LLC 807 Northgate Boulevard New Albany, IN 47150	1205894235	06/14/2006	IN	
Ball Memorial Hospital 2401 University Avenue Muncie, IN 47303	150089	06/14/2006	IN	
The MRI Center 5200 Harroun Road Sylvania, OH 43560	360074	06/14/2006	OH	Flower Hospital
St. Joseph Regional Health Center 2801 Franciscan Drive Bryan, TX 77802	450011	06/14/2006	TX	
Steinberg Diagnostic (SDMI) 2850 Siena Heights Henderson, NV 89052	WCHCC	06/14/2006	NV	
Raritan Bay Medical Center 1 Hospital Plaza Old Bridge, NJ 08857	310039	06/14/2006	NJ	
MRI Center-St. Anne Mercy Hospital 3404 W. Sylvania Avenue Toledo, OH 43623	360262	06/14/2006	OH	

MRI Center-St. Charles Mercy Hospital 2600 Navarre Avenue Oregon, OH 43616	360081	06/14/2006	OH	
MRI Center-St. Luke's Hospital 2901 Monclova Road Maumee, OH 43537	360090	06/14/2006	OH	
MRI Center-St. Vincent Medical Center 2213 Cherry Street Toledo, OH 43608	360112	06/14/2006	OH	
MRI Center- Toledo Hospital 2142 N. Cove Boulevard Toledo, OH 43606	360068	06/14/2006	OH	
McAlester Regional Health Center One Clark Bass Boulevard McAlester, OK 74501	370034	06/14/2006	OK	
Express Imaging Center, Ltd. 1987 West Fourth Street Mansfield, OH 44906	9299151	06/14/2006	OH	Suite A
Mercy Regional Medical Center 375 East Park Avenue Durango, CO 81301	60013	06/14/2006	CO	
Texas Oncology-Longview Cancer Center PET 1300 N. Fourth Street Longviews, TX 75601	00T35E	06/14/2006	TX	
UNC Hospitals 101 Manning Drive Chapel Hill, NC 27514	3400610	06/14/2006	NC	PET Department. Basement W/C Hospital

DeKalb Medical Center-Diagnostic Imaging Center 2701 North Decatur Road Decatur, GA 30033	110076	06/14/2006	GA	
Long Island Pet Imaging 6 Ohio Drive Lake Success, NY 11042	W4921	06/14/2006	NY	Suite 101
Vanderbilt University Medical Center 1161 21st Avenue South Nashville, TN 37232	3284867	06/14/2006	TN	Building 1251 RRB
Medical Outsourcing Services, LLC 1800 E. Lakeshore Drive Decatur, IL 62521	211224	06/14/2006	IL	
New York PET and CTA Imaging Center 7404 5th Avenue Brooklyn, NY 11209	1083680003	06/14/2006	NY	
Mercy Medical Center-North Iowa 1000 4th Street SW Mason City, IA 50401	160064	06/14/2006	IA	
Lawrence and Memorial Hospital 365 Motauk Avenue New London, CT 06320	70007	06/14/2006	CT	
Superior Medical Diagnostics II, LLC 235 Franklin Avenue Nutley, NJ 07110	68423	06/14/2006	NJ	
Oncology Specialists, S.C. 7900 N. Milwaukee Avenue Niles, IL 60714	587940	06/14/2006	IL	Suite 16

Hahnemann University Hospital Broad & Vine, MS300 Philadelphia, PA 19102	390290	06/14/2006	PA	
Shrewsbury Diagnostic Imaging, LLC 1131 Broad Street Shrewsbury, NJ 07702	24021	06/14/2006	NJ	Suite 110
Medical Outsourcing Services, LLC 500 West Court Street Kankakee, IL 60901	211224	06/14/2006	IL	
Forsyth Medical Center 3333 Silas Creek Parkway Winston Salem, NC 27103	3400014	06/14/2006	NC	
Medical Outsourcing Services, LLC 500 John Deere Road Moline, IL 61265	211224	06/14/2006	IL	
Medical Outsourcing Services, LLC 836 W. Wellington Avenue Chicago, IL 60657	211222	06/14/2006	IL	
Medical Outsourcing Services, LLC 1600 West Walnut Jacksonville, IL 62650	211224	06/14/2006	IL	
Medical Outsourcing Services, LLC 1600 23rd Street Bedford, IN 47471	223260	06/14/2006	IN	
Medical Outsourcing Services, LLC 1500 North Ritter Avenue Indianapolis, IN 46219	223260	06/14/2006	IN	

Medical Outsourcing Services, LLC 1221 N. Highland Aurora, IL 60506	211223	06/14/2006	IL	
Medical Outsourcing Services, LLC 1000 Lincoln Health Center Drive Mattoon, IL 61938	211224	06/14/2006	IL	
Salinas Valley Memorial Healthcare System 450 E. Romie Lane Salinas, CA 93901	50334	06/14/2006	CA	
Bridgeport Hospital 267 Grant Street Bridgeport, CT 06610	70010	06/14/2006	CT	
MRIGP, Inc., d.b.a. Advanced Medical Imaging Diamond H. 2490 W 26th Avenue Suite 20A Denver, CO 80211	H8808	06/14/2006	CO	
RCHO PET Imaging 5120 Belfort Boulevard Suite 130 Jacksonville, FL 32256	40259	06/14/2006	FL	
Presbyterian Hospital 200 Hawthorne Lane Charlotte, NC 28204	560554230	06/14/2006	NC	
Eisenhower Imaging Center 39000 Bob Hope Drive Rancho Mirage, CA 92210	ZZZ91572Z	06/14/2006	CA	Lower Level Lucy Curci Cancer Center
Mississippi Baptist Medical Center 501 Marshall Street Jackson, MS 39202	250102	06/14/2006	MS	

Texas Oncology-South Texas Cancer Center 2121 Pease Street Suite 101 Harlingen, TX 78550	14041756	06/14/2006	TX	Texas Oncology-South Texas Cancer Center
Valley Radiologists, Ltd.-Paseo II Office 5605 W. Eugie Avenue Suite 110 Glendale, AZ 85304	WCFHS	06/14/2006	AZ	
Good Samaritan Hospital 400 15th Avenue SE Puyallup, WA 98372	500079	06/14/2006	WA	
St. John's Mercy Hospital 851 5th Street Washington, MO 63090	260052	06/14/2006	MO	
Memorial Hermann The Woodlands OPID 9200 Pinecroft Drive Suite 100 The Woodlands, TX 77380	741152597	07/14/2006	TX	
St. Luke's Hospital 232 South Wood's Mill Road Chesterfield, MO 63017	260179	07/14/2006	MO	
Lake Vista Cancer Center 2790 Lake Vista Drive Lewisville, TX 75067	00543K	07/14/2006	TX	
Palms Imaging Medical Group, Inc. 1901 Outlet Center Drive Oxnard, CA 93036	W19564	07/14/2006	CA	
Houston Medical Imaging, LLC 3310 Richmond Avenue Houston, TX 77006	00137K	07/14/2006	TX	

Alliance Imaging-West Anaheim Medical Center 3033 W. Orange Avenue Anaheim, CA 92804	TD017	07/14/2006	CA	
Winthrop PET Imaging Center 222 Station Plaza North Suite 140 Mineola, NY 11501	330167	07/14/2006	NY	
Greenville Hospital System University Medical Center 701 Grove Road Greenville, SC 29605	420078	07/14/2006	SC	
High Field Open MRI 1895 Jefferson Road Rices Landing, PA 15357	7885	07/14/2006	PA	
PET/CT Center at St. Anthony's POB 1201 5th Avenue North St. Petersburg, FL 33705	E5753	07/14/2006	FL	Suite 100
Texas Oncology-Deke Slayton Cancer Center 501 Medical Center Webster, TX 77598	00t40e	07/14/2006	TX	
Invision North Florida Outpatient Imaging Center 6605 NW 9th Boulevard Gainesville, FL 32609	E4639	07/14/2006	FL	
Memorial Hospital of Union County 500 London Avenue Marysville, OH 43040	360092	07/14/2006	OH	
Texas Oncology/South Texas Cancer Center-McAllen 1901 S. 2nd Street McAllen, TX 78503	00N39J	07/14/2006	TX	

Baylor Medical Center at Irving 1901 North MacArthur Boulevard Irving, TX 75061	450079	07/14/2006	TX	
Providence Park Hospital 47601 Grand River Avenue Novi, MI 48374	230019	07/14/2006	MI	
Texas Oncology-Abilene 1957 Antilley Road Abilene, TX 79606	140414748	07/14/2006	TX	
St. Anthony Hospital 1000 North Lee Street Oklahoma City, OK 73101	370037	07/14/2006	OK	
Rice Memorial Hospital 301 Becker Avenue SW Willmar, MN 56201	240088	07/14/2006	MN	
LDS Hospital Nuclear Medicine 8th Avenue & C Street Salt Lake City, UT 84143	460010	07/14/2006	UT	
RMG First & Laurel Imaging Center 2466 First Avenue San Diego, CA 92101	W14057	07/14/2006	CA	
RMG Gardenview Imaging Center 1200 Gardenview Road Encinitas, CA 92024	W14057F	07/14/2006	CA	Suite 110
Decatur County Memorial Hospital 720 North Lincoln Street Greensburg, IN 47240	150062	07/14/2006	IN	
Midland Imaging Center 5001 Andrews Highway Midland, TX 79703	00U75H	07/14/2006	TX	

Advanced Imaging, LLC 3433 NW 56th C-10 Oklahoma City, OK 73112	400522379	07/14/2006	OK	
University of Iowa Hospitals and Clinics 200 Hawkins Drive Iowa City, IA 52242	160058	07/14/2006	IA	
AZ Oncology Associates PET/CT & CT Imaging Center 2070 W. Rudasill Road Tucson, AZ 85704	25291	07/14/2006	AZ	Suite 110
Medical Diagnostic Imaging 14 Raymond Avenue Poughkeepsie, NY 12603	EEN841	07/14/2006	NY	
Shore Memorial Hospital 10085 William F. Bernart Circle Nassawadox, VA 23413	540560500	07/14/2006	VA	
Deaconess Hospital 600 Mary Street Evansville, IN 47747	150082	07/14/2006	IN	
Great Neck Imaging, PC 907 Northern Boulevard Great Neck, NY 11021	1487646311	07/14/2006	NY	
FMH Rose Hill 1562 Opossumtown Pike Frederick, MD 21702	KP72	07/14/2006	MD	
Oakwood Annapolis Hospital 33155 Annapolis Road Wayne, MI 48184	230142	07/14/2006	MI	
The Regional Cancer Center 2500 West 12th Street Erie, PA 16505	140052	07/14/2006	PA	
Meritcare Hospital 801 North Broadway Fargo, ND 58122	350011	07/14/2006	ND	

Community Hospitals and Wellness Centers 433 W. High Street Bryan, OH 43506	360121	07/14/2006	OH	
Sacred Heart Hospital 900 W. Clairemont Avenue Eau Claire, WI 54701	520013	07/14/2006	WI	
Via Radiology-Meridian Pavilion 11011 Meridian Avenue North #101 Seattle, WA 98133	8859612	07/14/2006	WA	
Medical Outsourcing Services, LLC 2200 Market Street Charlestown, IN 47111	223260	07/14/2006	IN	
Allegheny General Hospital 320 East North Avenue Pittsburgh, PA 15232	60503	07/14/2006	PA	Division of Nuclear Medicine
Texas Oncology-12th Avenue 1001 W. 12th Avenue Fort Worth, TX 76104	00R66C	07/14/2006	TX	
Southwest Fort Worth Cancer Center 6500 Harris Parkway Fort Worth, TX 76132	00R66C	07/14/2006	TX	
St. Rita's Medical Center 730 W. Market Street Lima, OH 45801	360066	07/14/2006	OH	
New Mexico Oncology Hematology Consultants, Ltd. 4901 Lang Avenue NE Albuquerque, NM 87109	850367056	07/14/2006	NM	
Emory Eastside Medical Center 545 Old Norcross Road Lawrenceville, GA 30045	110192	07/14/2006	GA	Suite 200

Riverside Regional Medical Center 500 J. Clyde Morris Boulevard Newport News, VA 23601	490052	07/14/2006	VA	
Connecticut Oncology & Hematology 220 Kennedy Drive Torrington, CT 06790	C00633	07/14/2006	CT	
Chilton Memorial Hospital 97 West Parkway Pompton Plains, NJ 07444	310017	07/14/2006	NJ	
Riverside Diagnostic Center Williamsburg 120 Kings Way Williamsburg, VA 23188	490052	07/14/2006	VA	
Lawrence County MRI & Diagnostic Imaging Center 2526 Wilmington Road New Castle, PA 16105	68617	07/14/2006	PA	
Joint Township District Memorial Hospital 200 St. Clair Street Saint Marys, OH 45885	360032	07/14/2005	OH	
Radiation Therapy Regional Centers 3680 Broadway Fort Myers, FL 33901	77215	07/14/2006	FL	
Graduate Hospital 1800 Lombard Street Philadelphia, PA 19146	390285	07/14/2006	PA	One Graduate Hospital
Columbia Diagnostic Center 1111 Paulison Avenue Clifton, NJ 07015	94729	07/14/2006	NJ	
The Nebraska Medical Center 4250 Dewey Avenue Omaha, NE 68113	280013	07/14/2006	NE	

Memorial Hermann Memorial City OPID 925 Gessner Road Houston, TX 77024	741152597	07/14/2006	TX	
Clifton Springs Hospital and Clinic 2 Coulter Road Clifton Springs, NY 14432	330265	07/14/2006	NY	
Monongalia General Hospital 1200 J. D. Anderson Drive Morgantown, WV 26505	510024	07/14/2006	WV	Monongalia General Hospital
Providence Portland Medical Center 4805 NE Glisan Street Portland, OR 97213	380061	07/14/2006	OR	
Highfield Open MRI, Inc. 995 GreenTree Road Pittsburgh, PA 15220	7885	07/14/2006	PA	
Providence St. Vincent Medical Center 9205 SW Barnes Road Portland, OR 97225	380004	07/14/2006	OR	
Conway Regional Imaging Center 2120 Robinson Avenue Conway, AR 72034	40029	07/14/2006	AR	
Martin Memorial Medical Center 300 Hospital Avenue Stuart, FL 34994	100044	07/14/2006	FL	
Northwest Medical Foundation of Tillamook 1000 Third Street Tillamook, OR 97141	381317	07/14/2006	OR	Tillamook County General Hospital
O'Connor Hospital 2105 Forest Avenue San Jose, CA 95128-1471	50153	07/14/2006	CA	

Midtown Imaging, LLC-Wellington 440 N. State Road 7 Wellington, FL 33411	E9133	07/14/2006	FL	
Midtown Imaging, LLC-Jupiter 345 Jupiter Lakes Boulevard Jupiter, FL 33458	E9133	07/14/2006	FL	Suite 100
MMI/Mid Coast Hospital 51 US Route 1 Scarborough, ME 04074	327079	07/14/2006	ME	Suite O
Molecular Imaging Institute 5349 Commerce Boulevard Crown Point, IN 46307	192870	07/14/2006	IN	
RCOA Imaging Services 11937 US Highway 271 Tyler, TX 75708	FTN022	07/14/2006	TX	
MMI/Maine Medical Center 51 US Route 1 Scarborough, ME 4074	327079	07/14/2006	ME	Suite O
Radiology, Ltd. 4640 East Camp Lowell Drive Tucson, AZ 85712	WCBBM	07/14/2006	AZ	
Intermed Oncology Associates, S.C. 6701 159th Street Tinley Park, IL 60477	610860	07/14/2006	IL	
Lakes Radiology 450 Canisteo Street Hornell, NY 14843	1710937727	07/14/2006	NY	
Opelousas PET/CT Imaging Center 3975 I-49 South Service Road Suite 100 Opelousas, LA 70570	5DA11	07/14/2006	LA	

Florida Cancer Institute-BRK 7154 Medical Center Drive Spring Hill, FL 34608	1427017326	08/07/2006	FL	
Capital Health System 446 Belleview Avenue Trenton, NJ 08618	310044	08/07/2006	NJ	
Hudson Valley Diagnostic Imaging, PLLC 575 Hudson Valley Avenue New Windsor, NY 12553	WBH241	08/07/2006	NY	
St Joseph's Hospital 3200 Pleasant Valley Road West Bend, WI 53095	520063	08/07/2006	WI	
Atlantic Medical Imaging 30 East Maryland Avenue Somers Point, NJ 08244	101024	08/07/2006	NJ	
Providence Imaging Center 3340 Providence Drive Anchorage, AK 99508	2085R0202X	08/07/2006	AK	
Rochester Radiology Associates, PC 1277 Portland Avenue Rochester, NY 14621	199726	08/07/2006	NY	
Melbourne Internal Medicine Associates 1132 South Hickory Street Melbourne, FL 32901	77167	08/07/2006	FL	
Highline Imaging, LLC 275 SW 160th Street Seattle, WA 98166	8801784	08/07/2006	WA	
Tyler PET 415 South Fleishel Avenue Tyler, TX 75702	752131429	08/07/2006	TX	
Lake City Medical Center 340 NW Commerce Drive Lake City, FL 32055	100156	08/07/2006	FL	

Blount Memorial Hospital 907 East Lamar Alexander Boulevard Maryville, TN 37804	440011	08/07/2006	TN	
Texas Cancer Center Mesquite 4700 North Galloway Mesquite, TX 75150	R339	08/07/2006	TX	
Rutland Regional Medical Center: Diagnostic Imaging 160 Allen Street Rutland, VT 05701	470005	08/07/2006	VT	
MDMED, Inc. 155 Calle Portal Suite 700 Sierra Vista, AZ 85635	Z68496	08/07/2006	AZ	
Atlantic Medical Imaging Wall Township 2399 North Highway 34 Manasquan, NJ 08736	101024	08/07/2006	NJ	Ramshorn Executive Centre Bldg B
Newport Imaging Center 455 Old Newport Road Suite 101 Newport Beach, CA 92660	W10829	08/07/2006	CA	
Cancer Care and Hematology Specialists(CCHSC) 8915 West Golf Road Niles, IL 60714-05825	355030	08/07/2006	IL	
Hematology Oncology Associates of Illinois (HOAI) 715 West North Avenue Melrose Park, IL 60160	218860	08/07/2006	IL	
Princeton Community Hospital 122 12th Street Ext Princeton, WV 24740	510046	08/07/2006	WV	PO Box 1369
TRICAT, LLC at Edison 3830 Park Avenue Edison, NJ 08820	27193	08/07/2006	NJ	Suite 102

Olathe Medical Center 20333 W. 151st Street Olathe, KS 66061	170049	08/07/2006	KS	
St. Joseph Hospital 1140 West La Veta Avenue Orange, CA 92868	50069	08/07/2006	CA	2nd Floor Nuclear Medicine
Baptist Health Medical Center 9601 I630, Exit 7 Little Rock, AR 72205-7299	40114	08/07/2006	AR	
Florida Cancer Specialists 3840 Broadway Fort Myers, FL 33901	1225064520	08/07/2006	FL	
Pacca PET Imaging 5210 Belfort Road Suite 130 Jacksonville, FL 32256	37572	08/07/2006	FL	
National PET Scan Palm Beach, LLC 16110 Jog Road Delray Beach, FL 33484	1164452405	08/07/2006	FL	Suite 200
Central Memphis Regional PET Imaging Center, LLC 1388 Madison Avenue Memphis, TN 38104	1295719110	08/07/2006	TN	
Johnston Memorial Hospital 351 Court Street NE Abingdon, VA 24210	490053	08/07/2006	VA	
Lenox Hill Hospital 100 East 77th Street New York, NY 10021	131624070	08/07/2006	NY	
Mercy Medical Center 411 Laurel Street Suite 2310 Des Moines, IA 50314	160083	08/07/2006	IA	

New Orleans Regional PET Center, LLC 3434 Prytania Street Suite 120 New Orleans, LA 70115	1538143474	08/07/2006	LA	
Indiana Regional Medical Center PET Imaging 835 Hospital Road Indiana, PA 15701	390173	08/07/2006	PA	PO Box 788
Mid American-Defiance Clinic 1400 E. Second Street Defiance, OH 43512	ID00809	08/07/2006	OH	
Total Imaging Robertson 737 West Brandon Boulevard Brandon, FL 33511	k7282	08/07/2006	FL	
New Tampa Imaging Center 14302 N. Bruce B. Downs Boulevard Tampa, FL 33613	k57209	08/07/2006	FL	
Summit Imaging 12037 Cortez Boulevard Brooksville, FL 34613	40986	08/08/2006	FL	
University of NM Cancer Research & Treatment Center 900 Caminodey Salud NE Albuquerque, NM 87131	400521103	08/08/2006	NM	

Alliance Imaging-Los Alamitos Med Center 3751 Katella Avenue Los Alamitos, CA 90720	TD017	08/08/2006	CA	
NYU Clinical Cancer Center, Diagnostic Imaging 160 E. 34th Street New York, NY 10016	W1L361	08/08/2006	NY	2nd Floor
Margaret Mary Community Hospital 321 Mitchell Avenue Batesville, IN 47006	151329	08/08/2006	IN	
Quantum PET-Apple Hill 37 Monument Road York, PA 17403	40635	08/08/2006	PA	
Memorial Hospital 1204 N. Mound Street Nacogdoches, TX 75961	450508	08/08/2006	TX	
BMH-DeSoto 7601 Southcrest Parkway Southaven, MS 38671	250141	08/08/2006	MS	
Riverside Medical Center 300 Bourbonnais Campus Bourbonnais, IL 60914	140186	08/08/2006	IL	Riverside Medical Center

UCSD Center for Molecular Imaging 11388 Sorrento Valley Road Suite 100 San Diego, CA 92121	TG302	08/08/2006	CA	
Imaging Partners at Valley, LLC 400 South 43rd Street Renton, WA 98055	AB38657	08/08/2006	WA	Olympic Building
El Paso Cancer Treatment Center 7848 Gateway East Boulevard El Paso, TX 79915	00543K	08/08/2006	TX	
Desert Radiologists 3930 S. Eastern Avenue Las Vegas, NV 89119	VWCCBT	08/08/2006	NV	
Saint Joseph Hospital 2900 North Lake Shore Drive Chicago, IL 60068	140224	08/08/2006	IL	
Midstate Medical Center 435 Lewis Avenue Meriden, CT 06451	60646715	08/08/2006	VT	
Brookville Hospital 100 Hospital Road Brookville, PA 15825	391312	08/08/2006	PA	
Suntree Diagnostic Center 6300 N. Wickham Road Suite 101 Melbourne, FL 32940	701	08/08/2006	FL	
Virginia Mason Medical Center 1100 Ninth Avenue Seattle, WA 98101	500005	08/08/2006	WA	

Van Wert County Hospital 1250 South Washington Street Van Wert, OH 45891	360071	08/08/2006	OH	
Manhasset Diagnostic Imaging, PC 1350 Northern Boulevard 2nd Floor Manhasset, NY 11030	W14841	08/08/2006	NY	
Southern New Mexico Cancer Center 150 Road Runner Parkway Las Cruces, NM 88011	752131429	08/08/2006	NM	
Davis Memorial Hospital Gorman Avenue and Reed Street Elkins, WV 26241	510030	08/08/2006	WV	Gorman Avenue
Advocate Good Samaritan Hospital 3815 Highland Avenue Downers Grove, IL 60515	140288	08/08/2006	IL	
Benefis Healthcare 1101 26th Street South Great Falls, MT 59405	270012	08/08/2006	MT	
Fort Walton Beach Medical Center 1032 Mar Walt Drive Fort Walton Beach, FL 32547	100223	08/08/2006	FL	
Blessing Hospital PO Box #7005 Quincy, IL 62305	140015	08/08/2006	IL	
Alliance Imaging-Allen County Hospital 101 South 1st Street Iola, KS 53808	130656	08/08/2006	KS	

Florida Cancer Institute-NPR 8763 River Crossing Boulevard New Port Richey, FL 34655	1427017326	08/08/2006	FL	
Kimball Medical Center 600 River Avenue Lakewood, NJ 08701	315084	08/08/2006	NJ	
Radiology Imaging Associates at Heritage 8926 Woodyard Road Clinton, MD 20735	521454775	08/08/2006	MD	Suite 502
Immanuel Medical Center 6901 North 72nd Street Omaha, NE 68122	280081	08/08/2006	NE	
North Fork Radiology 1333 Roanoke Avenue Riverhead, NY 11901	w11401	08/08/2006	NY	
South County PET Imaging, LLC 10010 Kennerly Road St. Louis, MO 63128	93053	08/08/2006	MO	
Carolinas Hospital System 805 Pamplico Highway Florence, SC 29505	621587267	08/08/2006	SC	
Radiology Associates of San Luis Obispo 522 E. Plaza Drive Santa Maria, CA 93454	GR0009774	08/08/2006	CA	

Florida Cancer Specialists-Port Charlotte 22395 Edgewater Drive Port Charlotte, FL 33980	1225064520	08/08/2006	FL	
Florida Cancer Specialists-Venice 901 South Tamiami Trail Venice, FL 34285	1225064520	08/08/2006	FL	
Florida Cancer Specialists-Bradenton 6001 21st Avenue West Bradenton, FL 34209	1225064520	08/08/2006	FL	
Nebraska Methodist Hospital 8303 Dodge Street Omaha, NE 68114	280040	08/08/2006	NE	
PET/CT Center of Richardson 399 Melrose Drive Richardson, TX 75080	1740207539	08/08/2006	TX	Suite A
Molecular Imaging at Sequoia Imaging Center 4949 W. Cypress Avenue Visalia, CA 93277	ZZZ27463Z	08/08/2006	CA	
Central Jersey Radiologists 2128 Kings Highway Oakhurst, NJ 07755	527995	08/08/2006	NJ	
Claxton-Hepburn Medical Center 214 King Street Ogdensburg, NY 13669	330211	08/08/2006	NY	
Memorial Hermann Southeast 11800 Astoria Boulevard Houston, TX 77089	741152597	08/08/2006	TX	

NSMS-Pine Bluff, AR 4253 Argosy Court Madison, WI 53714	5f168	08/08/2006	WI	
Yuma Regional Medical Center 2400 S. Avenue A Yuma, AZ 85364	866007596	08/08/2006	AZ	
Carle Clinic 1702 S. Mattis Avenue Champagne, IL 61820	371188284	08/08/2006	IL	
North Shore-LIJ Center for Advanced Medicine 450 Lakeville Road Lake Success, NY 11042	330106	08/08/2006	NY	North Shore-LIJ Center for Advanced Medicine Diagnostic Imaging Center
McAlester Diagnostic Imaging 10 South Third Street McAlester, OK 74501	1760411540	08/08/2006	OK	Suite 100
California Imaging Institute 1867 E. Fir Avenue Fresno, CA 93720	ZZZ03565Z	08/08/2006	CA	
Bon Secours Memorial Regional Medical Center 8260 Atlee Road Mechanicsville, VA 23116	541744931	08/08/2006	VA	
University of Maryland Medical Center 22 S. Greene Street Gudelksy 2nd Floor Baltimore, MD 21201	210002	08/08/2006	MD	Division of Nuclear Medicine
Bixby Medical Center 818 Riverside Avenue Adrian, MI 49221	230005	08/08/2006	MI	

Kern Radiology Medical Group 2301 Bahamas Drive Bakersfield, CA 93309	1720023997	08/08/2006	CA	
Bon Secours St. Francis Medical Center 13710 St. Francis Boulevard Midlothian, VA 23114	311716973	08/08/2006	VA	
MMI/Maine General Waterville 51 US Route 1 Scarborough, ME 04074	327079	08/08/2006	ME	Suite O
Mount Adams Imaging Center 3911 Castlevale Road Yakimaw, WA 98902	8857843	08/08/2006	WA	
Carilion Roanoke Memorial Hospital 2001 Crystal Spring Avenue Roanoke, VA 24014	490024	08/08/2006	VA	
Seton Medical Center; Nuclear Medicine Dept. 1900 Sullivan Avenue Daly City, CA 94015-2229	50289	08/08/2006	CA	
Arnett Imaging Center 2403 Loy Drive Lafayette, IN 47909	224390	08/08/2006	IN	
Advanced Diagnostic Imaging, PC 1120 Professional Boulevard Evansville, IN 47630	639970	08/08/2006	IN	
Queen of Peace Hospital 301 Second Street NE New Prague, MN 56071	241361	08/08/2006	MN	

Agnesian Health Care 430 E. Division Street Fond du Lac, WI 54935	520088	08/08/2006	WI	
ACMH Hospital One Nolte Drive Kittanning, PA 16201	390163	08/08/2006	PA	
Wilshire Oncology Medical Group, Inc. 1280 Corona Pointe Court Corona, CA 92879	zzz19568z	08/08/2006	CA	Suite 112
United Radiology-Laurel 14201 Laurel Park Drive Laurel, MD 20707	2.01558E+11	08/08/2006	MD	Suite 208
Bay Area Medical Center 3100 Shore Drive Marinette, WI 54143	520113	08/08/2006	WI	
Penn State Milton S. Hershey Medical Center 500 University Drive Hershey, PA, 17033	251854772	08/08/2006	PA	HG380
Delta St. Joseph's MRI, LLC 1617 N. California Street Stockton, CA 95204	ZZZ19725Z	08/08/2006	CA	Suites 1A and 1B
United Radiology: Bowie 16701 Melford Boulevard Bowie, MD 20715	2.01558E+11	08/08/2006	MD	
United Radiology Gaithersburg 702 Russell Avenue Gaithersburg, MD 20877	2.01558E+11	08/08/2006	MD	

United Radiology Olney 18120 Hillcrest Drive Olney, MD 20832	2.01558E+11	08/08/2006	MD	Suite A
FCS/Axcess Diagnosis/Sarasota 600 N. Cattleman Road Sarasota, FL 34232	1225064520	08/08/2006	FL	
NSMS-Greenville, IL 4253 Argosy Court Madison, WI 53714	208196	08/08/2006	WI	
FCS/Axcess Diagnosis/Venice 842 Sunset Lake Boulevard Venice, FL 34292	1225064520	08/08/2006	FL	Suite #301
Leading Edge Radiation 8715 5th Avenue Brooklyn, NY 11209	WEM111	09/05/2006	NY	
Rena Tarbet Cancer Center 4201 Medical Center Drive Suite 180 McKinney, TX 75069	oow753	09/05/2006	TX	
McLaughlin & Marte, M.D, LLP 3850 Tampa Road Suite 202 Palm Harbor, FL 34684	1003862079	09/05/2006	FL	
BryanLGH Medical Center 2300 South 16th Street Lincoln, NE 68502	280003	09/05/2006	NE	

Freehold MR Associates 691 West Main Street Freehold, NJ 07728	405856	09/05/2006	NJ	
Franciscan Skemp Healthcare 700 West Avenue South La Crosse, WI 54601	520004	09/05/2006	WI	
Teton Radiology 2001 S. Woodruff Suite 17 Idaho Falls, ID 83404	1371462	09/05/2006	ID	
Fletcher Allen Health Care Mobile Pad 790 College Parkway Colchester, VT 05446	1659309615	09/05/2006	VT	790 College Parkway
University of Penn Imaging Center 3600 Market Street 3rd Floor Silverstein Philadelphia, PA 19104	764089	09/05/2006	PA	
Sitron-Hammel Radiology Group 4277 Hempstead Turnpike Suite 200 Bethpage, NY 11714	W14891	09/05/2006	NY	
MRI of Saint Louis Obispo 1064 Murray Avenue San Luis Obispo, CA 93405	1881661361	09/05/2006	CA	
Lahey Clinic 41 Mall Road Burlington, MA 01805	220171	09/05/2006	MA	
St Joseph Medical Center 215 N. 12th Street Reading, PA 19603	390096	09/05/2006	PA	

Spartanburg Regional Medical Center 101 E. Wood Street Spartanburg, SC 29303	420007	09/05/2006	SC	
Aurora Sinai Medical Center 945 N. 12th Street Milwaukee, WI 53201	520064	09/05/2006	WI	
FHN Memorial Hospital 1045 W. Stephenson Street Freeport, IL 61032	140160	09/05/2006	IL	
Southwest Washington Medical Center 400 NE Mother Joseph Place Vancouver, WA 98668	500050	09/05/2006	WA	
St. Lukes Center for Diagnostic Imaging 6 McBride and Sons Corporate Center Drive Suite 101 Chesterfield, MO 63005	47006	09/05/2006	MO	
The Stamford Health System Shelbourn Road & West Broad Street Stamford, CT 06904	70006	09/05/2006	CT	
Hagerstown Imaging, LLC 1150 A Professional Court Hagerstown, MD 21741	1518914936	09/05/2006	MD	
GCM Suburban Imaging 6420 Rockledge Drive Suite 3100 Bethesda, MD 20817	409623	09/05/2006	MD	
Alliance Imaging-No. Idaho Imaging 2003 Lincoln Way Coeur d'Alene, ID 83814	1790291	09/05/2006	ID	

HPMA PET Center 22710 Professional Drive Suite 104 Kingwood, TX 77339	0019BY	09/05/2006	TX	
Parma Community General Hospital 7007 Powers Boulevard Parma, OH 44129	360041	09/05/2006	OH	
Pacific Shores Medical Group PET Imaging 1043 Elm Street #104 Long Beach, CA 90813	W13494	09/05/2006	CA	
Clark Memorial Hospital 1220 Missouri Avenue Jeffersonville, IN 47130	15009	09/05/2006	IN	
Abilene Imaging Center, LLC 750 North 18th Street Abilene, TX 79601	FTA070	09/05/2006	TX	
DuBois Regional Medical Center 100 Hospital Avenue DuBois, PA 15801	390086	09/06/2006	PA	
Meeker County Memorial Hospital 612 South Sibley Avenue Litchfield, MN 55355	241366	09/06/2006	MN	
Memorial Health 4700 Waters Avenue Savannah, GA 31403	110036	09/06/2006	GA	
St. Luke's Regional Medical Center, Ltd. 190 E. Bannock Street Boise, ID 83712	130006	09/06/2006	ID	
Radiology Consultants Imaging Center 400 Avenue K, SE Winter Haven, FL 33880	U3944	09/06/2006	FL	

Patient Comprehensive Cancer Center 4352 North Josey Lane Carrollton, TX 75010	0083BY	09/06/2006	TX	
The University of Tennessee Medical Center 1924 Alcoa Highway Knoxville, TN 37920	440015	09/06/2006	TN	
Radiation Therapy Regional Centers-Naples 800 Goodlette Road Suite 110 Naples, FL 34102	77215	09/06/2006	FL	
St. Mary's Medical Center 2900 First Avenue Huntington, WV 25702	510007	09/06/2006	WV	
McKinney Regional Cancer Center 4601 Medical Center Drive McKinney, TX 75069	00711W	09/06/2006	TX	
WCA Hospital PO Box 840 Jamestown, NY 14701	330239	09/06/2006	NY	207 Foote Avenue
Grants Pass Imaging and Diagnostic Center, LLC 1619 NW Hawthorne Suite 110 Grants Pass, OR 97526	1659307973	09/06/2006	OR	
Baptist Memorial Hospital-Golden Triangle 2520 5th Street North Columbus, MS 39705	250100	09/06/2006	MS	
Florida Medical Clinic 13417 US Highway 301 Dade City, FL 33525	39715	09/06/2006	FL	

Saint Clare's Hospital 400 West Blackwell Street Dover, NJ 07801	310067	09/06/2006	NJ	
Radiation Medicine Associates 2202 South 77 Sun Shine Strip Suite E Harlingen, TX 78550	00645N	09/06/2006	TX	
The Radiology Clinic, LLC 208 McFarland Circle North Tuscaloosa, AL 35406	13089	09/06/2006	AL	
Bay Area Hospital 1775 Thompson Road. Coos Bay, OR 97420	30090	09/06/2006	OR	
MMI/St. Mary's Hospital 51 US Route 1 Scarborough, ME 04074	327079	09/06/2006	ME	Suite O
Gulf Coast Medical Diagnostic Center 2024 State Avenue Panama City, FL 32405	30930	09/06/2006	FL	
Diagnostic Radiology Systems, Inc. 1010 Medical Center Drive Powderly, KY 42366	9366001	09/06/2006	KY	
Lewis Gale Medical Center 1900 Electric Road Salem, VA 24153	490048	09/06/2006	VI	
Radiology Diagnostic Center 1310 Las Tablas Road Suite 103 Templeton, CA 93465	W7491	09/06/2006	CA	
Weslaco Nuclear Imaging Center 913 S. Airport Drive Weslaco, TX 78596	1780796219	09/06/2006	TX	

Pioneer PET, LLC 1930 E. Southern Avenue Tempe, AZ 85282	1265401996	12/05/2006	AZ	
Kearney Imaging Center, LLC 3219 Central Avenue Suite 109 Kearney, NE 68847	98950	12/05/2006	NE	
Rose Medical Center 4567 East 9th Avenue Denver, CO 80220	841321373	12/05/2006	CO	
UCSF Medical Center 185 Berry Street San Francisco, CA 94107	50454	12/05/2006	CA	Lobby 7 Suite 180
Broward General Medical Center 1500 S. Andrews Avenue Fort Lauderdale, FL 33316	100039	12/05/2006	FL	
St. Paul Radiology, PA/Midwest Radiology 166 Fourth Street East St. Paul, MN 55101	CO2661	12/05/2006	MN	
Queen of the Valley Hospital 1000 Trancas Street Napa, CA 94558	941243669	12/05/2006	CA	
Dana-Farber Cancer Institute 44 Binney Street Boston, MA 02115	220162	12/05/2006	MA	
Holmes Regional Medical Center 1350 South Hickory Street Melbourne, FL 32901	100019	12/05/2006	FL	
Niagara County PET Center Niagara Falls, NY 14302	f27482	12/05/2006	NY	621 Tenth Street Department of Radiology

Augusta Medical Center 78 Medical Center Drive Fishersville, VA 22939	490018	12/05/2006	VA	
Nevada Cancer Center 2851 North Tenaya Way Las Vegas, NV 89128	VWQBHJ	12/05/2006	NV	#100
Wellstar Kennestone Hospital Imaging Center 340 Kennestone Hospital Boulevard Marietta, GA 30060	110035	12/05/2006	GA	Suite LL10
Ashtabula County Medical Center 2412 Lake Avenue Ashtabula, OH 44004	1285607416	12/05/2006	OH	The Regional Cancer Center
Rowan Regional Medical Center 514 Corporate Circle Salisbury, NC 28147	340015	12/05/2006	NC	
The Pottsville Hospital and Warne Clinic 420 South Jackson Street Pottsville, PA 17901	390030	12/05/2006	PA	
Georgetown Memorial Hospital 606 Blackriver Road Georgetown, SC 29442	1982604021	12/05/2006	SC	
Medical Center of Arlington 3301 Matlock Road Arlington, TX 76015	450675	12/05/2006	TX	
Valley View Regional Hospital 430 N. Monte Vista Ada, OK 74820	370020	12/05/2006	OK	
Montgomery Medical Services 644 Maysville Road, Suite 10 Mount Sterling, KY 40353	9141	12/05/2006	KY	
Medical Outsourcing Services, LLC 5409 N. Knoxville Avenue Peoria, IL 61614	211224	12/05/2006	IL	

Medical Outsourcing Services, LLC 1300 N. Main Street Rushville, IN 46173	223260	12/05/2006	IN	
Mayo Clinic Arizona 13400 E. Shea Boulevard Scottsdale, AZ 85259	WCTGB	12/05/2006	AZ	
Door County Memorial Hospital 323 S. 18th Avenue Sturgeon Bay, WI 54235	1093743874	12/05/2006	WI	
Center for Diagnostic Imaging-Sartell 166 19th Street S. Sartell, MN 56377	C01307	12/05/2006	MN	Suite 100
South Texas Institute of Cancer 1205 South 19th Street Corpus Christi, TX 78405	0065AZ	12/05/2006	TX	
Del Sol Medical Center 10460 Vista Del Sol El Paso, TX 79925	450646	12/05/2006	TX	
University Hospital 818 St. Sebastian Way Augusta, GA 30901	110028	12/05/2006	GA	Suite 103
St. John Health System-Tulsa, OK 1923 S. Utica Avenue Tulsa, OK 74104	370114	12/05/2006	OK	
Allen Memorial Hospital 1825 Logan Avenue Waterloo, IA 50703	160110	12/05/2006	IA	
Craig General Hospital 735 North Foreman Street Vinita, OK 74301	370065	12/05/2006	OK	
Vision Imaging of Kingston 517 Pierce Street Kingston, PA 18704	86463	12/05/2006	PA	
Lake Hospital Mentor Campus 9485 Mentor Avenue	360098	12/05/2006	OH	Attn: Suite A

Mentor, OH 44060				
Excela RCL PET CT Imaging, LLC 200 Village Drive Greensburg, PA 15601	1144260415	12/05/2006	PA	
Kousay Al-Kourainy, MD 5395 Ruffin Road #202 San Diego, CA 92123	A39783	12/05/2006	CA	
Memorial Hermann Northwest Hospital 1635 North Loop West Houston, TX 77008	450184	12/05/2006	TX	
Accu/Site PET/CT Imaging Center 30 Harrison Street Johnson City, NY 13790	DD1474	12/05/2006	NY	Suite #102
DDIS-Bond 9 Bond Street Brooklyn, NY 11201	687s41	12/05/2006	NY	
West Valley Radiology Medical Group 7301 Medical Center Drive West Hills, CA 91307	Hw5870A	12/05/2006	CA	Suite 103
Westside Diagnostic and Therapeutic Medical Center, LLC 12524 West Washington Boulevard Los Angeles, CA 90066	TG472	12/05/2006	CA	
DDIS-Still 1783 Stillwell Avenue Brooklyn, NY 11223	687s41	12/05/2006	NY	
Alpena Regional Medical Center 1501 W, Chisholm Street Alpena, MI 49707	386000029	12/05/2006	MI	

Santa Monica Imaging Center 1245 16th Street Suite 105 Santa Monica, CA 90404	1881670248	12/05/2006	CA	
Mercer County Community Hospital 800 W. Main Street Coldwater, OH 45828	360058	12/05/2006	OH	
Johnson Memorial Hospital 1125 W. Jefferson Street Franklin, IN 46131-2675	150001	12/05/2006	IN	PO Box 549
St. Mary's Health Center 100 St. Mary's Medical Plaza Jefferson City, MO 65101	260011	12/05/2006	MO	
Eastside PET Center, LLC 46 Medical Park East Drive Birmingham, AL 35023	1619925070	12/05/2006	AL	Suite 224
United Regional Health Care System 1600 8th Street Wichita Falls, TX 76301	450010	12/05/2006	TX	
Denton Regional Medical Center 3535 S. I-35 Denton, TX 76210	450634	12/05/2006	TX	
Canton-Potsdam Hospital 50 Leroy Street Potsdam, NY 13676	161012691	12/05/2006	NY	
St. John Macomb Hospital 11800 E. 12 Mile Road Warren, MI 48093	230195	12/05/2006	MI	
Cleveland Regional Medical Center 201 East Grover Street Shelby, NC 28150	340021	12/05/2006	NC	
Bluefield Regional Medical Center 500 Cherry Street Bluefield, WV 24701	510071	12/05/2006	WV	

Charles Cole Memorial Hospital 1001 East Second Street Coudersport, PA 16915	390246	12/05/2006	PA	
New Jersey State Open MRI 155 State Street Hackensack, NJ 07601	85238	12/06/2006	NJ	
Westcoast Radiology 501 S. Lincoln Ave. Clearwater, FL 33756	E4187	12/06/2006	FL	
The Iowa Clinic / PETCO, LLC 1221 Pleasant Street Des Moines, IA 50309	I5819	12/06/2006	IA	
Quantum PET-Holy Spirit Hospital 890 Poplar Church Road Camp Hill, PA 17011	40635	12/06/2006	PA	
Coastal Bend PET Scan, Ltd. 1533 5th Street Corpus Christi, TX 78404	FTN014	12/06/2006	TX	
Pottstown Memorial Medical Center 1600 E. High Street Pottstown, PA 19464	390123	12/06/2006	PA	
UTMB PET/CT Imaging Center UTMB-Rebecca Sealy Hospital Galveston, TX 77555-0793	R518	12/06/2006	TX	301 University Blvd.
Diagnostic Imaging Services, LLC 11110 Medical Campus Road, Suite 204 Hagerstown, MD 21742	1114982808	12/06/2006	MD	
North Memorial Medical Center 3435 West Broadway Robbinsdale, MN 55422	1851344907	12/06/2006	MN	
Hays Medical Center 2220 Canterbury Drive Hays, KS 67601	2473	12/06/2006	KS	

St. Patrick Hospital & Health Sciences Center 500 West Broadway Missoula, MT 59802	1023032588	12/06/2006	MT	
Park Ridge Hospital 100 Hospital Drive Hendersonville, NC 28792	340023	12/06/2006	NC	
Fostoria Community Hospital 610 Plaza Drive Fostoria, OH 44830	361318	12/06/2006	OH	
UMDNJ-University Hospital 30 Bergen Street Newark, NJ 07101	221775306	12/06/2006	NJ	ADMC 5 Room 575 P.O. Box 1709
Metabolic Imaging of Boca 5458 Town Center Road Suite 103 Boca Raton, FL 33486	E5434	12/06/2006	FL	
Olean Open MRI 413 North 8th Street Olean, NY 14760	AA0996	12/06/2006	NY	
Mercy Memorial Health Center 1011 14th Avenue NW Ardmore, OK 73401	731500629	12/06/2006	OK	
Pontiac Osteopathic Hospital d.b.a. POH Medical Center 385 N. Lapeer Road Oxford, MI 48371	230207	12/06/2006	MI	
Texas Oncology Ft. Worth 1450 8th Avenue Fort Worth, TX 76104	00R66C	12/06/2006	TX	
West Valley Imaging 3025 S. Rainbow Boulevard Las Vegas, NV 89146	WQBDY	12/06/2006	NV	
Springman Medical Plaza Imaging Center PO Box 4650 Brownsville, TX 78523	1912973108	12/06/2006	TX	

EMH Regional Health Care System 630 East River Street Elyria, OH 44035	360145	12/06/2006	OH	
Denfeld Medical Center 4702 Grand Avenue Duluth, MN 55807	C06028	12/06/2006	MN	
Caldwell Memorial Hospital 321 Mulberry Street SW Lenoir, NC 28645	560554202	12/06/2006	NC	
Belleville, IL (Swansea) 4253 Argosy Court Madison, WI 53714	208196	12/06/2006	WI	
Comprehensive Cancer Centers of Nevada - NW Office 7445 Peak Drive Las Vegas, NV 89128	WCHCX	12/06/2006	NV	
Wheaton Francisan Healthcare-St. Joseph 5000 W. Chambers Street Milwaukee, WI 53210	520136	12/06/2006	WI	
United Hospital Center Rt. 19 South Clarksburg, WV 26302-1680	510006	12/06/2006	WV	#3 Hospital Plaza
Massena Memorial Hospital 1 Hospital Dive Massena, NY 13662	330223	12/06/2006	NY	
Redlands Community Hospital 350 Terracina Boulevard Redlands, CA 92373	ZZZ01782Z	12/06/2006	CA	
The Valley Hospital 1 Valley Health Plaza Paramus, NJ 07652	310012	12/06/2006	NJ	
Advanced Medical Imaging of Toms River 1430 Hooper Avenue Toms River, NJ 08753	447655	12/06/2006	NJ	Suite 102

McKenna Memorial Hospital 598 N. Union Street New Braunfels, TX 78130	450059	12/06/2006	TX	
NSMS-Parkland Farmington, Mo 4253 Argosy Court Madison, WI 53714	208196	12/06/2006	WI	
Alton Memorial Hospital 1 Memorial Drive Alton, IL 62002	14002	12/06/2006	IL	
Medical City Dallas Hospital Diagnostic Imaging Dallas, TX 75230	20943901	12/06/2006	TX	7777 Forest Lane
Mercy Medical Center 301 St. Paul Place Baltimore, MD 21202	210008	12/06/2006	MD	
St. Joseph's Medical Center 503 N. 3rd Street Brainerd, MN 56401	240075	12/06/2006	MN	
Covenant Healthcare 600 Irving Street Saginaw, MI 48602	1457354318	12/06/2006	MI	
Little Company of Mary Hospital 2800 West 95th Street Evergreen Park, IL 60805	140179	12/06/2006	IL	
Marion General Hospital Progressive Medical Imagine 830 N. Theatre Drive Marion, IN 46952	1457354318	12/06/2006	IN	
Escondido Pulmonary Medical Group 5395 Ruffin Road Suite 202 San Diego, CA 92123	W301	12/06/2006	CA	
Marshall Medical Center 1100 Marshall Way Placerville, CA 95667	50254	12/06/2006	CA	
Clermont Radiology 1804 Oakley Seaver Drive	U5066	12/06/2006	FL	Suite B

Clermont, FL 34711				
Mahoning Valley Imaging, Ltd. 7067 Tiffany Boulevard Youngstown, OH 44514	1457354318	12/06/2006	OH	
Southeastern Ohio Regional Medical Center 1341 Clark Avenue Cambridge, OH 43725	1457354318	12/06/2006	OH	
White County Medical Center 3214 E. Race Avenue Searcy, AR 72143	40014	12/06/2006	AR	
MED Arts JVIC 9101 Franklin Square Drive Baltimore, MD 21237	1932167178	12/06/2006	MD	
Memorial Hermann Southwest OPID 7797 SW Freeway Houston, TX 77074	741152597	12/06/2006	TX	
Twin County Regional Hospital 200 Hospital Drive Galax, VA 24333	1174524094	12/06/2006	VA	
Marion Ancillary Services, LLC 1040 Delaware Avenue Marion, OH 43302	991	12/06/2006	OH	
Owensboro Medical Health Systems Breckenridge Diagnostics Owensboro, KY 42301	180038	12/06/2006	KY	1020 Breckenridge Street
NSMS-Darlington, WI 209 Limestone Pass Cottage Grove, WI 53527	92420	12/06/2006	WI	
Santa Fe Imaging, LLC 1640 Hospital Drive Santa Fe, NM 87505	400521037	12/06/2006	NM	

Suncoast Imaging of Port Orange 1680 Dunlawton Avenue Port Orange, FL 32127	40370B	12/06/2006	FL	
Great Basin Imaging 2874 N Carson Street 3rd Floor Carson City, NV 89706	WJBDK	12/06/2006	NV	
St. Francis Hospital & Health Centers 1201 Hadley Road Mooresville, IN 46158	1457354318	12/06/2006	IN	
Las Colinas Cancer Center 7415 Las Colinas Boulevard Irving, TX 75063	00J062	12/06/2006	TX	
ADI 4006 Jonathan Street Waterloo, IA 50701	I15454	12/06/2006	IA	
St Francis Hospital & Health Centers South 8111 S. Emerson Avenue Indianapolis, IN 46237	1457354318	12/06/2006	IN	
Central Baptist Diagnostic Center 100 Southland Drive Lexington, KY 40503	9375001	06/14/2006	KY	Suite B
Baptist Health Medical Center-NLR PET/CT 3500 Springhill Drive North Little Rock, AR 72117	5F437	05/03/2007	AR	Suite 100
Commonwealth Hematology Oncology 216 Southtown Drive Danville, KY 40422	1285687178	03/21/2007	KY	
Commonwealth Hematology Oncology 95 Bogle Office Park Drive Somerset, KY 42503	1285687178	03/21/2007	KY	

UMPC and The Washington Hospital Cancer Center 155 Wilson Avenue Washington, PA 15301	105589VXB	03/10/2006	PA	
Lexington Diagnostic Center 1725 Harrodsburg Road Suite 100 Lexington, KY 40504	0406	03/08/2006	KY	
UW PET Imaging Center 8007 Excelsior Drive Madison, WI 53717	1346266319	04/03/2007	WI	
Fort Wayne Medical Oncology and Hematology 7910 W. Jefferson Boulevard Suite 107 Ft. Wayne, IN 46804	055770	04/23/2007	IN	
Danbury Hospital 24 Hospital Avenue Danbury, CT 06810	070033	04/23/2007	CT	
Reno Diagnostic Centers 590 Eureka Avenue Reno, NV 89512	1518904994	04/24/2007	NV	
The Kirklin Clinic PET-CT Facility 2000 6th Ave South Birmingham, AL 35233	10933768723	05/07/2007	AL	
PET Imaging Radiology, PSC Paseo San Pablo 100 Bayamon, PR	0085142	05/15/2007	PR	EDIF Dr. Arturo Cadilla Suite 208
Punxsutawney Area Hospital 81 Hillcrest Drive Punxsutawney, PA 15767	390199	05/15/2007	PA	
Princeton Baptist Medical Center 701 Princeton Avenue SW Birmingham, AL 35211	35211	05/30/2007	AL	
Medical Arts Radiology Commack 55 Veterans Memorial Highway Commack, NY 11725	W11682	05/31/2007	NY	

Carrol, Sheth & Raghavan, MD 1460 Bluegrass Avenue Louisville, KY 40215	5460	06/05/2007	KY	
Personal Care Molecular Imaging 1514 Highway 138 Wall, NJ 07719	109631	06/06/2007	NJ	
Lincoln Radiology Imaging 7121 Stephanie Lane Lincoln, NE 68516	099920	06/06/2007	NE	
Medcenter One 300 North 7th Street Bismark, ND 58506-5525	1538245634	07/24/2007	ND	
Wheaton Franciscan Healthcare - All Saints 3801 Spring Street Racine, WI 53405	520096	08/08/2007	WI	N/A
Diagnostic Centers of America 6080 Boynton Boulevard Suite 140 Boynton Beach, FL 33437	E4439	08/22/2007	FL	N/A
Center for Integrative Cancer Medicine, P.A 1733 Curie Drive Suite 305 El Paso, TX 79902	00315U	08/22/2007	TX	N/A
St. Luke's Hospital 1026 A Avenue N.E. Cedar Rapids, IA 52406-3026	160045	08/22/2007	IA	N/A
Shared PET Imaging, LLC - Cincinnati OH Eden Avenue & Albert Sabin Way Cincinnati, OH 45219	ID01511	08/22/2007	OH	N/A
Integrated Magnetic Imaging 7100 University Court Montgomery, AL 36117	7811	08/22/2007	AL	N/A

Northwest PET Imaging 265 N. Broadway Street Portland, OR 97227	105512	08/22/2007	OR	N/A
Center for Diagnostic Imaging - St. Louis Park 5775 Wayzata Boulevard #190 St. Louis Park, MN 55416	C01307	08/22/2007	MN	N/A
Ponca City Medical Center 1900 North 14th Street Ponca City, OK 74601	370006	08/22/2007	OK	N/A
Sanford Health 1305 W. 18th Street Sioux Falls, SD 57117	430027	08/22/2007	SD	N/A
Central Valley PET Imaging 4744 Quail Lake Drive Stockton, CA 95207	00A484230	08/22/2007	CA	N/A
PET/CT Imaging Center 4000 N. Illinois Lane Swansea, IL 62226	201339	08/22/2007	IL	PET/CT Imaging Center
Memorial Medical Center 1105 W. Frank Avenue Suite 100 Lufkin, TX 75901	450211	08/22/2007	TX	d.b.a. Temple Imaging Center
Rockingham Memorial Hospital 235 Cantrell Ave Harrisonburg, VA 22801	490004	08/22/2007	VA	N/A
Regions Imaging Center 401 Phalen Boulevard 41101C St. Paul, MN 55101	240106	08/22/2007	MN	N/A
Florida Hospital Imaging, LLC 335 Clyde Morris Boulevard Suite 250 Ormond Beach, FL 32174	1104876358	08/22/2007	FL	N/A
Hutchinson Clinic, PA 2101 North Waldron Street Hutchinson, KS 67502	1043298474	08/22/2007	KS	N/A

Parkwest Imaging 3676 Parker Boulevard Pueblo, CO 81008	455838	08/22/2007	CO	N/A
St. Clair Hospital/UPMC Cancer Center PET/CT 1000 Bower Hill Road Pittsburgh, PA 15243	1699708792	08/22/2007	PA	N/A
St. Joseph Mercy Oakland (SJMO) 44405 Woodward Avenue Pontiac, MI 48341	1457354318	08/22/2007	MI	N/A
Edward Hospital 801 S. Washington Street Naperville, IL 60540	140231	08/22/2007	IL	N/A
East Montgomery Imaging Center 6880 Winton Blount Boulevard Montgomery, AL 36117	58866	08/22/2007	AL	N/A
Memorial Hospital of Martinsville and Henry County 320 Hospital Drive Martinsville, VA 24112	490079	08/22/2007	VA	N/A
Thomas Hospital 750 Morphy Avenue Fairhope, AL 36532	10100	08/22/2007	AL	N/A
Portland Adventist Medical Center 10123 SE Market Street Portland, OR 97216	380060	08/22/2007	OR	N/A
Nash Healthcare System, Inc. 2460 Curtis Ellis Drive Rocky Mount, NC 27804	340147	08/22/2007	NC	N/A
North Broward Medical Center 201 E. Sample Road Deerfield Beach, FL 33064	100068	08/22/2007	FL	Radiology
Jennie Stuart Medical Center 320 West 18th Street Hopkinsville, KY 42240	180051	08/22/2007	KY	N/A

Greater Houston Imaging, L.P. 6565 West Loop South Suite 100 Bellaire, TX 77401	FTNPX1	08/22/2007	TX	N/A
Sunrise Hospital Medical Center 3186 South Maryland Parkway Las Vegas, NV 89109	290003	08/22/2007	NV	N/A
The Diagnostic and Treatment Center 3401 Cranberry Boulevard Weston, WI 54476	92450	08/22/2007	WI	N/A
Ochsner Medical Center 1514 Jefferson Highway New Orleans, LA 70121	720502505	08/22/2007	LA	N/A
Inland Empire Medical Imaging 225 W. Hospitality Lane Suite #100 San Bernardino, CA 92408	zzz316682	08/22/2007	CA	N/A
Independent Nuclear PET Imaging 1115 N. Parrott Avenue Okeechobee, FL 34972	1922070796	08/22/2007	FL	N/A
Hugh Chatham Memorial Hospital 180 Parkwood Drive Elkin, NC 28621	340097	08/22/2007	NC	N/A
Marian Medical Center/Plaza Diagnostic Imaging 525 E. Plaza Drive Santa Maria, CA 93454	50107	08/22/2007	CA	N/A
DDIS-FH 8002 Kew Gardens Road Kew Gardens, NY 11415	687s41	08/22/2007	NY	N/A
NYPH-Weill Cornell 525 E 68th Street New York, NY 10021	131623978	08/22/2007	NY	N/A

Genesys Regional Medical Center One Genesys Parkway Grand Blanc, MI 48439-8066	230197	08/22/2007	MI	N/A
Geisinger Medical Center 100 North Academy Avenue Danville, PA 17822	390006	08/22/2007	PA	N/A
Citrus Diagnostic Center 922 N Citrus Avenue Crystal River, FL 34428	K5374	08/22/2007	FL	N/A
Middlesex Hospital 534 Saybrook Road Middletown, CT 6457	70020	08/22/2007	CT	N/A
Geisinger Wyoming Valley Medical Center 1000 East Mountain Drive Wilkes-Barre, PA 18711	390270	08/22/2007	PA	N/A
Canton, IL - Northern Shared Medical Services 209 Limestone Pass Cottage Grove, WI 53527	208196	08/22/2007	WI	N/A
Self Regional Healthcare 102 Academy Street Greenwood, SC 29646	420071	08/22/2007	SC	N/A
Bristol Hospital Brewster Road Bristol, CT 06011	70029	08/22/2007	CT	P.O. Box 977
East Texas Hematology & Oncology Clinic, PA 1202 West Frank Avenue Lufkin, TX 75904	00T37K	08/22/2007	TX	N/A
St. John River District Hospital 4100 River Road East China, MI 48054	230241	08/22/2007	MI	N/A

Morgan Hospital 2209 John R Wooden Drive Martinsville, IN 46151	150038	08/22/2007	IN	N/A
Cotton-O'Neil Cancer Center 1414 SW 8th Street Topeka, KS 66606	1811944457	08/22/2007	KS	N/A
Barnes-Jewish West County Hospital 12634 Olive Boulevard St Louis, MO 63141	260162	08/22/2007	MO	N/A
Hardin Memorial Hospital 913 North Dixie Avenue Elizabethtown, KY 42701	180012	08/22/2007	KY	N/A
Cancer Institute of Florida, LLC 894 E. Altamonte Drive Altamonte Springs, FL 32701	72793	08/22/2007	FL	N/A
Community Hospital, New Port Richey 5637 Marine Parkway New Port Richey, FL 34652	100191	08/22/2007	FL	N/A
Pulaski Community Hospital 2400 Lee Highway Pulaski, VA 24301	490116	08/22/2007	VA	N/A
Advocate South Suburban Hospital 17800 S. Kedzie Avenue Hazel Crest, IL 60429	3.62169E+11	08/22/2007	IL	N/A
St. Vincent's Medical Center 2800 Main Street Bridgeport, CT 6606	70028	08/22/2007	CT	N/A
Cayuga Medical Center at Ithaca 3218 Wilkins Road Ithaca, NY 14850	330307	08/22/2007	NY	N/A
Immanuel-ST Josephs Mayo Health Stystem 1025 Marsh Street Mankato MN 56002-8673	240093	08/22/2007	MN	PO Box 8673

Kell West Regional Hospital 5420 Kell West Boulevard Wichita Falls, TX 76310	450827	08/22/2007	TX	N/A
Aurora Medical Center Kenosha 10400 75th Street Kenosha, WI 53142	520189	08/22/2007	WI	N/A
Aurora Lakeland Medical Center W3985 County Rd Nn Elkhorn, WI 53121	520102	08/22/2007	WI	N/A
Munson Medical Center 1105 Sixth Street Traverse City, MI 49684	230097	08/22/2007	MI	N/A
Kansas City Cancer Center - North 8700 Greenhills Road Kansas City, MO 64154	5650000E	08/22/2007	MO	N/A
PET Imaging Center of Maine 885 Union Street Suite 115 Bangor, ME 04401	10211501	08/22/2007	ME	N/A
SMS - Chester, IL 1900 State Street Chester, IL 62233	208196	08/22/2007	IL	N/A
PET of Reston, LP 1800 Town Center Drive Suite 115 Reston, VA 20190	G01960P03	08/22/2007	VA	N/A
Healthcare Imaging Center 4334 Central Ave Riverside, CA 92506	ZZZ14451Z	08/22/2007	CA	N/A
Robert Wood Johnson University Hospital at Hamilton 1 Hamilton Health Place Hamilton, NJ 08690	310110	08/22/2007	NJ	N/A
Northside Hospital 1000 Johnson Ferry Road Atlanta, GA 30342	110161	08/22/2007	GA	N/A

Aurora Medical Center Kenosha 10400 75th Street Kenosha, WI 53142	520189	08/22/2007	WI	N/A
Partners Imaging Center of Sarasota 1250 S. Tamiami Trail Suite 103 Sarasota, FL 34239	Q0353	08/22/2007	FL	N/A
Memorial Medical Center 216 Sunset Place Neillsville, WI 54456	521323	08/22/2007	WI	N/A
Central Virginia Imaging, LLC 1900 Tate Spings Road Suite 21 Lynchburg, VA 24501	1578594412	08/22/2007	VA	N/A
Los Alamitos Medical Center 3951 Katella Ave Los Alamitos, CA 90720	50551	08/22/2007	CA	N/A
Valley Advanced Imaging, LLC 2403 Butler Street Easton, PA 18042	1417907023	08/22/2007	PA	N/A
Good Samaritan PET/CT and Imaging services 1245 Montauk Hwy West Islip NY 11795	330286	08/22/2007	NY	N/A
Scotland Memorial Hospital 500 Lauchwood Drive Laurinburg, NC 28352	340008	08/22/2007	NC	N/A
McFarland Clinic, P.C. 1111 Duff Avenue Ames, IA 50010	1639135643	08/22/2007	IA	N/A
Providence Hospital 1150 Varnum Street NE Washington, DC 20017	90006	08/22/2007	DC	N/A
The Angeles Clinic and Research Institute 11818 Wilshire Boulevard Suite 200 Los Angeles, CA 90025	W15185A	08/22/2007	CA	N/A

Rose Radiology Centers, Inc. 5107 N. Armenia Avenue Tampa, FL 33603	1629162904	08/22/2007	FL	Bldg B
Texas Oncology East Houston 13111 East Freeway Houston, TX 77015	1811944101	08/22/2007	TX	N/A
NSMS - St. Joe's - Breese, IL 9515 Holy Cross Lane Breese, IL 62230	208196	08/23/2007	IL	N/A
UT Cancer Institute 7945 Wolf River Boulevard Germantown, TN 38138	3711381	08/23/2007	TN	N/A
Fresno Imaging Center 6191 N. Rhesta Avenue Fresno, CA 93710	N/A	08/23/2007	CA	N/A
Imaging Consultants Inc. at Sturdy Memorial 211 Park Street Attleboro, MA 02703	327085	08/23/2007	MA	N/A
Fairfax PET Imaging Center, LLC 8503 Arlington Boulevard Lower level Fairfax, VA 22031	1861433674	08/23/2007	VA	N/A
City Hospital, Inc. 2500 Hospital Drive Martinsburg, WV 25401	510008	08/23/2007	WV	N/A
White Plains Radiology Associates PET Center Davis and Post Roads White Plains, NY 10601	w11842	08/23/2007	NY	N/A
Lenoir Memorial Hospital 100 Airport Road Kinston, NC 28503-1678	1962446385	08/23/2007	NC	N/A

Sand Lake Imaging 9350 Turkey Lake Road Orlando, FL 32819	34896	08/23/2007	FL	SUITE 100
Advocate Lutheran General Center For Advanced Care 1800 Luther Lane Park Ridge, IL 60068	140223	08/23/2007	IL	N/A
Flower Hospital 5200 Harroun Road Sylvania, OH 43560	360074	08/23/2007	OH	N/A
Dekalb Memorial Hospital 1316 E. 7th Street Auburn, IN 46706	N/A	08/23/2007	IN	N/A
St. John Hospital and Medical Center 1315 Macom Drive Naperville, IL 60564	116	08/23/2007	IL	N/A
Bayhealth Medical Center 540 S. Governors Avenue Dover, DE 19904	N/A	08/23/2007	DE	N/A
ImageCare 713 Troy-Schenectady Road Suite 124 Latham, NY 12110	1922048370	08/23/2007	NY	Capital Region Health Park
Southside Regional Medical Center 801 South Adams Street Petersburg, VA 23803	490067	08/23/2007	VA	N/A
East Alabama Medical Center- Auburn Diagnostic Imaging 1527 Professional Parkway Auburn, AL 36830	29	08/23/2007	AL	N/A
Trover Health System 900 Hospital Drive Madisonville, KY 42431	1457354318	08/23/2007	KY	N/A

Doctors Hospital at Renaissance, Ltd 5501 S. McColl Road Edinburg, TX 78359	450869	08/23/2007	TX	N/A
Twin Lakes Imaging Center 1890 LPGA Boulevard Daytona Beach, FL 32117	1023040870	08/23/2007	FL	Suite 110
Nathan Littauer Hospital 99 E. State Street Gloversville, NY 12078	330276	08/23/2007	NY	N/A
Altoona Regional Health System 620 Howard Avenue Altoona, PA 16601	390073	08/23/2007	PA	N/A
Warren General Hospital 2 Crescent Park West Warren, PA 16365	390146	08/23/2007	PA	N/A
Reid Hospital Health Care Services 1401 Chester Boulevard Richmond, IN 47374	1457354318	08/23/2007	IN	N/A
Orange City Area Health System 1000 Lincoln Circle SE Orange City, IA 51041	161360	08/23/2007	IA	N/A
Mercy Hospital Clermont 3000 Hospital Drive Batavia, OH 45103	1457354318	08/23/2007	OH	N/A
Arroyo Grande Community Hospital 345 South Halcyon Road Arroyo Grande, CA 93454	50016	08/23/2007	CA	N/A
HealthEast St. John's Hospital 1575 Beam Avenue Maplewood, MN 55109	240210	08/23/2007	MN	N/A

St. Joseph's/Candler Health System 5353 Reynolds Street Savannah, GA 31405	110024	08/23/2007	GA	N/A
NSMS - Pickneyville, IL 101 North Walnut Street Pinckneyville, IL 62274	208196	08/23/2007	IL	N/A
Duke Raleigh Hospital 3400 Wake Forrest Road Raleigh, NC 27609	340073	08/23/2007	NC	N/A
Advanced Radiology Services & The Center for Women 400 Plaza Court East Stroudsburg, PA 18301	33012	08/23/2007	PA	Suite C
Community Hospital 10020 Donald S. Powers Drive Munster, IN 46321	140125	08/23/2007	IN	N/A
Avant Imaging - Woodland Health Center 7575 Grand River Avenue Brighton, MI 48114	1457354318	08/23/2007	MI	N/A
EVDI Medical Imaging - East Mesa 6424 E. Broadway Road Mesa, AZ 85206	1164434098	08/23/2007	AZ	Suite 101
NSMS - St. Louis, Mo - ARCH Medical 209 Limestone Pass Cottage Grove, WI 53527	47013	08/23/2007	WI	N/A
CNY PET LLC 5100 West Taft Road Liverpool, NY 13088	AA0672	08/23/2007	NY	Suite 2C
MCMI 3000 Telegraph Avenue Oakland, CA 94609	ZZZ27496Z	08/23/2007	CA	N/A

Green Clinic, LLC 1200 S. Farmerville Street Ruston, LA 71270	57387	08/23/2007	LA	N/A
Fayette Memorial Hospital 3542 North Western Avenue Connersville, IN 47331	150064	08/23/2007	IN	N/A
Carolinas Medical Center - Union 600 Hospital Drive Monroe, NC 28112	340130	08/23/2007	NC	Nuclear Medicine Department
Citrus Medical Imaging Associates, Inc. 1000 Lakes Drive Suite 170 West Covina, CA 91790	HW2326	08/23/2007	CA	N/A
Radiation Oncology at WFUBMC Radiation Oncology Medical Center Boulevard Winston-Salem, NC 27152	340047	08/24/2007	NC	Wake Forest University Baptist Medical Center Comprehensive Cancer Center
Harrison County Hospital 245 Atwood Street Corydon, IN 47112	151331	08/24/2007	IN	N/A
Thibodaux Regional Medical Center 602 North Acadia Road Thibodaux LA 70301	190004	08/24/2007	LA	N/A
NSMS - Hot Springs, AR 1600 Higdon Ferry Road Hot Springs AR 71913	5F168	08/24/2007	AR	N/A
Pacific Oncology, PC 15700 SW Greystone Court Beaverton OR 97006	1043262116	08/24/2007	OR	N/A
Cancer Care Associates 1791 E. Fir Avenue Fresno, CA 93720	222375652	08/24/2007	CA	N/A

Massatusetts Mobile PET, PC- - Newburyport 25 Highland Avenue Newburyport, MA 01950	327086	08/24/2007	MA	N/A
Hematology Oncology Associates of Illinois 6801 West 34th Street Berwyn, IL 60402	218890	08/24/2007	IL	Suite 107
Massatusetts Mobile PET, PC - Haverhill 140 Lincoln Avenue Haverhill, MA 01830	327086	08/24/2007	MA	N/A
Corinth Medical Group 4851 I35 East Suite 101 Corinth, TX 76210	00K22X	08/24/2007	TX	N/A
New England PET Imaging Manchester One Elliot Way Manchester, NH 03103	327081	08/24/2007	NH	N/A
The Surgery Clinic 1026 Goodyear Avenue Gadsden, AL 35999	N/A	08/24/2007	AL	Suite B-101
Boston Medical Center 830 Harrsion Avenue Boston, MA 02118	220031	08/24/2007	MA	Suite 1600
Mercy Health Center 4190 24th Avenue Fort Gratiot, MI 48059	1457354318	08/24/2007	MI	N/A
The Cancer Center of Santa Barbara 300 W. Pueblo Street Santa Barbara, CA 93105	W13890	08/24/2007	CA	N/A
Milford Memorial Hospital Bayhealth Medical Center 21 W. Clarke Avenue Milford, DE 19963	N/A	08/24/2007	DE	N/A

North Coast Cancer Care 417 Quarry Lakes Drive Sandusky, OH 44870	NO9915215	08/24/2007	OH	N/A
Palm Beach Gardens Open Imaging Center 3335 Burns Road #101 Palm Beach Gardens, FL 33408	U8767	08/24/2007	FL	N/A
Advanced Medical Imaging, LLC 1780 NW Myhre Road Silverdale, WA 98383	AB24179	08/24/2007	WA	Suite 1220
Swedish American Hospital 1401 E State Street Rockford, IL 61104	140228	08/24/2007	IL	N/A
Molecular Diagnostics of Eastern Omaha 117 North 32nd Avenue Suite 100 Omaha, NE 68131	99894	08/24/2007	NE	N/A
Kingwood Medical Center 22999 U.S. Hwy 59 Kingwood, TX 77339	1811942238	08/24/2007	TX	N/A
Health Village Imaging 1301 Route 72 West Manahawkin, NJ 08050	1194810978	08/24/2007	NJ	Suite 100
ARH Hazard 100 Medical Center Drive Hazard, KY 41701	520795508	08/24/2007	KY	N/A
Central Florida Imaging Center, Inc. 6801 US 27 N Suite E-3 Sebring, FL 33870	1427076769	08/24/2007	FL	N/A
West Texas Cancer Center 301 N Washington Avenue Odessa, TX 79761	00543K	08/24/2007	TX	N/A

Beloit Memorial Hospital 1969 West Hart Road Beloit, WY 53511	520100	08/24/2007	WY	N/A
Pinnacle Imaging Center 2390 NW 7th Street Miami, FL 33125	U5131	08/24/2007	FL	SUITE 103
PET Imaging of El Paso 1225 E. Cliff Drive El Paso, TX 79902	FTN035	08/24/2007	TX	Building 3 Suite 200
St. Petersburg General Hospital 6500 38th Avenue North St. Petersburg, FL 33710	N/A	08/24/2007	FL	N/A
St. Mary Medical Center 1201 Langhorne-Newtown Road Langhorne, PA 19047	390258	08/24/2007	PA	N/A
St. Joseph Medical Center 1401 St. Joseph Parkway Houston, TX 77002	1154361475	08/24/2007	TX	N/A
UPMC Northwest 1671 Allegheny Boulevard Reno, PA 16343	390091	08/24/2007	PA	N/A
Mercy Hospital Fairfield 3000 Mack Road Fairfield, OH 45014	1457354318	08/24/2007	OH	N/A
Radiology Associates of West Pasco 5539 Marine Parkway New Port Richey, FL 34652	1558328963	08/24/2007	FL	N/A
St. Dominic Hospital 969 Lakeland Drive Jackson, MS 39216	250048	08/24/2007	MS	N/A
RCOA-Adventist Health-Sequoia 4949 W. Cypress Avenue Visalia, CA 93271	1427198696	08/24/2007	CA	N/A

McKee Medical Center 2000 Boise Ave Loveland, CO 80538	60030	08/24/2007	CO	N/A
Bon Secours Richmond Community Hospital 1500 North 28th Street Richmond, VA 23223	490094	08/24/2007	VA	N/A
West Houston Medical Center 12141 Richmond Avenue Houston, TX 77082	450644	08/24/2007	TX	N/A
Shands Teaching Hospital and Clinics, Inc. 2000 SW Archer Road Gainesville, FL 32608	100113	08/24/2007	FL	Radiology, Shands Medical Plaza
Tanner Medical Center 119 Ambulance Drive Carrollton, GA 30117	110011	08/24/2007	GA	N/A
OU Medical Center 700 NE 13th Street Oklahoma City, OK 73104	1780631390	08/24/2007	OK	N/A
The Medical Center of Aurora 1400 S. Potomac Street Aurora, CO 80012	60100	08/24/2007	CO	#180
AllenRidge Diagnostic Imaging Center 520 Lecanto Highway Lecanto, FL 34461	100023	08/24/2007	FL	N/A
The PET Center at BWMC 305 Hospital Drive Baltimore, MD 21061	1124016696	08/24/2007	MD	SUITE 302
Signet Diagnostic Imaging Services, LLC 8300 West Sunrise Boulevard Plantation, FL 33322	E8667	08/24/2007	FL	N/A

Adams Diagnostic Imaging 20 Expedition Trail Gettysburg, PA 17325	65290	08/24/2007	PA	Suite 102
Jennie Edmundson Hospital 933 E. Pierce Street Council Bluffs, IA 51503	160047	08/24/2007	IA	N/A
Holy Cross Hospital 4725 N. Federal Highway Fort Lauderdale, FL 33308	100073	08/24/2007	FL	Bienes Diagnostic Imaging Center
Medical University of Ohio 3000 Arlington Avenue Toledo, OH 43614	1457354318	08/24/2007	OH	N/A
Daviess Community Hospital 1314 E Walnut Street Washington, IN 47501	150061	08/24/2007	IN	Radiology Department
Jeff Anderson Regional Medical Center 2124 14th Street Meridian, MS 39301	250104	08/24/2007	MS	N/A
Modesto Imaging Center 157 E. Coolidge Avenue Modesto, CA 95350	ZZZ01977Z	08/24/2007	CA	N/A
Sioux Center Commmunity Hospital and Health Center 605 South Main Ave Sioux Center, IA 51250	161346	08/24/2007	IA	N/A
Southern Ohio Medical Center 1121 Kinneys Lane Portsmouth, OH 45662	360008	08/24/2007	OH	N/A
Massachusetts General Hospital 55 Fruit Street Boston, MA 02114	220071	08/24/2007	MA	N/A
Clinton Memorial Hospital Regional Health System 31 Farquhar Avenue Wilmington, OH 45177	316005307	08/24/2007	OH	N/A
CJW Medical Center 1401 Johnston Willis Drive	34632	08/24/2007	VA	N/A

Richmond, VA 23235				
Texas Oncology Weatherford 907 Foster Lane Weatherford, TX 76086	00539K	08/24/2007	TX	N/A
Sharper Imaging Diagnostic Radiology Center 3430 Tamiami Trail Port Charlotte, FL 33952	1730288515	08/24/2007	FL	Suite B
Morristown - Hamblin Healthcare System 908 W. 4th N. Street Morristown, TN 37814	1457354318	08/24/2007	TN	N/A
Puget Sound PET Imaging 6808 220th Street SW Mountlake Terrace, WA 98043	115162600	08/24/2007	WA	Suite 150
Detar Hospital Navarro 506 E. San Antonio Street Victoria, TX 77902	450147	08/24/2007	TX	N/A
PET Imaging of Chicago 6801 West 34th Street Suite 105 Berwyn, IL 60402	214832	08/24/2007	IL	N/A
Imaging Specialists Group, Ltd. 3101 Churchill Road Flower Mound, TX 75022	1417991852	08/24/2007	TX	Suite 100
OKOmed Downtown Imaging 2101 Crawford Street Suite 115 Houston, TX 77002	1780622464	08/24/2007	TX	N/A
Clear Lake Regional Medical Center 500 Medical Center Boulevard Webster, TX 77598	1063466035	08/24/2007	TX	N/A
Norton Hospital 315 East Broadway Louisville, KY 40202	180088	08/24/2007	KY	N/A
Saratoga PET Associates, LLC 3 Emma Lane	1356357172	08/24/2007	NY	N/A

Clifton Park, NY 12065				
Genesis Health Care System 2800 Maple Avenue Zanesville, OH 43701	1457354318	08/24/2007	OH	N/A
Lake Cumberland Regional Hospital 27 Imaging Drive Somerset, KY 42503	1457354318	08/24/2007	KY	N/A
Saint Francis Cancer Institute 14 Doctors' Park Cape Girardeau, MO 63703	260183	08/24/2007	MO	N/A
American Health Network of IN, LLC - PET/CT 6820 Parkdale Place Indianapolis, IN 46254	1164491775	08/24/2007	IN	Suite #105
PET CT Nuclear Radiology, Inc. 1501 Edisicio Detantacourt, Suite 302 Fernadez Juncos Santorze, PR 909	57886	08/24/2007	PR	Fernadez Juncos Santorze
NSMS - Reedsburg, WI 2000 North Dewey Street Reedsburg, WI 53959	1295785079	08/24/2007	WI	N/A
Wayne Memorial Hospital 2700 Wayne Memorial Hospital Goldsboro, NC 27534	340010	08/24/2007	NC	N/A
InMed Diagnostic Services of IL 10419 Fleming Road Carterville, IL 62918	205040	08/24/2007	IL	N/A
Henrico Doctors' Hospital 1602 Skipwith Road Richmond, VA 23229	490118	08/24/2007	VA	N/A
Alliance Imaging - United General Hospital 2000 Hospital Drive Sedro Woolley, WA 98284	8862377	08/24/2007	WA	N/A
Spencer Municipal Hospital 1200 First Avenue East	1255328621	08/24/2007	IA	N/A

Spencer, IA 51301				
Radilogy LTD LaCholla Center – Diagnostic Imaging 5960 N. LaCholla Avenue Tucson, AZ 85704	1841261989	08/24/2007	AZ	N/A
Saint Elizabeth Regional Medical Center 555 South 70th Street Lincoln, NE 68510	280020	08/24/2007	NE	N/A
Bucyrus Community Hospital 629 N. Sandusky Avenue Bucyrus, OH 44820	361316	08/24/2007	OH	N/A
Mercy Hospital of Willard 110 E. Howard Street Willard, OH 44890	361310	08/24/2007	OH	N/A
Lower Columbia Pathologists 1606 East Kessler Boulevard Longview, WA 98632	745800	08/24/2007	WA	4th Floor
Newton Medical Center 600 Medical Center Drive Newton, KS 67114	170103A	08/24/2007	KS	N/A
Advanced Imaging Partners 508 Cleveland Street Great Bend, KS 67530	1295791325	08/24/2007	KS	N/A
Integrated Medical Imaging 1040 Greenwood Springs Boulevard Greenwood, IN 46143	221970	08/24/2007	IN	N/A
Avera Sacred Heart Cancer Center 501 Summit Street Yankton, SD 57078	430012	08/24/2007	SD	N/A
ValleyCare Medical Center 5555 W. Las Positas Boulevard Pleasanton, CA 94588	50283	08/24/2007	CA	N/A
NSMS - Mena, AR 311 North Morrow Street Mena, AR 71953	1295785079	08/24/2007	AR	N/A

Memorial Hospital Easton 219 S. Washington Street Easton, MD 21601	210037	08/24/2007	MD	N/A
Seattle Cancer Care Alliance 825 Eastlake Avenue E Seattle, WA 98109	500138	08/24/2007	WA	Medical Imaging
Alliance Imaging - The Vancouver Clinic 700 NE 87th Avenue Vancouver, WA 98664	8864364	08/24/2007	WA	N/A
Martin Center for Diagnostic and Imaging Services 3901 S. Fremont Avenue Springfield, MO 65804	260040	08/24/2007	MO	N/A
Aultman Hospital 2600 Sixth Street SW Canton, OH 44710	1457354318	08/24/2007	OH	N/A
Imaging Consultants, Inc. at Harrington Memorial 600 Federal Street Andover, MA 01810	327085	08/24/2007	MA	N/A
Rhode Island Pet Services at Kent County 600 Federal Street Andover, MA 01810	1538113113	08/24/2007	MA	N/A
Imaging Consultants Inc. at Hawthorn 600 Federal Street Andover, MA 01810	1851449078	08/24/2007	MA	N/A
Swedish Covenant Hospital 5145 N California Avenue Chicago, IL 60625	362179813	08/24/2007	IL	N/A
Banner Baywood Medical Center 6644 E. Baywood Avenue Mesa, AZ 85206	30088	08/24/2007	AZ	N/A
Lourdes Hospital 1530 Lone Oak Road Padukah, KY 42003	1346244126	08/24/2007	KY	N/A

St, Vincent Oncology Center 8301 Harcourt Road Indianapolis, IN 46260	150084	08/24/2007	IN	N/A
United Hospital System, Inc. 9555 76th Street Pleasant Prairie, WI 53518	520021	08/24/2007	WI	N/A
East Tennessee Diagnostic Center 1450 Dowell Springs Boulevard Suite 210 Knoxville, TN 37909	1710932553	08/24/2007	TN	N/A
Nazareth Hospital 8400 Roosevelt Boulevard Philadelphia, PA 19152	390204A	08/24/2007	PA	N/A
Good Samaritan Hospital 2425 Samaritan Drive San Jose, CA 95124	50380	08/24/2007	CA	N/A
MedSpecialists Imaging Center 1064 Keene Road Dunedin, FL 34698	AB585	08/24/2007	FL	N/A
NSMS - Pekin, IL 2355 Broadway Road Pekin, IL 61544	1295785079	08/24/2007	IL	N/A
Bluegrass Regional Imaging, LLC 701 Bob-O-Link Drive Lexington, KY 40504	1871542670	08/24/2007	KY	Suite 245
Fairfax Pet Imaging Center 8503 Arlington Boulevard Fairfax, VA 22031	1831220714	08/24/2007	VA	suite 120LL
Lodi Community Hospital 225 Elyria Street Lodi, OH 44254	361303	08/24/2007	OH	N/A
Legacy Meridian Park Hospital 19260 SW 65th Avenue Suite 165 Tualatin, OR 97062	380089	08/24/2007	OR	N/A

Galion Community Hospital 269 Portland Way South Galion, OH 44833	361325	08/24/2007	OH	N/A
Oncology Hematology Associates of Central Illinois 8940 N. Wood Sage Road Peoria, IL 61615	616880	08/24/2007	IL	N/A
Mid Ohio Oncology/Hematology, Inc. 3100 Plaza Properties Boulevard Columbus, OH 43219	1376509661	08/24/2007	OH	N/A
Kentucky Imaging Center 3475 Richmond Road Lexington, KY 40509	1992876981	08/24/2007	KY	SUITE 150
Salem Community Hospital 1995 East State Street Salem, OH 44460	1639131535	08/24/2007	OH	N/A
Belmont Community Hospital 51339 National Road St. Clairsville, OH 43950	360153	08/24/2007	OH	N/A
Golder CT and MRI Center 613 North Golder Avenue Odessa, TX 79761	N/A	08/24/2007	TX	N/A
NSMS - Reedsburg, WI 2000 North Dewey Street Reedsburg, WI 53959	1295785097	08/24/2007	WI	N/A
MaineGeneral Medical Center 361 Old Belgrade Road Augusta, ME 04330	200039A	08/24/2007	ME	N/A
The Oklahoma PET Center, PLLC 5401 N. Portland Avenue Suite 330 Oklahoma City, OK 73112	569959716M	08/24/2007	OK	N/A
NSMS - Blytheville, AR 1520 North Division Street Blytheville, AR 72316	1295785079	08/24/2007	AR	N/A

NSMS - Benton, AR 1 Medical Park Drive Benton, AR 72015	1295785079	08/24/2007	AR	N/A
Mercy Health System 1000 Mineral Point Avenue Janesville, WI 53548	520066	08/24/2007	WI	N/A
WA Foote Memorial Hospital 205 N. East Avenue Jackson, MI 49201	230092	08/24/2007	MI	N/A
Northern MIchigan Hospital 416 Connable Avenue Petoskey, MI 49770	230105	08/24/2007	MI	N/A
Anchor Health Centers 800 Goodlette Road N. Naples, FL 34102	1174571608	08/24/2007	FL	Suite 130
New Ulm Medical Center 1324 5th North Street New Ulm, MN 56073	2880	08/24/2007	MN	N/A
Radiology Associates of Brooklyn LLP 2021 Avenue X Brooklyn, NY 11235-2905	1134244916	08/24/2007	NY	N/A
NYOH Mobile PET/CT Hudson 69 Prospect Road Hudson, NY 12534	1609863448	08/24/2007	NY	N/A
Integris Bass Baptist Health Center 600 South Monroe Enid, OK 73703	1144236571	08/24/2007	OK	N/A
Imaging Consultants Inc at Weymouth Woods 59 Performance Drive Weymouth, MA 2188	1487690335	08/24/2007	MA	N/A
St. Vincent Medical Center 2131 W. Third Street Los Angeles, CA 90057	50502	08/24/2007	CA	N/A

Caritas PET Imaging, LLC at Holyoke Medical Center 575 Beech Street Holyoke, MA 1040	327087	08/24/2007	MA	N/A
St. James Healthcare 400 South Clark Butte, MT 59701	270017	08/24/2007	MT	N/A
Inglewood Imaging Center 211 N. Prairie Avenue Inglewood, CA 90301	TD097	08/24/2007	CA	N/A
Duncan Regional Hospital 1700 Whisenant Drive Duncan, OK 73534	370023	08/24/2007	OK	PO Box 100
OhioHealth Ambulatory PET/CT 500 Thomas Lane Columbus, OH 43214	360006	08/24/2007	OH	N/A
Baylor Diagnostic Imaging Center at Junius 3900 Junius Street Suite 100 Dallas, TX 75246	450021	08/24/2007	TX	N/A
PET/CT Imaging at White Marsh 9900 Franklin Square Drive Suite D Nottingham, MD 21236	FMNX01	08/28/2007	MD	N/A
Central Baptist Diagnostic Center 100 Southland Drive Lexington, KY 40503	9375001	06/14/2006	KY	Suite B
Baptist Health Medical Center - NLR PET/CT 3500 Springhill Drive North Little Rock, AR 72117	5F437	05/03/2006	AR	Suite 100

Commonwealth Hematology Oncology 95 Bogle Office Park Drive Somerset, KY 42503	1285687178	03/21/2007	KY	N/A
Commonwealth Hematology Oncology 216 Southtown Drive Danville, KY 40422	1285687178	03/21/2007	KY	N/A
Jefferson Center City Imaging 850 Walnut Street Philadelphia, PA 19107	66277	09/07/2007	PA	N/A
EPIC Imaging Center 233 NE 102 Avenue Portland, OR 97220	0000WCGNQ	09/11/2007	OR	N/A
UPMC and The Washington Hospital Cancer Center 155 Wilson Avenue Washington, PA 15301	105589VXB	03/10/2006	PA	N/A
Lexington Diagnostic Center 1725 Harrodsburg Road Suite 100 Lexington, KY 40504	0406	03/08/2006	KY	N/A
UW PET Imaging Center 8007 Excelsior Drive Madison, WI 53717	1346266319	04/03/2007	WI	N/A
NorCal Imaging - Oakland 3200 Telegraph Avenue Oakland, CA 94609	ZZZ05319Z	08/22/2007	CA	N/A
NorCal Imaging – Walnut Creek 114 La Casa Via Suite #100 Walnut Creek, CA 94598	ZZZ05319Z	08/22/2007	CA	N/A

Aurora Sheboygan Memorial Imaging Center 2629 North 7th Street Sheboygan, WI 53083	520035	05/08/2008	WI	N/A
Aurora Memorial Hospital of Burlington 252 McHenry Street Burlington, WI 53105	520059	05/08/2008	WI	N/A
Aurora Medical Center - Manitowoc County 5000 Memorial Drive Two Rivers, WI 54241	520034	05/08/2008	WI	N/A
St. Mary's Medical Center 2900 First Avenue Huntington, WV 25702	510007	01/29/2009	WV	N/A
Lenox Hill Radiology & Medical Imaging 61 East 77th Street New York, NY 10021	W16681	01/29/2009	NY	N/A
NSMS - Greenville, IL 200 Health Care Drive Greenville, IL 62246	208196	01/29/2009	IL	N/A
Medical Outsourcing Services LLC-Christie Clinic 1801 West Windsor Road Champaign, IL 61821	211224	01/29/2009	IL	N/A
Dakota Radiology 2929 Fifth Street, First Floor Rapid City, SD 57701	1306892708	01/29/2009	SD	N/A
Coffeyville Regional Medical Center 1400 West Fourth Street Coffeyville, KS 67337	1285600379	01/29/2009	KS	N/A
St. Mary Medical Center 1201 Langhorne-Newtown Road Langhorne, PA 19047	390258	01/29/2009	PA	N/A

Medical Imaging Center at Windsor Oaks 1901 SE 18th Avenue Building 200A Ocala, FL 34471	97993	01/29/2009	FL	N/A
Alliance Imaging 2000 Hospital Drive Sedro-Woolley, WA 98284	8862377	01/29/2009	WA	N/A
Watauga Medical Center 336 Deerfield Road Boone, NC 28607	340051	01/29/2009	NC	N/A
Medical Outsourcing Services LLC 315 W. Old Key Dr. Peru, IN 46970	223260	01/29/2009	IN	N/A
Contemporary Imaging Associates 19900 Haggerty Road Suite 101 Livonia, MI 48152	ON63450	01/29/2009	MI	N/A
Greenwich Hospital 5 Perryridge Road Greenwich, CT 06830	70018	01/29/2009	CT	N/A
SMDC Health Systems 400 East Third Street Duluth, MN 55805	8200	01/29/2009	MN	N/A
Harris Regional Hospital 68 Hospital Road Sylva, NC 28779	340016	01/29/2009	NC	N/A
Community Memorial Hospital W180N8085 Town Hall Road Menomonee Falls, WI 53051	1609822881	01/29/2009	WI	N/A
LRI Lincoln Radiology Imaging 7121 Stephanie Lane Lincoln, NE 68516	99920	01/29/2009	NE	N/A
Bristol Hospital Brewster Road Bristol, CT 06010	70029	01/29/2009	CT	N/A

Mount Auburn Hospital 330 Mount Auburn Street Cambridge, MA 02138	220002	01/29/2009	MA	N/A
American Fork Hospital 170 N. 1100 E. American Fork, UT 84003	460023	01/29/2009	UT	N/A
Kentucky Imaging Center 3475 Richmond Road Suite 150 Lexington, KY 40509	1992876981	01/29/2009	KY	N/A
Bay Park Community Hospital 2801 Bay Park Drive Oregon, OH 43616	1457354318	01/29/2009	OH	N/A
Port Huron Hospital 1221 Pine Grove Avenue Port Huron, MI 48060	1457354318	01/29/2009	MI	N/A
Spring Branch Medical Center 8850 Long Point Road Houston, TX 77055	450630	01/29/2009	TX	N/A
Medical Outsourcing Services LLC 2210 Green Valley Road Suite 1 New Albany, IN 47150	248140	01/29/2009	IN	N/A
Medical Outsourcing Services LLC 355 Ridge Avenue Evanston, IL 60202	211222	01/29/2009	IL	N/A
Queens Hospital Center 82-68 164th Street Queens, NY 11432	330231	01/29/2009	NY	N/A
NYOH Mobile PET/CT Amsterdam 1700 Riverfront Center Amsterdam, NY 12010	1609863448	01/29/2009	NY	N/A
Providence Everett Medical Center 1717 13th Street Everett, WA 98201	500014	01/29/2009	WA	N/A

University of Miami/Sylvester Cancer Center 1475 NW 12th Avenue Miami, FL 33136	100079	01/29/2009	FL	N/A
St. Mary's Hospital Medical Center 1726 Shawano Avenue Green Bay, WI 54303	520097	01/29/2009	WI	N/A
Brazosport Regional Health System 100 Medical Drive Lake Jackson, TX 77566	450072	01/29/2009	TX	N/A
Medical Outsourcing Services LLC 1025 Maine Street Quincy, IL 62301	211224	01/29/2009	IL	N/A
The Imaging Center 499 Gloster Creek Village Suite G1 Tupelo, MS 38801	1417907536	01/29/2009	MS	N/A
NSMS - Forrest City, AR 1601 Newcastle Road Forrest City, AR 72336	1295785079	01/29/2009	AR	N/A
Glendale Adventist Medical Cente 1509 Wilson Terrace Glendale, CA 91206	1831188275	01/29/2009	CA	N/A
Mount Sinai Medical Center of Florida, Inc. 4300 Alton Road Miami Beach, FL 33140	100034	01/29/2009	FL	N/A
Cooper University Radiology 900 Centennial Boulevard Voorhees, NJ 08043	17983	01/29/2009	NJ	N/A
George Washington University Hospital 900 23rd Street, NW Washington, DC 10021	90001	01/29/2009	DC	N/A

Galesburg Cottage Hospital 695 N. Kellogg Street Galesburg, IL	1447221312	01/29/2009	IL	N/A
Central Florida Regional Hospital 1401 W. Seminole Boulevard Sanford, FL 32771	100161	01/29/2009	FL	N/A
Feather River Hospital 5974 Pentz Road Paradise, CA 95969	225	01/29/2009	CA	N/A
Caritas PET Imaging, LLC at Cooley Dickinson Hospital 30 Locust Street Northampton, MA 67337	1285846410	01/29/2009	MA	N/A
Shared PET Imaging, LLC for Garden City Hospital 272 West Warren Dearborn Heights, MI	1457354318	01/29/2009	MI	N/A
Florida Hospital Heartland Division -Sebring FL 4200 Sun N Lake Boulevard Sebring, FL 98284	100109	01/29/2009	FL	N/A
Good Samaritan Regional Center 700 E Norwegian Street Pottsville, PA 17901	1427050376	01/29/2009	PA	N/A
Austin Pet and Imaging Center 11044 Research Blvd D-100 Austin, TX 78759	1518928787	01/29/2009	TX	N/A
Ukiah Valley Medical Center 275 Hospital Drive Ukiah, CA 95482	50301	01/29/2009	CA	N/A
Longmont United Hospital 418 E. College Drive Cheyenne, WY 82007	60003	01/29/2009	WY	N/A
Grove City Medical Center 631 N Broad Street Grove City PA 16127	1023000296	01/29/2009	PA	N/A

Fulton Center Health Center 34555 Chagrin Boulevard Cleveland, OH 43567	361333	01/29/2009	OH	N/A
NSMS - Fairfield, IL 303 NW 11th Street Fairfield, IL 62837	1295785097	01/30/2009	IL	N/A
St Helena Hospital 10 Woodland Road St Helena, CA 94574	50013	01/30/2009	CA	N/A
Bayshore Medical Center 4000 Spencer Highway Pasadena, TX 77504	1174576698	01/30/2009	TX	N/A
RedBud Community Hospital 15630 18th Avenue Clearlake, CA 95422	51317	01/30/2009	CA	N/A
Taylor Regional Hospital 125 Greenbriar Drive Campbellsville, KY 42718	180087	01/30/2009	KY	N/A
St. Mary's Medical Center 901 St. Mary's Drive Evansville, IN 47750	150100	01/30/2009	IN	N/A
RUSH University Medical Center 1750 W Harrison Street Jones 106 Chicago, IL 60612	1932213600	01/30/2009	IL	N/A
Parkview Molecular Imaging 2428 Santa Monica Boulevard Suite #302 Santa Monica, CA 90404	G17328A	01/30/2009	CA	N/A
InSight Diagnostic Center 1121 8th Avenue Fort Worth, TX 76104	1932166105	01/30/2009	TX	N/A
Monongahela Valley Hospital 1163 Country Club Road Monongahela, PA 15063	390147	01/30/2009	PA	N/A

Florida Cancer Specialists/ Del Prado 811 Del Prado Boulevard Cape Coral, FL 33990	1760590962	01/30/2009	FL	N/A
MPHS 100 S. San Mateo Drive San Mateo, CA 94403	50007	01/30/2009	CA	N/A
Griffin Hospital 130 Division Street Derby, CT 6418	70031	01/30/2009	CT	N/A
West Jefferson Medical Center 1101 Medical Center Boulevard Marrero, LA 70072	190039	01/30/2009	LA	N/A
Mercy Hospital of Tiffin 485 West Market Street Tiffin, OH 44883	360089	01/30/2009	OH	N/A
Dr. Haroutioun S. Shahinian 10767 Gateway W El Paso, TX 79935	1639184005	01/30/2009	TX	N/A
Holston Valley Medical Center 130 W Ravine Road Kingsport, TN 37660	1457354318	01/30/2009	TN	N/A
Pinnacle Health Imaging at West Hanover 8012 Bretz Drive Harrisburg, PA 17112	390067	01/30/2009	PA	N/A
Indian Path Medical Center 2205 Pavilion Dr Kingsport, TN 37660	1457354318	01/30/2009	TN	N/A
Regional Medical Imaging 2486 Nerredia Flint, MI 48532	1457354318	01/30/2009	MI	N/A
Modesto Radiology Imaging 1524 Mchenry Avenue Suite 100 Modesto, CA 95350	ZZZ18519Z	01/30/2009	CA	N/A
Texas Cancer Clinic 9102 Floyd Curl Drive	1316944655	01/30/2009	TX	N/A

San Antonio, TX 78240				
Mercy Anderson Hospital 7500 State Road Cincinnati, OH 45255	1457354318	01/30/2009	OH	N/A
Henry Ford Macomb 15855 Nineteen Mile Rd Clinton Township, MI 48038	1457354318	01/30/2009	MI	N/A
Kennedy Outpatient Medical Imaging 900 Medical Center Drive Sewell, NJ 08080	310086	01/30/2009	NJ	N/A
Memorial Hermann Northeast 18955 Memorial North Humble, TX 77338	450684	01/30/2009	TX	N/A
Comprehensive Cancer Center;Cancer Specialists OK 3525 NW 56th Street C150 Oklahoma City, OK 73112	1013090075	01/30/2009	OK	N/A
RIS Lakeland 1305 Lakeland Hills Boulevard Lakeland, FL 33805	584	01/30/2009	FL	N/A
Bayshore Community Hospital 727 North Beers Street Holmdel, NJ 07733	310112	01/30/2009	NJ	N/A
Outpatient Radiology LLC 419 S. Washingont Street Suite 101 Casper, WY 82601	1396704474	01/30/2009	WY	N/A
University Hospital and Medical Center 7201 North University Drive Tamarac, FL 33321	1144274770	01/30/2009	FL	N/A
University Cancer Center, Huntsville 640 Interstate 45 N Huntsville, TX 77340	00Y285	01/30/2009	TX	N/A

San Jacinto Methodist Hospita 4401 Garth Road Baytown, TX 77521	450424	01/30/2009	TX	N/A
University Cancer Center, Brenha 605 Medical Court 101 Brenham, TX 77833	00Y285	01/30/2009	TX	N/A
Methodist Hospital I65 at 21st Street Indianapolis, IN 46206	150056	01/30/2009	IN	N/A
Mount Kisco Medical Group 34 S. Bedford Road Mount Kisco, NY 10549	MO0W067610	01/30/2009	NY	N/A
Danville Regional Medical Center 142 South Main Street Danville, VA 24541	490075	01/30/2009	VA	N/A
Hammond Clinic 9800 Valparaiso Drive Munster, IN 46321	1457354318	01/30/2009	IN	N/A
Alliance Imaging - Auburn Regional Medical Center 202 North Division Street Auburn, WA 98001	8865493	01/30/2009	WA	N/A
University of Connecticut Health Center 263 Farmington Avenue Farmington, CT 06030	300001399	01/30/2009	CT	N/A
Clinch Valley Medical Center 2949 West Front Street Richlands, VA 24641	1871534297	01/30/2009	VA	N/A
St. Mary Corwin Medial Center 1008 Minnequa Avenue Pueblo, CO 81004	840405257	01/30/2009	CO	N/A
Insight Imaging-Saint John's Regional Medical Center 1700 N Rose Avenue Suite 110 Oxnard, CA 93030	TP044	01/30/2009	CA	N/A

Trinity Hospitals 407 3rd Street SE Minot, ND 58701	412002771	01/30/2009	ND	N/A
Morris County Imaging 310 Madison Avenue Morristown, NJ 07960	111293	01/30/2009	NJ	N/A
Lake Norman Regional Medical Center 171 Fairview Road Mooresville, NC 28117	34012	01/30/2009	NC	N/A
Medical Imaging of Fredericksbur 1201 Sam Perry Boulevard Suite 102 Fredericksburg, VA 2240	7242956	01/30/2009	VA	N/A
Medical Outsourcing Services LL 450 Chew Street Allentown, PA 18102	115171	01/30/2009	PA	N/A
Southeastern Regional Medical Center 300 West 27th Street Lumberton, NC 28358	340050	01/30/2009	NC	N/A
Meridian Health, Riverview Medical Center 1 Riverview Plaza Red Bank, NJ 07701	310034	01/30/2009	NJ	N/A
Shands Jacksonville 555 W. 8th Street Jacksonville, FL 32209	100001	01/30/2009	FL	N/A
Advantage Imaging, LLC 3733 Park East Drive Suite 100 Beachwood, OH 44139	1336359686	01/30/2009	OH	N/A
Marlette Regional Hospital 2770 Main Street PO Box 307 Marlette, MI 48453	231330	01/30/2009	MI	N/A
Lewisburg Cancer Center 75 Medical Park Drive Lewisburg, PA 17837	31076	01/30/2009	PA	N/A

New Jersey Diagnostics & Imagin 455 Jack Martin Boulevard Brick, NJ 08724	1710915483	01/30/2009	NJ	N/A
Medical Oncology Associates, P.S 6001 N Mayfair Street Spokane, WA 99208	GAB37015	01/30/2009	WA	N/A
DMS Imaging 10121 Pine Avenue Truckee, CA 96161	ZZZ05188Z	01/30/2009	CA	N/A
Northwest Medical Center 2801 N. State Road 7 Margate, FL 33063	100189	01/30/2009	FL	N/A
St. Joseph Hospital 1907 W. Sycamore Street Kokomo, IN 46904	1780625442	01/30/2009	IN	N/A
Mayo Clinic Jacksonville 4500 San Pablo Road Jacksonville, FL 32224	97325	01/30/2009	FL	N/A
Jewish Hospital 200 East Liberty Street Louisville, KY 40222	1457354318	01/30/2009	KY	N/A
Riverview Hospital Association 410 Dewey Street Wisconsin, Rapids WI 54495	520033	01/30/2009	WI	N/A
Quantum PET - Mt. Nittany Medical Center 1800 East Park Avenue State College, PA 16803	40635	01/30/2009	PA	N/A
Capital Medical Center 3900 Capital mall Drive Olympia, WA 98502	1841258639	01/30/2009	WA	N/A
Treasure Hills Imaging Center 2121 Pease Street Harlingen, TX 78550	FTA0091	01/30/2009	TX	N/A
King's Daughter's Hospital & Health Services One King's Daughters Drive Madison, IN 47250	1457354318	01/30/2009	IN	N/A

St. Luke's Hospital East Campus 85 Grand Avenue Fort Thomas, KY 41075	1457354318	01/30/2009	KY	N/A
Greenview Regional Hospital 1801 Ashley Circle Bowling Green, KY 42104	1457354318	01/30/2009	KY	N/A
TJ Samson Community Hospital 1301 N. Race Street Glasgow KY 42141	1457354318	01/30/2009	KY	N/A
Watson Clinic LLP 1600 Lakeland Hills Boulevard Lakeland FL 33805	162	01/30/2009	FL	N/A
Major Hospital 2455 Inteliplex Drive Shelbyville, IN 46176	1174555692	01/30/2009	IN	N/A
Carroll Precision Imaging Center 680A Poole Road Westminster, MD 21157	1598944761	01/30/2009	MD	N/A
Providence Hospital 16001 West Nine Mile Road PO Box 2043 Southfield, MI 48037	1144210253	01/30/2009	MI	N/A
Lexington Clinic 1221 South Broadway Lexington, KY 40504	169	01/30/2009	KY	N/A
St Francis Hospital 6161 S. Yale Avenue Tulsa, OK 74136	1457354318	01/30/2009	OK	N/A
Kingman Regional Imaging Center 1033 Sycamore Avenue Kingman, AZ 86409	30055	01/30/2009	AZ	N/A
Morrow County Hospital 651 West Marion Road Mount Gilead, OH 43338	361313	01/30/2009	OH	N/A
Alliance Imaging - Gritman Medical Center	17902911	01/30/2009	ID	N/A

700 South Main Street Moscow, ID 83843				
Putnam Hospital Center 670 Stoneleigh Avenue Carmel, NY 10512	330273	01/30/2009	NY	N/A
Associated Medical Specialist, PA 817 Farrar Drive Conway, SC 29526	1063432391	01/30/2009	SC	N/A
South Valley Radiology 16633 Ventura Boulevard Suite 120 Encino, CA 91436	W18950	W18950	CA	N/A
Florida Cancer Institute 7651 Medical Drive Hudson, FL 34667	K4006	01/30/2009	FL	N/A
Albemarle Hospital 1144 N Road Street Elizabeth City, NC 27909	340109	01/30/2009	NC	N/A
Carilion New River Valley 2900 Lamb Circle Christiansburg, VA 24073	490042	01/30/2009	VA	N/A
Hope Diagnostic Imaging Center 2202 S. 77th Sunshine Strip Suite E Harlingen, TX 78550	FTNX12	01/30/2009	TX	N/A
Optima Diagnostic Imaging 8900 Wilshire Boulevard Beverly Hills, CA 90211	1659412757	01/30/2009	CA	N/A
John Randolph Medical Center 411 W. Randolph Road Hopewell, VA 23860	490020	01/30/2009	VA	N/A
Salem Hospital 665 Winter Street SE Salem, OR 97301	1265431829	01/30/2009	OR	N/A
Nacogdoches Medical Center 4920 NE Stallings Drive Nacogdoches, TX 75961	450656	01/30/2009	TX	N/A

Fairfield Diagnostic Imaging 1241 River Valley Boulevard Lancaster, OH 43130	1063472884	01/30/2009	OH	N/A
PET Imaging of Thornton 9461 Huron Street Thornton, CO 80260	183123486	01/30/2009	CO	N/A
East Bay Medical Oncology 4721 Dallas Ranch Road Antioch, CA 94513	1932107331	01/30/2009	CA	N/A
MultiCare Health System/ Tacoma General Hospital 316 Martin Luther King Way Tacoma,WA 98405	1366556227	01/30/2009	WA	N/A
University of Wisconsin- Hospital and Clinics 600 Highland Avenue Madison, WI 53792	520098	01/30/2009	WI	N/A
Open MRI and CT of South Miami, LLC 101 NW 1st Avenue Delray Beach, FL 33444	1457405060	01/30/2009	FL	N/A
Dearborn County Hospital 600 Wilson Creek Road Lawrenceburg, IN 47025	150086	01/30/2009	IN	N/A
Alliance Imaging Inc-Desert Imaging 118 Castellano Drive ElPaso, TX 79912	1639357213	01/30/2009	TX	N/A
NSMS - Hamburg, IA 209 Limestone Pass Cottage Grove, WI 53527	1295785079	01/30/2009	WI	N/A
NSMS - Memphis, MO Sigler Avenue RR #1 Box 53 Memphis, MO 63555	1295785079	01/30/2009	MO	N/A
Alliance Imaging - Hematology Oncology 715 W. North Avenue Melrose, Park IL 60160	216057	01/30/2009	IL	N/A

South Miami Hospital 6200 SW 73rd Street Miami, FL 33143	1982688230	01/30/2009	FL	N/A
The PET/CT Center of North Florida 2161 Kingsley Avenue Orange Park, FL 32073	1952320467	01/30/2009	FL	N/A
Ascent Diagnostic Imaging of Tamarac 7180 North University Drive Tamarac, FL 33321	AL571	01/30/2009	FL	N/A
Wilson Medical Center 1705 Tarboro Street SW Wilson, KY 41075	340126	02/02/2009	NC	N/A
Lexington Medical Center 811 W. Main Street Lexington, KY 42141	1457354318	02/02/2009	SC	N/A
Merced MRI 3365 G Street Suite 100 Merced, KY 42104	ZZZ19963Z	02/02/2009	CA	N/A
Memorial Diagnostic Center 2901 Swann Avenue Tampa, FL 33805	100206	02/02/2009	FL	N/A
The PET/CT Center of North Florida 1375 Roberts Road Jacksonville Beach, FL 46176	1932196243	02/02/2009	FL	N/A
The PET/CT Center of North Florida 300 Health Park Boulevard #100 St.Augustine, FL 32086	1861427155	02/02/2009	FL	N/A
Oncology Hematology West, P.C. 17201 Wright Street Suite 100 Omaha, NE 68130	1932178530	02/02/2009	NE	N/A
The PET/CT Center of North Florida	1902893902	02/02/2009	FL	N/A

795 SW State Road 47 Lake City, FL 32025				
The PET/CT Center of North Florida 710 Lomax Street Jacksonville, FL 32204	1457529786	02/02/2009	FL	N/A
Provena Saint Joseph Medical Center 2000 Glenwood Avenue Joliet, IL 60435	140007	02/02/2009	IL	N/A
Montgomery County Advanced Medical Imaging, LLC 2701 Blair Mill Road Blairwood Building Suite 3 Willow Grove, PA 19090	1134315369	02/02/2009	PA	N/A
Medical Outsourcing Services LLC One Elizabeth Place Dayton, OH 45408	2391	02/02/2009	OH	N/A
Insight Diagnostic Imaging 750 N. Syringa Street Suite 104 Post Falls, ID 83854	1710089636	02/02/2009	ID	N/A
Hudson Valley Radiology Associates of Westchester 115 Main Street Tuckahoe, NY 10707	1174574115	02/02/2009	NY	N/A
Advocate Illinois Masonic Medical Center 3000 North Halsted Suite 100 Chicago, IL 60657	363196629	02/02/2009	IL	N/A
The PET/CT Center of North Florida 600 Zeagler Drive Palatka, FL 32177	1518986926	02/02/2009	FL	N/A
Baptist Memorial Outpatient Diagnostic Center	1053375576	02/02/2009	MS	N/A

504 Azalea Drive Oxford, MS 38655				
Alliance Imaging - Great Falls Clinic 3000 15th Avenue South Great Falls, MT 59405	1790978146	02/02/2009	MT	N/A
Central DuPage Hospital 25 N Winfield Road Winfield, IL 60190	820800	02/02/2009	IL	N/A
Medical Outsourcing Services LLC 4932 W 95th Street Oak Lawn, IL 60453	211222	02/02/2009	IL	N/A
The Cancer Center at Lake Manassas 7901 Lake Manassas Drive Gainesville, VA 20155	1518024934	02/02/2009	VA	N/A
Zwanger-Pesiri Radiology, LLP 80 Maple Avenue Smithtown, NY 11787	W1391	02/02/2009	NY	N/A
Ohio Valey General Hospital 500 Pine Hollow Road McKees Rocks, PA 15136	390157	02/02/2009	OH	N/A
Rockwood Clinic Radiation Oncology 2410 E. Sinto Avenue Spokane Valley, WA 99216	356600	02/02/2009	WA	N/A
Regional West Medical Center 4021 Ave. B Scottsbluff, NE 69361	1639101199	02/02/2009	NE	N/A
DuPage Medical Group at Rickert 1100 W. 31st Street Downers Grove, IL 60515	1801833983	02/02/2009	IL	N/A
Medical Outsourcing Services LLC 2701 W. 68th Street Chicago, IL 60629	211222	02/02/2009	IL	N/A

Presbyterian Kaseman Hospital 8300 Constitution Avenue NE Albuquerque, NM 87110	320021	02/02/2009	NM	N/A
North Kansas City Hospital 2800 Clay Edwards Drive Parkville, MO 64116	260096	02/02/2009	MO	N/A
West Hernando Diagnostic Imaging 3315 Commercial Way Spring Hill, FL 34606	1174668305	02/02/2009	FL	N/A
NSMS - Robinson, IL 1000 N. Allen Street Robinson, IL 62454	1295785079	02/02/2009	IL	N/A
Memorial Hospital 715 South Taft Avenue Fremont OH 43420	360156	02/02/2009	OH	N/A
Samaritan Imaging Center 1245 Wilshire Boulevard Suite 205 Los Angeles, CA 90017	1538258116	02/02/2009	CA	N/A
Aurora West Alllis Medical Center 8901 West Lincoln Avenue West Allis, WI 53227	520139	02/02/2009	WI	N/A
Hematology & Oncology Specialists, LLC 39 Starbrush Circle Covington, LA 70433	5F818	02/02/2009	LA	N/A
DDIS-PB 3250 Westchester Avenue Bronx, NY 10461	w30661	02/02/2009	NY	N/A
Toledo Clinic, Inc. 4235 Secor Road Toledo, OH 43623	1144217894	02/02/2009	OH	N/A
CDSA 1421 Third Avenue New York, NY 10028	1982700951	02/02/2009	NY	N/A
Cancer Care Centers of South	1225064603	02/02/2009	TX	N/A

Texas 2130 NE Loop 410 Suite 100 San Antonio, TX 78217				
Saddleback Memorial Medical Center 24451 Healthcenter Drive Laguna Hills, CA 92653	50603	02/02/2009	CA	N/A
Marshfield Clinic 2116 Craig Road Eau Claire, WI 54701	390452970	02/02/2009	WI	N/A
Liberty Pacific Advanced Imaging 16130 Ventura Boulevard Encino, CA 91436	1962457812	02/02/2009	CA	N/A
SimonMed Imaging, Inc. 20830 N Tatum Blvd Suite 190 Phoenix, AZ 85050	1164460077	02/02/2009	AZ	N/A
Marshfield Clinic - Rice Lake Center 1700 West Stout Street Rice Lake, WI 54868	5090	02/02/2009	WI	N/A
Ingham Regional Medical Center 401 W. Greenlawn Avenue Lansing, MI 48910	230167	02/02/2009	MI	N/A
Space Coast Medical Associates LLP 490 N. Washington Avenue Titusville, FL 32796	1558329581	02/02/2009	FL	N/A
Ascent Diagnostic Imaging of Jacksonville 5210 Belfort Road Suite 130 Jacksonville, FL 32256	AL744	02/02/2009	FL	N/A
Milford Regional Medical Center 12 Prospect Street Milford, MA 01757	1477527497	02/02/2009	MA	N/A
The Cancer Team Bellin Health	ESO114	02/02/2009	WI	N/A

1580 Commanche Avenue Green Bay, WI 54313				
Community Cance Center of North Florida 7000 NW 11th Place Gainsville, FL 32605	1205858354	02/02/2009	FL	N/A
Epic Care Dublin 6380 Clark Avenue Dublin, CA 94568	ZZZ39149Z	02/02/2009	CA	N/A
Cornerstone McLaughlin & Marte 3850 Tampa Road Palm Harbor, FL 44718	1174668305	02/03/2009	FL	N/A
Methodist Dallas Medical Center 1441 N. Beckley Avenue Dallas, TX 75203	1457354318	02/03/2009	TX	N/A
Methodist Charlton Medical Center 3500 W. Wheatland Road Dallas, TX 75737	1457354318	02/03/2009	TX	N/A
Riverview Hospital 395 Westfield Road Nobelsville, IN 46060	1457354318	02/03/2009	IN	N/A
North Bay Imaging 625 W. Baldwin Road Panama City, FL 32405	1639208366	02/03/2009	FL	N/A
University Medical Center 602 Indiana Avenue Lubbock, TX 79413	1821087164	02/03/2009	TX	N/A
Toms River X-Ray/CT/MRI Center 154 Highway 37 W Toms River, NJ 08755	540379	02/03/2009	NJ	N/A
St. Mary's Hospital Imaging Department 25500 Point Lookout Road Leonardtown, MD 20650	210028	02/03/2009	MD	N/A
Banner Good Samaritan PET	H0016	02/03/2009	AZ	N/A

Center 1111 E. McDowell Road Phoenix AZ 85006				
Saint Luke's Northland Hospital 4320 Wornall Road Suite 328 Kansas City, MO 64111	111111	02/03/2009	MO	N/A
Carmichael Imaging 6620 Coyle Avenue Suite 110 Carmichael, CA 95608	941694584	02/03/2009	CA	N/A
Phoebe Putney Memorial Hospital 2709 Meredyth Drive Albany, GA 31707	1710147210	02/03/2009	GA	N/A
Trinity MedicalCenter 800 Montclair Road Birmingham, AL 35213	10104	02/03/2009	AL	N/A
Diagnostic Clinic 1551 West Bay Drive Largo, FL 33770	36	02/03/2009	FL	N/A
Titus Regional Medical Center 2001 North Jefferson Avenue Mount Pleasant, TX 75455	1174526529	02/03/2009	TX	N/A
Snow Canyon Clinic 272 East Center Street Ivins, UT 84738	1235185645	02/03/2009	UT	N/A
Conway Medical Center 300 Singleton Ridge Road, PO Box 829 Conway, SC 29526	1134172000	02/03/2009	SC	N/A
Nazha Cancer Center 801 New Road Northfield, NJ 08225	1063698959	02/03/2009	NJ	N/A
CHRISTUS Central Louisiana Imaging Center 3704 North Boulevard Alexandria, LA 71301	190019	02/03/2009	LA	N/A

Cobre Valley Community Hospital 5880 S. Hospital Drive Globe, AZ 85501	31314	02/03/2009	AZ	N/A
Wuesthoff X-Ray and Lab at Baytree 7970 N. Wickham Road Melbourne, FL 32940	1538298344	02/03/2009	FL	N/A
Avera Holy Family 826 North 8th Street Estherville, IA 51334	1508810177	02/03/2009	IA	N/A
Hannibal Regional Hospital 6000 Hospital Drive Hannibal, MO 63401	260025	02/03/2009	MO	N/A
Alliance Imaging Dreyer Clinic 1221 North Highland Avenue Aurora, IL 60506	1235282344	02/03/2009	IL	N/A
Cancer Care 11100 Hefner Pointe Drive Oklahoma City, OK 73120	1295785392	02/03/2009	OK	N/A
Fisher-Titus Medical Center 272 Benedict Avenue Norwalk, OH 44857	360065	02/03/2009	OH	N/A
Oaklawn Hospital 200 North Madison Street Marshall, MI 49068	230217	02/03/2009	MI	N/A
Dixie Regional Medical Center 544 South 400 East St. George, UT 84790	460021	02/03/2009	UT	N/A
New Jersey Institute of Radiology 630 Broad Street Carlstadt, NJ 07072	115568	02/03/2009	NJ	N/A
Medical Diagnostic Imaging 4349 Treadaway Boulevard Abilene, TX 79602	1730387911	02/03/2009	TX	N/A
Richmond	1730132234	02/03/2009	TX	N/A

2900 Richmond Avenue Houston, TX 77098				
Lafayette General Medical Center-LGI 1211 Coolidge Blvd Suite 201 Lafayette, LA 70503	1275536799	02/03/2009	LA	N/A
Ohio Cancer Specialists 1125 Aspira Court Mansfield, OH 44906	1316917040	02/03/2009	OH	N/A
Vantage Diagnostic Imaging 3400 W. Hefner Road Oklahoma City, OK 73120	400522173	02/03/2009	OK	N/A
Health Diagnostics 455 Hickey Boulevard #200 Daly City, CA 94015	1467611467	02/03/2009	CA	N/A
Physicians for Cure 795 SW State Road 47 Lake City, FL 32025	1770739104	02/03/2009	FL	N/A
Arkansas Cancer Center PET/CT 9601 Lile Drive Suite 106 Little Rock, AR 72205	1477535391	02/03/2009	AR	N/A
Southeast Georgia Health System 2415 Parkwood Drive Brusnwick, GA 31520	110025	02/03/2009	GA	N/A
Illinois Valley Community Hospital 925 West Street Peru, IL 61354	1457354318	02/03/2009	IL	N/A
Oncology Hematology Associates of Southwest IN 3699 Epworth Road Newburgh, IN 47630	1710150222	02/03/2009	IN	N/A
Sam Houston Cancer Center 112 Medical Park Lane Huntsville, TX 77340	00Z337	02/03/2009	TX	N/A
Silicon Valley Medical Imaging	1376730358	02/03/2009	CA	N/A

2191 Mowry Avenue Suite 500-H Fremont, CA 94538				
RADS (Radiology and Diagnostic Services) 7160 W. 20th Avenue Suite M126 Hialeah, FL 33016	100187	02/03/2009	FL	N/A
Kaweah Delta Imaging Center 4949 W. Cypress Avenue Visalia, CA 93277	1588663769	02/03/2009	CA	N/A
University of South AL Mitchell Cancer Institute 1660 Springhill Avenue Mobile, AL 36604	H398	02/03/2009	AL	N/A
Murray-Calloway County Hospital 803 Poplar Street Murray, KY 42071	1073504981	02/03/2009	KY	N/A
Arizona Center for Hematology and Oncology 14674 W. Mountain View Boulevard #113 Surprise, AZ 85374	Z31627	02/03/2009	AZ	N/A
Wake Radiology Diagnostic Imaging, Inc. 300 Ashville Avenue Suite 180 Cary, NC 27518	1538123450	02/03/2009	NC	N/A
The Vancouver Clinic 700 NE 87th Avenue Vancouver, WA 98686	685900	02/03/2009	WA	N/A
Bronx-Lebanon Hospital Center 1650 Grand Concourse Bronx, NY 10457	1558461962	02/03/2009	NY	N/A
Evergreen Hemtology & Oncology, P.S. 309 E. Farwell Road	1255592218	02/03/2009	WA	N/A

Suite 100 Spokane, WA 99218				
NSMS - Parsons, KS 1902 59 Highway South Parsons, KS 67357	1295785079	02/03/2009	KS	N/A
Florida Cancer Specialists-Cornerstone 3850 Tampa Road Palm Harbor, FL 34684	1760590962	02/03/2009	FL	N/A
Town Center Imaging 21 Hospital Drive Suite 130 Palm Coast, FL 32164	1558530006	02/03/2009	FL	N/A
Memorial Hospital Of Carbondale 405 W. North Avenue Carbondale, IL 62901	1093801797	02/03/2009	IL	N/A
Herrin Hospital 201 South 14th Street Herrin, IL 62948	1093801797	02/03/2009	IL	N/A
Laughlin Memorial Hospital 1420 Tusculum Boulevard Greeneville, TN 37745	1881669778	02/03/2009	TN	N/A
Quantum PET - Hanover Hospital 300 Highland Avenue Hanover, PA 17331	40635	02/03/2009	PA	N/A
Parrish Medical Center 941 North Washington Avenue Titusville, FL 32796	1053424648	02/03/2009	FL	N/A
California Diagnostic Imaging Center, Inc. 828 South Grand Suite 107 Glendoro, CA 91740	TP113	02/03/2009	CA	N/A
NorCal Imaging - Pleasanton 5924 Stoneridge Drive Pleasanton, CA 94588	1578687166	02/03/2009	CA	N/A

Sadler Clinic 9305 Pinecroft Drive The Woodlands, TX 77380	1114979127	02/03/2009	TX	N/A
Medical Center Hospital 500 West 4th Street Odessa, TX 79760	450132	02/03/2009	TX	N/A
Cascade Medical Imaging 2500 NE Neff Road Bend, OR 97701	1194994145	02/03/2009	OR	N/A
Palos Community Hospital 15300 West Avenue Orland Park, IL 60462	1124276332	02/03/2009	IL	N/A
Lemmen Holton Cancer Pavilion 145 Michigan Street, NE Grand Rapids, MI 49503	230038	02/03/2009	MI	N/A
Houston Cancer Institute 1220 Blalock Suite 100 Houston, TX 77055	00N55X	02/03/2009	TX	N/A
Hudson Valley Hematology - Oncology Associates 19 Baker Avenue Suite 100 Poughkeepsie, NY 12601	1275615809	02/03/2009	NY	N/A
North Shore Radiology at Glen Cove, PC 10 Medical Plaza Suite 106 Glen Cove, NY 11542	1003024662	02/03/2009	NY	N/A
Cape Radiology 4011 Route 9 South PO Box 244 Rio Grande, NJ 08242	1972592194	02/03/2009	NJ	N/A
Frederick Imaging Centers, LLC 46 B Thomas Johnson Drive Suite 100 Frederick, MD 21702	1063699940	02/03/2009	MD	N/A
EP Medical Imaging Technology 10767 Gateway West	1508987165	02/03/2009	TX	N/A

Suite 520 El Paso, TX 79935				
Atlantis Diagnostics 1344 S. Apollo Boulevard Melbourne, FL 32901	1053382457	02/03/2009	FL	N/A
Tri-City PETCT at Vista 902 Sycamore Avenue #120 Vista, CA 92081	1154580348	02/03/2009	CA	N/A
Florida Cancer Specialists/Sarasota Downtown 1970 Golf Street Sarasota, FL 34236	1760590962	02/03/2009	FL	N/A
Arizona Oncology Associates - Biltmore 2222 East Highland Avenue Suite 130 Phoenix, AZ 85016	1235193459	02/03/2009	AZ	N/A
Las Vegas Radiology 7500 Smoke Ranch Suite 100 Las Vegas, NV 89128	1972714970	02/03/2009	NV	N/A
Medical Outsourcing Services 2900 W. 16th Street Bedford, IN 47421	1700812294	02/03/2009	IN	N/A
Town Center Imaging 21 Hospital Drive Suite 130 Palm Coast, FL 32164	1558530006	02/03/2009	FL	N/A
Memorial Hospital Of Carbondale 405 W. North Avenue Carbondale,IL 62901	1093801797	02/03/2009	IL	N/A
Herrin Hospital 201 South 14th Street Herrin, IL 62948	1093801797	02/03/2009	IL	N/A
Laughlin Memorial Hospital 1420 Tusculum Boulevard Greeneville, TN 37745	1881669778	02/03/2009	TN	N/A

Quantum PET - Hanover Hospital 300 Highland Avenue Hanover, PA 17331	40635	02/03/2009	PA	N/A
Parrish Medical Center 941 North Washington Avenue Titusville, FL 32796	1053424648	02/03/2009	FL	N/A
California Diagnostic Imaging Center, Inc. 828 South Grand Suite 107 Glendoro, CA 91740	TP113	02/03/2009	CA	N/A
NorCal Imaging - Pleasanton 5924 Stoneridge Drive Pleasanton, CA 94588	1578687166	02/03/2009	CA	N/A
Sadler Clinic 9305 Pinecroft Drive The Woodlands, TX 77380	1114979127	02/03/2009	TX	N/A
Medical Center Hospital 500 West 4th Street Odessa, TX 79760	450132	02/03/2009	TX	N/A
Cascade Medical Imaging 2500 NE Neff Road Bend, OR 97701	1194994145	02/03/2009	OR	N/A
Palos Community Hospital 15300 West Avenue Orland Park, IL 60462	1124276332	02/03/2009	IL	N/A
Lemmen Holton Cancer Pavilion 145 Michigan Street, NE Grand Rapids, MI 49503	230038	02/03/2009	MI	N/A
Houston Cancer Institute 1220 Blalock Suite 100 Houston, TX 77055	00N55X	02/03/2009	TX	N/A
Hudson Valley Hematology - Oncology Associates 19 Baker Avenue Suite 100 Poughkeepsie, NY 12601	1275615809	02/03/2009	NY	N/A

North Shore Radiology at Glen Cove, PC 10 Medical Plaza Suite 106 Glen Cove, NY 11542	1003024662	02/03/2009	NY	N/A
Cape Radiology 4011 Route 9 South PO Box 244 Rio Grande, NJ 08242	1972592194	02/03/2009	NJ	N/A
Frederick Imaging Centers, LLC 46 B Thomas Johnson Drive Suite 100 Frederick, MD 21702	1063699940	02/03/2009	MD	N/A
EP Medical Imaging Technology 10767 Gateway West Suite 520 El Paso, TX 79935	1508987165	02/03/2009	TX	N/A
Atlantis Diagnostics 1344 S Apollo Boulevard Melbourne, FL 32901	1053382457	02/03/2009	FL	N/A
Tri-City PETCT at Vista 902 Sycamore Avenue #120 Vista, CA 92081	1154580348	02/03/2009	CA	N/A
Florida Cancer Specialists/Sarasota Downtown 1970 Golf Street Sarasota, FL 34236	1760590962	02/03/2009	FL	N/A
Arizona Oncology Associates - Biltmore 2222 East Highland Avene Suite 130 Phoenix, AZ 85016	1235193459	02/03/2009	AZ	N/A
Las Vegas Radiology 7500 Smoke Ranch Suite 100 Las Vegas, NV 89128	1972714970	02/03/2009	NV	N/A
Medical Outsourcing Services 2900 W. 16th Street Bedford, IN 47421	1700812294	02/03/2009	IN	N/A

Addendum XIII

Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities [January Through March 2010]

On October 1, 2003, we issued our decision memorandum on ventricular assist devices for the clinical indication of destination therapy. We determined that ventricular assist devices used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for ventricular assist devices implanted as destination therapy.

VAD Destination Therapy Facilities

The following facilities have met the CMS facility standards for destination therapy VADs.

Facility	Provider No.	Date approved	State	Other information
Advocate Christ Medical Center, 4440 W 95th Street, Oak Lawn, Illinois.	140208	12/17/2003	IL	Joint Commission Certified on 05/26/2007.
California Pacific Medical Center, 2333 Buchanan Street, San Francisco, California.	050047	03/19/2004	CA	
Baptist Memorial Hospital, 6019 Walnut Grove Road, Memphis, Tennessee.	440048	04/07/2004	TN	
Duke University Medical Center, DUMC Box 3943, Durham, North Carolina.	340030	10/31/2003	NC	
Fairview-University Medical Center, 2450 Riverside Avenue, Minneapolis, Minnesota.	240080	10/28/2003	MN	
Allegheny General Hospital, 320 E North Avenue, Pittsburgh, Pennsylvania.	390050	12/10/2003	PA	Joint Commission Certified on 03/28/2008.
Barnes-Jewish Hospital, One Barnes-Jewish Hospital Plaza, Saint Louis, Missouri.	260032	10/27/2003	MO	Joint Commission Certified on 08/22/2008.
Brigham and Women's Hospital, 15 Francis Street, Boston, Massachusetts.	220110	01/09/2004	MA	
Bryan LGH Medical Center East, 1600 S 48 Street, Lincoln, Nebraska.	280003	10/23/2003	NE	
Cedars-Sinai Medical Center, 8700 Beverly Boulevard, Los Angeles, California.	050625	12/29/2003	CA	
Clarian Health Partners, Inc., 1701 N. Senate Avenue, Indianapolis, Indiana.	150056	11/25/2003	IN	
Cleveland Clinic, 9500 Euclid Avenue, Cleveland, Ohio	360180	12/03/2003	OH	
Hahnemann University Hospital, Broad and Vine Streets, Philadelphia, Pennsylvania.	390290	12/22/2003	PA	Joint Commission Certified on 09/19/2008.
Hospital of the University of Pennsylvania, 3400 Spruce Street, Philadelphia, Pennsylvania.	390111	10/28/2003	PA	Joint Commission Certified on 05/23/2008.
Henry Ford Hospital, 2799 W. Grand Boulevard, Detroit, Michigan	230053	01/06/2004	MI	
Inova Fairfax Hospital, 3300 Gallows Road, Falls Church, Virginia	490063	03/31/2004	VA	
Jewish Hospital, 200 Abraham Flexner Way, Louisville, Kentucky ..	180040	11/10/2003	KY	
Jackson Memorial Hospital, 1611 NW 12th Avenue, Miami, Florida	100022	01/12/2004	FL	University of Miami.
LDS Hospital, 8th Avenue and C Street, Salt Lake City, Utah	460010	10/23/2003	UT	
Johns Hopkins Hospital, 600 N. Wolfe Street, Baltimore, Maryland	210009/ 1790700904	10/28/2003	MD	Joint Commission Certified on 07/09/2008.
Loyola University Medical Center, 2160 S. 1st Avenue, Maywood, Illinois.	140276	01/30/2004	IL	
Lutheran Hospital of Indiana, 7950 W. Jefferson Boulevard, Fort Wayne, Indiana.	150017	10/29/2003	IN	
Massachusetts General Hospital, 55 Fruit Street, Boston, Massachusetts.	220071	12/15/2003	MA	
Mayo Clinic, 4500 San Pablo Road, Jacksonville, Florida	100151	11/06/2003	FL	
Medical City Dallas Hospital, 7777 Forest Lane, Dallas, Texas	450647	12/03/2003	TX	
The Methodist Hospital, 6565 Fannin Street, Houston, Texas	450358	11/03/2003	TX	
Montefiore Medical Center, 111 E. 210th Street, Bronx, New York	330059	11/14/2003	NY	
Methodist Specialty and Transplant Hospital, 8026 Floyd Curl Drive, San Antonio, Texas.	450388	11/19/2003	TX	
Newark Beth Israel Medical Center, 201 Lyons Avenue, Newark, New Jersey.	310002	11/14/2003	NJ	
Mount Sinai Medical Center, 1190 5th Avenue, New York, New York.	330024	11/25/2003	NY	
New York-Presbyterian Hospital, 177 Fort Washington Avenue, New York, New York.	330101	10/28/2003	NY	Columbia University Medical Center.
Ohio State University Medical Center, 410 W. 10th Avenue, Columbus, Ohio.	360085	11/12/2003	OH	
Oregon Health and Sciences University, 3181 SW Sam Jackson Park Road, Portland, Oregon.	380009	11/21/2003	OR	
OSF St Francis Medical Center, 530 NE Glen Oak Avenue, Peoria, Illinois.	140067	11/12/2003	IL	
Penn State Milton S Hershey Medical Center, 500 University Drive, Hershey, Pennsylvania.	390256	10/29/2003	PA	Joint Commission Certified on 05/19/2008.
Rush-Presbyterian-St Luke Medical Center, 1653 W Congress Parkway, Chicago, Illinois.	140119	11/14/2003	IL	

Facility	Provider No.	Date approved	State	Other information
Sentara Norfolk General Hospital, 600 Gresham Drive, Norfolk, Virginia.	490007	11/10/2003	VA	
Sacred Heart Medical Center, 101 W 8th Avenue, Spokane, Washington.	500054	01/12/2004	WA	
Seton Medical Center, 1201 W. 38th Street, Austin, Texas	450056	01/13/2004	TX	
Shands at the University of Florida, 1600 SW Archer Road, Gainesville, Florida.	100113	11/26/2003	FL	
Sharp Memorial Hospital, 7901 Frost Street, San Diego, California	050100	12/01/2003	CA	Joint Commission Certified on 07/18/2008.
Stanford University Hospital and Clinics, 300 Pasteur Drive, Stanford, California.	050441	12/22/2003	CA	Stanford University Medical Center.
St Francis Hospital, 6161 S. Yale Avenue, Tulsa, Oklahoma	370091	01/09/2004	OK	
St Luke's Medical Center, 2900 W Oklahoma Avenue, Milwaukee, Wisconsin.	520138	11/03/2003	WI	
St Luke's Episcopal Hospital, 6720 Bertner Avenue, Houston, Texas.	450193	10/28/2003	TX	
St Vincent Hospital and Health Services, 2001 W. 86th Street, Indianapolis, Indiana.	150084	01/05/2004	IN	
St Paul Medical Center, 5909 Harry Hines Boulevard, Dallas, Texas.	450044	12/10/2003	TX	
Strong Memorial Hospital, 601 Elmwood Avenue, Rochester, New York.	330285	10/29/2003	NY	Joint Commission Certified on 06/18/2008.
Tampa General Hospital, 2 Columbia Drive, Tampa, Florida	100128	11/26/2003	FL	
Temple University Hospital, 3401 N. Broad Street, Philadelphia, Pennsylvania.	390027	11/03/2003	PA	
Tufts-New England Medical Center, 750 Washington Street, Boston, Massachusetts.	220116	11/06/2003	MA	
UCLA Medical Center, 10833 Le Conte Avenue, Los Angeles, California.	050262	12/10/2003	CA	
University Medical Center, 1501 N. Campbell Avenue, Tucson, Arizonia.	030064	10/29/2003	AZ	
University of Alabama at Birmingham Health System, 500 22nd Street S, Birmingham, Alabama.	010033	10/29/2003	AL	
University of Colorado Hospital, 4200 E. Ninth Avenue, Denver, Colorado.	060024	11/06/2003	CO	9th & Colorado Campus, Joint Commission Certified on 07/23/2008.
The University of Chicago Hospitals and Health System, 5841 South Maryland Avenue, Chicago, Illinois.	140088	02/25/2004	IL	
University of Iowa Hospitals and Clinics, 200 Hawkins Drive, Iowa City, Iowa.	160058	11/12/2003	IA	
University of Maryland Medical Center, 22 S. Greene Street, Baltimore, Maryland.	210002	11/12/2003	MD	
University of Michigan Health System, 1500 E. Medical Center Drive, Ann Arbor, Michigan.	230046	10/27/2003	MI	Joint Commission Certified on 03/28/2008.
University of North Carolina Hospitals, 101 Manning Drive, Chapel Hill, North Carolina.	340061	05/05/2004	NC	
University of Utah Hospital, 50 N Medical Drive, Salt Lake City, Utah.	460009	12/22/2003	UT	
University of Virginia Health System, 1215 Lee Street, Charlottesville, Virginia.	490009	01/12/2004	VA	
University of Washington Medical Center, 1959 NE Pacific Street, Seattle, Washington.	500008	01/15/2004	WA	
University of Wisconsin Hospitals and Clinics, 600 Highland Avenue, Madison, Wisconsin.	520098	12/03/2003	WI	
USC University Hospital, 1500 San Pablo, Los Angeles, California	050696	01/09/2004	CA	
UPMC Presbyterian, 200 Lothrop Street, Pittsburgh, Pennsylvania	390164	10/23/2003	PA	Joint Commission Certified on 06/11/2008.
Virginia Commonwealth University Medical Center, 401 North 12th Street, Richmond, Virginia.	490032	04/08/2004	VA	Medical College of Virginia Hospitals.
Vanderbilt University Medical Center, 1161 21st Avenue S, Nashville, Tennessee.	440039	10/28/2003	TN	
Ochsner Clinic Foundation, 1514 Jefferson Highway, New Orleans, Louisiana.	190036	06/29/2004	LA	
Baylor University Medical Center, 3500 Gaston Avenue, Dallas, TX.	N/A	10/04/2007	TX	Joint Commission Certified on 10/04/2007.
The University of Michigan Hospitals and Health Centers, 1500 East Medical Center Drive, Ann Arbor, MI.	230046	03/28/2008	MI	Joint Commission Certified on 03/28/2008.
Saint Mary's Hospital, 1216 Southwest Second Street, Rochester, MN.	N/A	02/27/2008	MN	Joint Commission Certified on 02/27/2008.
Allegheny General Hospital, 320 East North Avenue, Pittsburgh, PA.	N/A	03/08/2008	PA	
Washington Hospital Center, 110 Irving Street, NW, Washington, DC.	09–0011	04/23/2008	DC	Joint Commission Certified on 04/23/2008.

Facility	Provider No.	Date approved	State	Other information
Integris Baptist Medical Center, 3300 Northwest Expressway, Oklahoma City, OK.	1831103654	08/13/2008	OK	Joint Commission Certified on 08/13/08.
Mayo Clinic Hospital, 5777 East Mayo Boulevard, Phoenix, AZ	030103	02/27/2009	AZ	Joint Commission Certified on 02/27/09.
Northwestern Memorial Hospital, 251 E. Huron Street, Chicago, IL	140281	03/17/2009	IL	Joint Commission Certified on 03/17/09.
Lancaster General Hospital, 555 North Duke Street, Lancaster, PA	390100	05/20/2009	PA	Joint Commission certified on 05/20/09.
Hartford Hospital, 80 Seymour Street, Hartford, CT	070025	05/29/2009	CT	Joint Commission certified on 05/29/09.
Morristown Memorial Hospital, 100 Madison Avenue, Morristown, NJ.	310015	06/17/09	NJ	Joint Commission certified on 6/17/09.
Thomas Jefferson University Hospital, 111 South 11th Street, Philadelphia, PA.	390174	08/05/09	PA	Joint Commission certified on 8/5/09.
Emory University Hospital, 1364 Clifton Road, Atlanta, GA	110010	08/19/09	GA	Joint Commission certified on 8/19/09.
Maine Medical Center, 22 Bramhall Street, Portland, ME	200009	02/03/09	ME	Joint Commission certified on 02/03/09.
University of Kentucky Health Care—Chandler Hospital, 800 Rose Street, Lexington, KY.	.....	02/11/09	KY	
Sutter Memorial Hospital, 5151 F Street, Sacramento, California ...	050108	10/21/09	CA	Joint Commission Certified on 10/21/09.
Baptist Health Medical Center—Little Rock, 9601 Interstate 630, Exit 7, Little Rock, Arizona.	040114	12/02/09	AR	Joint Commission Certified on 12/02/09.
Westchester Medical Center, 100 Woods Road, Valhalla, New York.	330234	01/05/10	NY	Joint Commission Certified on 01/05/10.

Addendum XIV

Lung Volume Reduction Surgery (LVRS) [January Through March 2010]

Three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS): National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs), Credentialed by the Joint Commision (formerly, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS, and Medicare approved for lung transplants. Only the first two types are in the list.

Facility name	Date approved	State	Type of certification
Baylor College of Medicine, Houston, Texas	N/A	TEXAS	NETT
Brigham and Women's Hospital, Boston, MA	N/A	MASSACHUSETTS	NETT
Cedars-Sinai Medical Center, Los Angeles, CA	N/A	CALIFORNIA	NETT
Chapman Medical Center, Orange, CA	N/A	CALIFORNIA	NETT
Cleveland Clinic Foundation, Cleveland, OH	N/A	OHIO	NETT
Columbia University, New York, NY	N/A	NEW YORK	NETT
Duke University Medical Center, Durham, NC	N/A	NORTH CAROLINA	NETT
Johns Hopkins Hospital, Baltimore, MD	N/A	MARYLAND	NETT
Kaiser Foundation Hospital—Riverside, Riverside, CA	09/20/2006	CALIFORNIA	Joint Commission
Long Island Jewish Medical Center, New Hyde Park, NY	N/A	NEW YORK	NETT
Mayo Clinic, Rochester, MN	N/A	MINNESOTA	NETT
Memorial Medical Center, Springfield, IL	12/13/2006	ILLINOIS	Joint Commission
National Jewish Medical Center, Denver, CO	N/A	COLORADO	NETT
The Ohio State University Hospital, Columbus, OH	N/A	OHIO	Joint Commission
Ohio State University Medical Center, Columbus, OH	N/A	OHIO	NETT
Saint Louis University, Saint Louis, MO	N/A	MISSOURI	NETT
Temple University Hospital, Philadelphia, PA	08/23/2008	PENNSYLVANIA	Joint Commission
UCLA Medical Center, Los Angeles, CA	N/A	CALIFORNIA	NETT
University of California, San Diego, San Diego, CA	N/A	CALIFORNIA	NETT
University of Maryland Medical Center, Baltimore, MD	N/A	MARYLAND	NETT
University of Michigan Medical Center, Ann Arbor, MI	N/A	MICHIGAN	Joint Commission
University of Pennsylvania, Philadelphia, PA	N/A	PENNSYLVANIA	NETT
University of Pittsburgh, Pittsburgh, PA	N/A	PENNSYLVANIA	NETT
University of Washington, Seattle, WA	N/A	WASHINGTON	NETT
Washington University/Barnes Hospital, Saint Louis, MO	N/A	MISSOURI	Joint Commission
Allegheny General Hospital, Pittsburgh, PA	04/23/2008	PENNSYLVANIA	Joint Commission

Addendum XV—Medicare-Approved Bariatric Surgery Facilities

On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity, and have been previously

unsuccessful with medical treatment for obesity.

This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) Certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

The following facilities have met our minimum facility standards for bariatric surgery and have been certified by American College of Surgeons (ACS) or American Society for Metabolic and Bariatric Surgery (ASMBS).

Facility Name	Provider Number	Date Approved	State	Other Information
Evanston Northwestern Hospital 2650 Ridge Avenue Suite 1308 Evanston, IL 60201	140010	01/26/2006	IL	ACS
Chapman Medical Center 2601 East Chapman Avenue Orange, CA 92646	05-0745	02/21/2006	CA	ASMBS
St Vincent Carmel Hospital 13430 Old Meridian Street Suite 168 Carmel, IN 46032	15-0157	02/21/2006	IN	ASMBS
Abbott Northwestern Hospital 800 E. 28th Street Minneapolis, MN 55407	N/A	02/24/2006	MN	ASMBS
Alexian Brothers Medical Center 800 Biesterfield Road Elk Grove Village, IL 60007	N/A	02/24/2006	IL	ASMBS
American Bariatric Institute at Doctors' Hospital 1130 Louisiana Avenue Shreveport, LA 71101	N/A	02/24/2006	LA	ASMBS
Arnot Ogden Medical Center 600 Fitch Street Elmira, NY 14905	330090	02/24/2006	NY	ASMBS

AtlantiCare Regional Medical Center 2500 English Creek Avenue Egg Harbor Township, NJ 08234	N/A	02/24/2006	NJ	Center for Surgical Weight Loss and Wellness Salartash Surgical Associates ASMBS
Atlanta Medical Center 303 Parkway Drive NE Atlanta, GA 30312	N/A	02/24/2006	GA	ASMBS
Aurora Sinai Medical Center 945 N. 12th Street Milwaukee, WI 53211	N/A	02/24/2006	WI	ASMBS
Baptist Memorial Hospital North Mississippi 2301 South Lamar Boulevard Oxford, MS 38655	N/A	02/24/2006	MS	ASMBS
Bellin Health 215 N. Webster Avenue Green Bay, WI 54301	N/A	02/24/2006	WI	ASMBS
Bon Secours Community Hospital 160 E. Main Street Port Jervis, NY 12771	N/A	02/24/2006	NY	ASMBS
California Pacific Medical Center 2333 Buchanan Street San Francisco, CA 94115	N/A	02/24/2006	CA	ASMBS
Cape Fear Valley Health System 1638 Owen Drive Fayetteville, NC 28304	N/A	02/24/2006	NC	ASMBS
Centennial Center for the Treatment of Obesity 2300 Patterson Street Nashville, TN 37203	N/A	02/24/2006	TN	ASMBS

Cleveland Clinic Hospital-Weston 3100 Weston Road Weston, FL 33331	N/A	02/24/2006	FL	ASMBS
Christus Schumpert Health System 1 Saint Mary Place Shreveport, LA 71101	N/A	02/24/2006	LA	ASMBS
Citizen's Bariatric Center 2701 Hospital Avenue Victoria, TX 77901	N/A	02/24/2006	TX	ASMBS
Columbia-St. Mary's Bariatric Center 2025 E. Newport Avenue Milwaukee, WI 53211	N/A	02/24/2006	WI	ASMBS
Community Hospital Monterey Peninsula 23625 Holman Highway Monterey, CA 93940	N/A	02/24/2006	CA	ASMBS
Crestwood Medical Center One Hospital Drive Huntsville, AL 35801	N/A	02/24/2006	AL	ASMBS
Cypress Fairbanks Medical Center Hospital 10655 Steepletop Drive Houston, TX 77065	450716	02/24/2006	TX	ASMBS
Danbury Hospital 24 Hospital Avenue Danbury, CT 06810	N/A	02/24/2006	CT	ACS
East Texas Medical Center 1000 S. Beckman Avenue Tyler, TX 75701	N/A	02/24/2006	TX	ASMBS

Eastern Maine Medical Center 905 Union Street EMH Mall Suite 11 Bangor, ME 04401	200033	02/24/2006	ME	ASMBS
Elmbrook Memorial Hospital 19333 W. North Avenue Brookfield, WI 53045	N/A	02/24/2006	WI	ASMBS
Emory Dunwoody Medical Center 4575 N. Shallowford Road Atlanta, GA 30338	N/A	02/24/2006	GA	ASMBS
Florida Hospital Celebration Health 400 Celebration Place Kissimmee, FL 34747	N/A	02/24/2006	FL	ASMBS
Florida Medical Center 4850 W. Oakland Boulevard Lauderdale Lakes, FL 33313	N/A	02/24/2006	FL	ASMBS
Froedtert Memorial Lutheran Hospital 9200 W. Wisconsin Avenue Milwaukee, WI 53226	N/A	02/24/2006	WI	Medical College of Wisconsin ASMBS
Frye Regional Medical Center 420 N. Center Street Hickory, NC 28601	N/A	02/24/2006	NC	ASMBS
Geisinger Medical Center 100 North Academy Avenue Danville, PA 17822	390006	N/A	PA	ASMBS- 02/24/2006 ACS-01/26/2007
Good Samaritan Hospital 375 Dixmyth Avenue Cincinnati, OH 45220	N/A	02/24/2006	OH	ASMBS

Grandview Medical Center 405 Grand Avenue Dayton, OH 45405	N/A	02/24/2006	OH	ASMBS
Greater Baltimore Medical Center 6701 N. Charles Street Baltimore, MD 21204	N/A	02/24/2006	MD	ASMBS
Hamilton Medical Center 1200 Memorial Drive Dalton, GA 30720	N/A	02/24/2006	GA	ASMBS
Hennepin County Medical Center 701 Park Avenue Minneapolis, MN 55415	N/A	02/24/2006	MN	ASMBS
Holy Cross Hospital 4725 N. Federal Highway Fort Lauderdale, FL 33308	N/A	02/24/2006	FL	ASMBS
Hospital of Saint Raphael 1450 Chapel Street New Haven, CT 06511	N/A	02/24/2006	CT	ASMBS
Huntington Memorial Hospital 100 W. California Boulevard Pasadena, CA 91105	N/A	02/24/2006	CA	ASMBS
Jupiter Medical Center 1210 S. Old Dixie Highway Jupiter, FL 33458	N/A	02/24/2006	FL	ASMBS
King's Daughters Medical Center 617 23rd Street Ashland, KY 41101	N/A	02/24/2006	KY	ASMBS

Legacy Good Samaritan Hospital and Medical Center 1015 NW 22nd Avenue Portland, OR 97210	N/A	02/24/2006	OR	ASMBS
Lexington Medical Center 2720 Sunset Boulevard West Columbia, SC 29169	N/A	02/24/2006	SC	ASMBS
Little Company of Mary 2800 W. 95th Street Evergreen Park, IL 60805	N/A	02/24/2006	IL	ASMBS
Lutheran Medical Center 150 55th Street Brooklyn, NY 11220	29D361	02/24/2006	NY	ACS
Medical University of South Carolina 171 Ashley Avenue Charleston, SC 29425	N/A	02/24/2006	SC	ASMBS
Memorial Hermann Hospital 6411 Fannin Street Houston, TX 77030	N/A	02/24/2006	TX	ASMBS
Memorial Hospital 2525 DeSales Avenue Chattanooga, TN 37404	N/A	02/24/2006	TN	ASMBS
Mercy Hospital Miami 3663 South Miami Avenue Miami, FL 33133	N/A	02/24/2006	FL	ASMBS
Mercy San Juan Medical Center 6501 Coyle Avenue Carmichael, CA 95608	N/A	02/24/2006	CA	ASMBS

Metabolic Surgery Center at Baptist Hospital 2011 Church Street Nashville, TN 37203	N/A	02/24/2006	TN	ASMBS
Methodist Dallas Medical Center PO Box 655999 Dallas, TX 75265-5999	N/A	02/24/2006	TX	Texas Bariatric Center ASMBS
Methodist Healthcare System 8109 Fredricksburg Road San Antonio, TX 78229	N/A	02/24/2006	TX	ASMBS
Methodist Hospital 6500 Excelsior Boulevard Saint Louis Park, MN 55426	N/A	02/24/2006	MN	ASMBS
Middlesex Hospital 28 Crescent Street Middletown, CT 06457	N/A	02/24/2006	CT	ASMBS
Methodist Hospital of Southern California 300 West Huntington Drive Arcadia, CA 91007	N/A	02/24/2006	CA	ASMBS
Mills-Peninsula Health Services 1783 El Camino Real Burlingame, CA 94010	N/A	02/24/2006	CA	ASMBS
New Hanover Regional Medical Center 2131 S. 17th Street Wilmington, NC 28401	N/A	02/24/2006	NC	ASMBS

New York Methodist Hospital 506 Sixth Street Brooklyn, NY 11215	N/A	02/24/2006	NY	ASMBS
North Hills Hospital 4401 Booth Calloway Road North Richland Hills, TX 76180	N/A	02/24/2006	TX	ASMBS
North Colorado Medical Center 1801 16th Street Greeley, CO 80631	N/A	02/24/2006	CO	ASMBS
North Vista Hospital 1409 E. Lake Mead Boulevard North Las Vegas, NV 89101	N/A	02/24/2006	NV	ASMBS
Northeast Georgia Health System, Inc. 743 Spring Street NE Gainesville, GA 30501	N/A	02/24/2006	GA	ASMBS
NorthEast Medical Center 920 Church Street N. #302E Concord, NC 28025	N/A	02/24/2006	NC	ASMBS
Northwestern Memorial Hospital 215 E. Huron Street, NE Chicago, IL 60611	N/A	02/24/2006	IL	Northwestern Medical Faculty Foundation ASMBS
Ocala Regional Medical Center 1431 SW 1st Street Ocala, FL 34474	N/A	02/24/2006	FL	ASMBS
Palms of Pasadena Hospital 1501 Pasedena Avenue St. Petersburg, FL 33707	N/A	02/24/2006	FL	ASMBS
Orange Coast Memorial Medical Center 9920 Talbert Avenue Fountain Valley, CA 92708	N/A	02/24/2006	CA	ASMBS
Parkwest Medical Center 9352 Park West Boulevard	N/A	02/24/2006	TN	ASMBS

Knoxville, TN 37923				
Penrose-St. Francis Health Services 825 E. Pikes Peak Avenue Colorado Springs, CO 80917	N/A	02/24/2006	CO	ASMBS
Poudre Valley Hospital 1024 S. Lemay Avenue Fort Collins, CO 80524	N/A	02/24/2006	CO	ASMBS
Presbyterian-St. Luke's Medical Center 1719 E. 19th Avenue Denver, CO 80218	N/A	02/24/2006	CO	ASMBS
Princeton HealthCare System 253 Witherspoon Street Princeton, NJ 08540	N/A	02/24/2006	NJ	ASMBS
Roger Williams Medical Center 825 Chalkstone Avenue Providence, RI 02908	N/A	02/24/2006	RI	Drs. Lentrichia & Pohl, Inc. ASMBS
Rose Medical Center 4545 E. 9th Avenue, #470 Denver, CO 80220	N/A	02/24/2006	CO	ASMBS
Saint Barnabas Medical Center 94 Old Short Hills Road Livingston, NJ 07039	N/A	02/24/2006	NJ	ASMBS
Saint Francis Hospital 5959 Park Avenue Memphis, TN 38119	N/A	02/24/2006	TN	ASMBS
St. Francis Hospital - Franciscan Health System 34515 Ninth Avenue S. Federal Way, WA 98003	N/A	02/24/2006	WA	N/A
Saint Joseph East Center for Weight Loss 160 N. Eagle Creek Drive Lexington, KY 40509	N/A	02/24/2006	KY	ASMBS

Saint Mary's Regional Medical Center 234 W. 6th Street Reno, NV 89503	N/A	02/24/2006	NV	ASMBS
Saint Mary's Hospital 5801 Bremo Road Richmond, VA 23226	N/A	02/24/2006	VA	ASMBS
Scottsdale Healthcare Shea Campus 900 E. Shea Boulevard Scottsdale, AR 85260	N/A	02/24/2006	AZ	ASMBS
Scripps Memorial 9888 Genesee Avenue La Jolla, CA 90237	N/A	02/24/2006	CA	ASMBS
Scripps Mercy Hospital 4077 Fifth Avenue San Diego, CA 92103	N/A	02/24/2006	CA	ASMBS
Sentara Careplex Hospital 3000 Coliseum Drive Hampton, VA 23666	N/A	02/24/2006	VA	ASMBS
Sinai Hospital of Baltimore 2401 W. Belvedere Avenue Baltimore, MD 21215	N/A	02/24/2006	MD	Sinai Surgical Associates ASMBS
Sisters of Charity Hospital 2130 Main Street Buffalo, NY 14214	N/A	02/24/2006	NY	ASMBS
Sioux Valley Hospital USD Medical Center 1305 W. 18th Street Sioux Falls, SD 57105	N/A	02/24/2006	SD	ASMBS
Sound Shore Medical Center of Westchester 16 Guion Place New Rochelle, NY 10801	N/A	02/24/2006	NY	ASMBS

South Nassau Communities Hospital 1 Healthy Way Oceanside, NY 11572	N/A	02/24/2006	NY	ASMBS
Southwest Healthcare System 36485 Inland Valley Drive Wildomar, CA 92595	N/A	02/24/2006	CA	ASMBS
Southwest Medical Center 2810 Ambassador Caffery Parkway Lafayette, LA 70506	N/A	02/24/2006	LA	ASMBS
Spectrum Health Blodgett Campus 1840 Wealthy Street, SE Grand Rapids, MI 49506	N/A	02/24/2006	MI	MMPC Center for Health Excellence ASMBS
SSM DePaul Health Center 12303 DePaul Avenue Bridgeton, MO 63044	N/A	02/24/2006	MO	ASMBS
St. Joseph's Area Health Services 600 Pleasant Avenue Park Rapids, MN 56470	N/A	02/24/2006	MN	ASMBS
St. Vincent Charity Hospital 2322 E. 22nd Street #220 Cleveland, OH 44115	N/A	02/24/2006	OH	ASMBS
Staten Island University Hospital 475 Seaview Avenue Staten Island, NY 10305	N/A	02/24/2006	NY	ASMBS
Theda Clark Medical Center 200 Theda Clark Medical Plaza Suite 410 Neenah, WI 54956	000071445	02/24/2006	WI	ACS

The Ohio State University Hospital 410 W. 10th Avenue Columbus, OH 43210	N/A	02/24/2006	OH	ASMBS
The Regional Medical Center at Memphis 877 Jefferson Avenue Memphis, TN 38103	N/A	02/24/2006	TN	ASMBS
Tri-City Regional Medical Center 21530 Pioneer Boulevard Hawaiian Gardens, CA 90716	N/A	02/24/2006	CA	ASMBS
United Hospital 333 North Smith Avenue Saint Paul, MN 55102	N/A	02/24/2006	MN	ASMBS
United Regional Health Care System 1600 19th Street Wichita Falls, TX 76301	N/A	02/24/2006	TX	ASMBS
Unity Hospital 550 Osborne Road, NE Fridley, MN 55432	N/A	02/24/2006	MN	ASMBS
University of Chicago Hospitals 5841 S. Maryland Avenue Chicago, IL 60637	N/A	02/24/2006	IL	University of Chicago Department of Surgery ASMBS
University of Minnesota Medical Center, Fairview 2450 Riverside Avenue Minneapolis, MN 55454	24-0080	02/24/2006	MN	ASMBS
UPMC St. Margaret 815 Freeport Road Pittsburgh, PA 15215	N/A	02/24/2006	PA	ASMBS
UPMC Horizon 110 North Main Street	N/A	02/24/2006	PA	ASMBS

Greenville, PA 16125				
Virginia Commonwealth University Medical Center Richmond, VA 23284	N/A	02/24/2006	VA	ASMBS
Vanderbilt University Medical Center 1211 22nd Avenue S. Nashville, TN 37232	N/A	02/24/2006	TN	ASMBS
Weight Loss Surgery Program at Baylor 9101 N. Central Expressway Suite 370 Dallas, TX 75231	N/A	02/24/2006	TX	ASMBS
Wellstar Health Systems 677 Church Street, NE Marietta, GA 30060	N/A	02/24/2006	GA	ASMBS
White Plains Hospital Center 190 E. Post Road White Plains, NY 10601	N/A	02/24/2006	NY	ASMBS
York Hospital 1001 S. George Street York, PA 17403	N/A	02/24/2006	PA	ASMBS
Norman Regional Hospital 901 North Porter, Box 1308 Norman, OK 73070	370008	03/22/2006	OK	ASMBS
St. Luke's Medical Center 1800 E. Van Buren Suite 307B Phoenix, AZ 85006	030037	03/22/2006	AZ	Abdominal Surgeons, Ltd. ASMBS
Silver Cross Hospital 1200 Maple Road Joliet, IL 60432	140213	03/22/2006	IL	Midwest Comprehensive Bariatrics ASMBS
Tampa General Hospital 2 Columbia Drive, F145 Tampa, FL 33601	100128	03/22/2006	FL	University of South Florida ASMBS

Spartanburg Regional Healthcare System 101 East Wood Street Spartanburg, SC 29303	420007	03/27/2006	SC	ASMBS
OSF Saint Francis Medical Center 530 NE Glen Oak Avenue Peoria, IL 61637	140067	04/05/2006	IL	ASMBS
Palmetto Health Baptist 1850 Laurel Street, Suite 1A Columbia, SC 29201	420086	04/05/2006	SC	ASMBS
Peconic Bay Medical Center 1300 Roanoke Avenue Riverhead, NY 11901	330107	04/06/2006	NY	ASMBS
Desert Springs Hospital 2075 East Flamingo Las Vegas, NV 89119	290022	04/07/2006	NV	ASMBS
Palmetto General Hospital 2001 West 68th Street Hialeah, FL 33016	100187	04/11/2006	FL	ASMBS
Hurley Medical Center One Hurley Plaza Flint, MI 48503-5993	230132	04/14/2006	MI	ACS
University of California, Davis 2315 Stockton Boulevard Sacramento, CA 95817	N/A	04/18/2006	CA	ASMBS
Russell County Medical Carroll and Tate Streets Lebanon, VA 24266	N/A	04/27/2006	VA	ASMBS
Western Pennsylvania Hospital 4800 Friendship Avenue Pittsburgh, PA 15224	028672	N/A	PA	ASMBS- 05/01/2006 ACS-10/16/2006
Banner Good Samaritan Bariatric Center 1300 North 12th Street Suite 610	N/A	05/04/2006	AZ	ASMBS

Phoenix, AZ 85006				
Bothwell Regional Health Center 601 East 14th Street Sedalia, MO 65301	N/A	05/17/2006	MO	ASMBS
Durham Regional Hospital 3643 N. Roxboro Road Durham, NC 27704	N/A	05/17/2006	NC	ASMBS
Fairview Southdale Hospital 6405 France Avenue Street Suite W320 Edina, MN 55435	N/A	05/17/2006	MN	ASMBS
Cleveland Clinic 9500 Euclid Avenue (A80) Cleveland, OH 44195	360180	N/A	OH	05/24/2006-ASMBS 12/01/2006-ACS
St. Agnes Healthcare 900 Caton Avenue Baltimore, MD 21229	210011	05/24/2006	MD	ASMBS
Sycamore Hospital 2150 Leiter Road Miamisburg, OH 45342	360239	05/24/2006	OH	ASMBS
Albany Medical Center 47 New Scotland Avenue Albany, NY 12208	330013	06/02/2006	NY	ACS
Georgetown Community Hospital 1140 Lexington Road Georgetown, KY 40324	180101	06/07/2006	KY	ASMBS
Fletcher Allen Health Care 111 Colchester Avenue Burlington, VT 05401	N/A	06/09/2006	VT	Hospital: 470003 Group Provider: VN0997 ACS
New York-Presbyterian Hospital/Columbia University Medical Center 622 W. 168th Street	330101	06/14/2006	NY	ACS

New York, NY 10032				
Providence Memorial Hospital 2001 North Oregon Street El Paso, TX 79902	450668	06/15/2006	TX	ASMBS
UT Southwestern University Hospitals-Zale Lipshy 5909 Harry Hines Boulevard Dallas, TX 75390	450766	06/19/2006	TX	ASMBS
Cedars-Sinai Medical Center 8700 Beverly Boulevard Los Angeles, CA 90048	N/A	06/20/2006	CA	Thalians-2W ACS
Community Medical Center-Clovis 2755 Herndon Avenue Clovis, CA 93611	050492	N/A	CA	ACS-06/26/2006 ASMBS-12/07/2006
Oregon Health & Science University 3181 SW Sam Jackson Park Road L223A Portland, OR 97239	See other information	06/27/2006	OR	OHSU Medical Group-107708 OHSU Hospital-380009 ACS
Hospital of the University of Pennsylvania 3400 Spruce Street, 4 Silverstein Philadelphia, PA 19104	N/A	07/06/2006	PA	ASMBS
Swedish Medical Center 501 East Hampden Avenue Englewood, CO 80113	060034	07/06/2006	CO	ASMBS
Blount Memorial Hospital 907 East Lamar Alexander Parkway Maryville, TN 37801	440011	07/11/2006	TN	ASMBS
University of Virginia Health System PO Box 800809 Charlottesville, VA 22908-0809	490009	07/12/2006	VA	ACS

Sewickley Valley Hospital 720 Blackburn Road Sewickley, PA 15143	390037	07/13/2006	PA	ASMBS
The Christ Hospital 2139 Auburn Avenue Cincinnati, OH 45219	360163	07/17/2006	OH	ASMBS
Cabell Huntington Hospital 1340 Hal Greer Boulevard Huntington, WV 25701	510055	07/19/2006	WV	ASMBS
Mount Sinai Hospital One Gustave L. Levy Place 1190 5th Avenue New York, NY 10029	330024	07/25/2006	NY	ASMBS
UMass Memorial Medical Center-Memorial Campus 119 Belmont Street Worcester, MA, 01605	A22819	07/27/2006	MA	ACS
Henry Ford Hospital 2799 West Grand Boulevard Detroit, MI 48202	N/A	07/31/2006	MI	ASMMBS
Vista Surgical Hospital 9094 Perkins Road Suite B Baton Rouge, LA 70810	230053	07/31/2006	LA	ASMBS
Town & Country Hospital 6001 Webb Road Tampa, FL 33615	100255	08/02/2006	FL	ASMBS
New York-Presbyterian Hospital/Weill Cornell Medical Center 630 West 168th Street New York, NY 10032	330101	08/04/2006	NY	ACS

Centinela Freeman Regional Medical Center 4650 Lincoln Boulevard Marin del Rey, CA 90292	050741	08/07/2006	CA	ASMBS
NYU Medical Center 560 First Avenue New York, NY 10016	330214	08/08/2006	NY	ASMBS
Regional West Medical Center 4021 Avenue B Scottsbluff, NE 69361	280061	08/08/2006	NE	ASMBS
Mercy Medical Center 1000 North Village Avenue Rockville Centre, NY 11570	N/A	08/10/2006	NY	ASMBS
Brigham and Women's Hospital 75 Francis Street Boston, MA 02115-6195	M20830	08/14/2006	MA	ACS
St. Catherine of Sienna Medical Center 48 Route 25A Smithtown, NY 11787	316495	08/28/2006	NY	ASMBS
Highland Hospital 1000 South Avenue Rochester, NY 14620	330164	08/30/2006	NY	ACS
Inova Fair Oaks Hospital 3600 Joseph Siewick Drive Fairfax, VA 22033	490101	08/31/2006	VA	ASMBS
Our Lady of Lourdes Medical Center 1600 Haddon Avenue Camden, NJ 08104	613039	08/31/2006	NJ	ASMBS

FirstHealth Moore Regional Hospital 155 Memorial Drive Pinehurst, NC 27374	340115	09/01/2006	NC	ASMBS
Hamot Medical Center 201 State Street Erie, PA 16550	390063	09/01/2006	PA	ASMBS
St. Alexius Hospital - NewStart 3933 South Broadway Street St. Louis, MO 63118	260210	09/01/2006	MO	ASMBS
St. Catherine of Siena Medical Center 50 Route 25A Smithtown, NY 11787	316495	09/01/2006	NY	ASMBS
Barnes Jewish Hospital One Barnes-Jewish Hospital Plaza St. Louis, MO 63110	260032	09/06/2006	MO	ASMBS
Baptist Memorial Hospital Memphis 6025 Walnut Grove Road Memphis, TN 38120	440048	09/07/2006	TN	ASMBS
Norwalk Hospital 24 Stevens Street Norwalk, CT 06856	070034	09/07/2006	CT	ASMBS
North Shore University Hospital at Manhasset 300 Community Drive Manhasset, NY 11530	330106	09/08/2006	NY	ASMBS

St. Vincent's Medical Center 2800 Main Street Bridgeport, CT 06606	070028	09/08/2006	CT	Level 3- Department of Surgery ASMBS
Faxton-St. Luke's Healthcare 1656 Champlin Avenue Utica, NY 13503	330044	09/14/2006	NY	ASMBS
St. Joseph's Hospital 69 West Exchange St. Paul, MN 55102	N/A	09/14/2006	MN	ASMBS
Johns Hopkins Bayview Medical Center 4940 Eastern Avenue Baltimore, MD 21224	210029	09/15/2006	MD	ASMBS
University Hospitals of Cleveland 11100 Euclid Avenue Cleveland, OH 44106	N/A	09/15/2006	OH	ASMBS
Yale-New Haven Hospital 20 York Street New Haven, CT 06510	070022	09/20/2006	CT	ASMBS
Avera McKennan Hospital 800 East 21st Street, Box 5045 Sioux Falls, SD 57117-5045	430016	09/25/2006	SD	ASMBS
Memorial Hospital Jacksonville 3625 University Boulevard South Jacksonville, FL 32216	100179	09/26/2006	FL	ASMBS
Fountain Valley Regional Hospital 17100 Euclid Street Fountain Valley, CA 92708	050570	09/27/2006	CA	ASMBS
Sentara Norfolk General Hospital 600 Gresham Drive Norfolk, VA 23507	4900073	09/29/2006	VA	ACS

St. Mary's Medical Center 450 Stanyan Street San Francisco, CA 94117	050457	10/02/2006	CA	ASMBS
Trinity Medical Center 800 Montclair Road Birmingham, AL 35213	010104	10/03/2006	AL	ASMBS
MeritCare Health System 720 4th Street North Fargo, ND 58122	350011	10/11/2006	ND	ASMBS
St. Lukes's/Roosevelt 1090 Amsterdam Avenue New York, NY 10025	330046	10/11/2006	NY	10th Floor ACS
Benefis Healthcare 1101 26th Street South Great Falls, MT 59405	270012	10/13/2006	MT	ASMBS
Mason General Hospital 901 Mountain View Drive Shelton, WA 98584	501336	10/13/2006	WA	ASMBS
Norton Hospital 200 East Chestnut Louisville, KY 40202	180088	10/16/2006	KY	ASMBS
Port Huron Hospital 1221 Pine Grove Avenue Port Huron, MI 48060	230216	10/16/2006	MI	ASMBS
Harper University Hospital 3990 John R. Street Detroit, MI 48201	230104	10/17/2006	MI	ASMBS
St. Luke Hospital 7380 Turfway Road Florence, KY 41042	180045	10/18/2006	KY	ASMBS
Twelve Oaks Medical Center Hospital 4200 Twelve Oaks Drive Houston, TX 77027	N/A	10/18/2006	TX	ASMBS
Cleveland Clinic Florida 3100 Weston Road	100289	10/19/2006	FL	ACS

Weston, FL 33331-3602				
Grinnell Regional Medical Center 210 Fourth Avenue Grinnell, IA 50112	N/A	10/19/2006	IA	Provider Numbers: Hospital: 160147, Surgical Group: 03108 ACS
Conway Medical Services 300 Singleton Ridge Road Conway, SC 29528	420049	10/11/2006	SC	ASMBS
Alta Bates Medical Center 350 Hawthorne Avenue Oakland, CA 94609	050043	10/23/2006	CA	ASMBS
Massachusetts General Hospital 55 Fruit Street Boston, MA 02114-2696	220071	10/23/2006	MA	ACS
Mayo Clinic-Saint Mary's Hospital 200 First Street SW Rochester, MN 55905	N/A	10/23/2006	MN	SMH: 24-0010 Part B General Medical: C01384 ACS
Saint Francis Hospital 6465 South Yale Avenue, #900 Tulsa, OK 74136	372308	10/23/2006	OK	ACS
Newton-Wellesley Hospital 2014 Washington Street Newton, MA 02462	220101	10/26/2006	MA	ACS
Mobile Infirmary Medical Center 5 Mobile Infirmary Circle Mobile, AL 36007	010113	10/27/2006	AL	ASMBS
Maine Medical Center 22 Bramhall Street Portland, ME 04102	200009	11/06/2006	ME	ASMBS
Magee Womens Hospital of UPMC 3000 Halket Street Pittsburgh, PA 15213	390114	11/13/2006	PA	ASMBS

Saint Francis Hospital and Medical Center 114 Woodland Street Hartford, CT 06105	070002	11/15/2006	CT	ASMBS
South Jersey Healthcare-Regional Medical Center 1505 West Sherman Avenue Vineland, NJ 08360	310032	11/20/2006	NJ	ASMBS
Overlook Hospital 99 Beauvoir Avenue Summit, NJ 07902	310051	11/21/2006	NJ	Nursing Administration Office ASMBS
Cedars Medical Center 1400 Northwest 12th Avenue Miami, FL 33136	100009	11/23/2006	FL	ASMBS
Memorial Hermann Memorial City Hospital 921 Gessner Road Houston, TX 77024	450610	11/27/2006	TX	ASMBS
Tufts-New England Medical Center 750 Washington Street Boston, MA 02111	220116	11/27/2006	MA	ASMBS
Allegheny General Hospital 320 East North Avenue Pittsburgh, PA 15212	390050	11/30/2006	PA	Fifth Floor, South Tower ASMBS
Northwest Medical Center 2801 North State Road 7 Margate, FL 33063	100189	11/30/2006	FL	ASMBS
Potomac Hospital 2300 Opitz Boulevard Woodbridge, VA 22191	490113	11/30/2006	VA	ASMBS
Baptist Health Medical Center - Little Rock 9601 I-630, Exit 7 Little Rock, AR 72205	040114	12/01/2006	AR	ASMBS

University of Washington Medical Center 1959 NE Pacific Street PO Box 356151 Seattle, WA 98195-6151	1326002049	12/05/2006	WA	ACS
St. Luke's Regional Medical Center 333 North 1st Street Suite 120 Boise, ID 83702	130006	12/06/2006	ID	ASMBS
University of Alabama at Birmingham Hospital 1530 3rd Avenue South Kracke Building 404 Birmingham, AL 35294-0016	010033	12/07/2006	AL	ACS
Hackensack University Medical Center 30 Prospect Avenue Hackensack, NJ 07601	310001	12/08/2006	NJ	ACS
Hialeah Hospital 651 East 25th Street Hialeah, FL 33013	100053	12/13/2006	FL	ASMBS
Sts. Mary and Elizabeth Hospital 1850 Bluegrass Avenue Louisville, KY 40215	180040	12/15/2006	KY	Bariatric Office ASMBS
Bon Secours Surgical Weight Loss-Maryview Medical Center 3636 High Street Portsmouth, VA 23707	490017	12/18/2006	VA	ASMBS
Pomerado Hospital 15615 Pomerado Road Poway, CA 92064	050636	12/18/2006	CA	ASMBS
Boston Medical Center 88 E. Newton Street D507-Department of Surgery Boston, MA 02118	220031	12/19/2006	MA	ACS

Medcenter One, Inc. 300 North 7th Street Bismarck, ND 58501	350015	12/19/2006	ND	ASMBS
Meriter Hospital 202 South Park Street Madison, WI 53715	520089	12/19/2006	WI	ASMBS
University of Wisconsin Hospital & Clinics 600 Highland Avenue Madison, WI 53792	520098	12/19/2006	WI	ASMBS
Women and Children's Hospital 4200 Nelson Road Lake Charles, LA 70605	190201	12/19/2006	LA	ASMBS
Mount Carmel West Hospital 793 West State Street Columbus, OH 43222	360035	12/20/2006	OH	ASMBS
Southcoast Hospitals Group-Tobey Hospital 43 High Street Wareham, MA 02571	220074	12/21/2006	MA	ASMBS
Carilion Roanoke Memorial Hospital 1906 Belleview Avenue Roanoke, VA 24014	N/A	12/26/2006	VA	ASMBS
Mercy General Health Partners 1500 Sherman Boulevard Muskegon, MI 49444	230004	12/26/2006	MI	ASMBS
Mountainside Hospital 1 Bay Avenue Montclair, NJ 07042	310054	12/26/2006	NJ	ASMBS
Park Plaza Hospital 1313 Hermann Drive Houston, TX 77004	450659	01/09/2007	TX	ASMBS

Renaissance Hospital Houston 2807 Little York Houston, TX 77093	450795	01/12/2007	TX	ASMBS
Penn State Milton S. Hershey Medical Center 500 University Drive Hershey, PA 17033	390256	01/18/2007	PA	ASMBS
Shawnee Mission Medical Center 9100 West 74th Street Shawnee Mission, KS 66204	170104	01/24/2007	KS	ASMBS
Morristown Memorial Hospital 100 Madison Avenue Morristown, NJ 07962	31-0015	01/25/2007	NJ	ACS
Alvarado Hospital 6655 Alvarado Road San Diego, CA 92120	050583	01/26/2007	CA	Alvarado Surgical Weight-Loss Program ASMBS
St. Francis Hospital 7th and Clayton Streets Wilmington, DE 19805	080003	01/29/2007	DE	ASMBS
Sacred Heart Medical Center 101 West 8th Avenue Spokane, WA 99220	500054	02/05/2007	WA	ASMBS
Ochsner Clinic Foundation 1514 Jefferson Highway New Orleans, LA 70121	190036	02/06/2007	LA	ASMBS
Northwest Specialty Hospital 1593 East Polston Avenue Post Falls, ID 83854	130066	02/07/2007	ID	ASMBS
Sacred Heart Hospital 421 Chew Street Allentown, PA 18102	390197	02/07/2007	PA	ASMBS
Rio Grande Regional Hospital 101 East Ridge Road McAllen, TX 78503	450711	02/12/2007	TX	ASMBS

Gundersen Lutheran Medical Center 1900 South Avenue La Crosse, WI 54601	520087	02/13/2007	WI	ASMBS
Kettering Medical Center 3535 Southern Boulevard Kettering, OH 45429	360079	02/16/2007	OH	ASMBS
Beth Israel Deaconess Medical Center 330 Brookline Avenue Boston, MA 02215	N/A	02/17/2006	MA	ACS
Shady Grove Adventist Hospital 9901 Medical Center Drive Rockville, MD 20850	210057	02/19/2007	MD	ASMBS
Pitt County Memorial Hospital 2100 Stantonsburg Road Greenville, NC 27835	340040	02/20/2007	NC	ASMBS
St. Cloud Hospital 1406 Sixth Avenue, North St. Cloud, MN 56303	240036	02/23/2007	MN	ASMBS
Virginia Mason Medical Center 1100 Ninth Avenue Seattle, WA 98101	500005	03/01/2007	WA	ASMBS
Southeast Georgia Health System 2415 Parkwood Drive Brunswick, GA 31520	110025	03/06/2007	GA	ASMBS
Baystate Medical Center 759 Chestnut Street Springfield, MA 01199	220077	03/13/2007	MA	ACS
PinnacleHealth Community Campus 4300 Londonderry Road c/o PO Box 8700 Harrisburg, PA 17109	390067	03/29/2007	PA	ASMBS

The Valley Hospital 223 North Van Dien Avenue Ridgewood, NJ 07450	310012	03/30/2007	NJ	ASMBS
Charleston Area Medical Center 800 Pennsylvania Avenue Charleston, WV 25302	510022	04/16/2007	WV	ASMBS
Presbyterian Hospital of Dallas 8200 Walnut Hill Lane Dallas, TX 75231	450462	04/16/2007	TX	ASMBS
Dekalb Medical Center 2701 North Decatur Road Decatur, GA 30033	110076	04/26/2007	GA	ASMBS
St. Francis Health Center 1700 SW 7th Street Topeka, KS 66606	170016	04/26/2007	KS	ASMBS
St. Mark's Hospital 1200 East 3900 South Salt Lake City, UT 84124	47007	04/26/2007	UT	ASMBS
Faulkner Hospital 1153 Centre Street Boston, MA 02130	220119	04/27/2007	MA	ACS
George Washington University Hospital 9000 23rd Street NW Washington, DC 20037	090001	08/14/2006	DC	ASMBS

William Beaumont Hospital – Royal Oak 3601 West Thirteen Mile Road Royal Oak, MI 48073-6769	230130	04/20/2007	MI	ACS
University Medical Center at Princeton 253 Witherspoon Street Princeton, NJ 08542	N/A	02/24/2006	NJ	ASMBS
Del Sol Medical Center 10201 Gateway West Suite 130 El Paso, TX 79925	45-0646	05/03/2007	TX	ACS
Winchester Hospital 41 Highland Avenue Winchester, MA 01890	220105	05/31/2007	MA	ASMBS
Lawrence Memorial Hospital – Hallmark Health System 170 Governors Avenue Medford, MA 02155	220070	05/31/2007	MA	ASMBS
The Methodist Hospital 6565 Fannin, NB1-001 Houston, TX 77030	450358	03/22/2007	TX	ACS
ValleyCare Health System 1111 East Stanley Boulevard Livermore, CA 94550	050283	06/07/2007	CA	ASMBS
The Presbyterian Hospital 200 Hawthorne Lane Charlotte, NC 28204	340053	06/06/2007	NC	ASMBS
Nix Hospital 414 Navarro Street San Antonio, TX 78205	450130	06/08/2007	TX	ASMBS

Huntsville Hospital 101 Sivley Road Huntsville, AL 35801	010039	05/11/2007	AL	ASMBS
The Jewish Hospital 4777 Galbraith Road Cincinnati, OH 45236	360016	06/07/2007	OH	ASMBS
UCI Medical Center 101 The City Drive South Orange, CA 92868	050348	05/25/2007	CA	ACS
Kaiser Permanente Medical Center Richmond 901 Nevin Avenue Richmond, CA 94801	050075	05/24/2007	CA	ACS
Green Hospital 12395 El Camino Real San Diego, CA 92130	050424	06/21/2007	CA	ASMBS
Sutter Roseville Medical Center One Medical Plaza Roseville, CA 95661	050309	06/22/2007	CA	ASMBS
Munroe Regional Medical Center 1500 Southwest 1st Avenue Ocala, FL 34471	100062	06/05/2007	FL	ASMBS
Enloe Medical Center 251 Cohasset Road Chico, CA 95926	050039	06/11/2007	CA	ASMBS
St. Francis Hospital & Health Centers 1600 Albany Street Beech Grove, IN 46107	150033	06/15/2007	IN	ASMBS
Southern Surgical Hospital 1700 West Lindberg Drive Slidell, LA 70458	190270	06/21/2007	LA	ASMBS

Creighton University Medical Center 601 North 30th Street Omaha, NE 68131	280030	06/20/2007	NE	ASMBS
Peninsula Regional Medical Center 100 East Carroll Street Salisbury, MD 21801	210019	06/20/2007	MD	ASMBS
Wadley Regional Medical Center 1000 Pine Street Texarkana, TX 75501	450200	06/08/2007	TX	ASMBS
Vista Medical Center Hospital 4301 Vista Road Pasadena, TX 77504	450831	06/22/2007	TX	ASMBS
St. David's Medical Center 919 East 32nd Street Austin, TX 78705	450531	06/22/2007	TX	ASMBS
Sanford USD Medical Center 1305 West 18th Street Sioux Falls, SD 57117	430027	01/17/2006	SD	ASMBS
Weight Loss Surgery Program at Baylor 3600 Gaston Avenue Suite 360 Wadley Tower Dallas, TX 75246	N/A	06/20/2007	TX	ASMBS
Shelby Baptist Medical Center 1000 First Street N. Alabaster, AL 35007	010016	05/18/2007	AL	ACS
Lehigh Valley Hospital and Health Network Cedar Crest & I-78 PO Box 689 Allentown, PA 18105-1556	390133	05/29/2007	PA	ACS
West Hills Hospital 7300 Medical Center Drive	050481	06/27/2007	CA	ASMBS

West Hills, CA 91307				
Adirondack Medical Center 2233 State Route 86 Saranack Lake, NY 12983	330079	06/26/2007	NY	ASMBS
Middletown Regional Hospital 105 McKnight Drive Middletown, OH 45044	360076	06/25/2007	OH	ASMBS
Kaleida Health, Buffalo General 100 High Street Buffalo, NY 14203	300005	06/25/2007	NY	ASMBS
Miami Valley Hospital One Wyoming Street Dayton, OH 45409	N/A	06/25/2007	OH	ASMBS
Minimally Invasive Surgery Hospital 11217 Lakeview Avenue Lenexa, KS 66219	N/A	06/25/2007	KS	ASMBS
Saint Agnes Medical Center 1303 E. Herndon Avenue Fresno, CA 93720	05-0093	07/24/2007	CA	ASMBS
Sartori Memorial Hospital 515 College Street Cedar Falls, IA 50613	160040	07/17/2007	IA	ASMBS
Maimonides Medical Center 948 48th Street, 2nd floor Brooklyn, NY 11219	33-0194	07/10/2007	NY	ASMBS
Westchester Medical Center 95 Grasslands Road Valhalla, NY 10595	330234	07/17/2007	NY	ASMBS
Deaconess Hospital 311 Straight Street Cincinnati, OH 45219	36-0038	07/17/2007	OH	ASMBS

Northern Ohio Bariatric Center at Parma Hospital 6305 Powers Boulevard Parma, OH 44129	360041	07/10/2007	OH	ASMBS
Einstein at Elkins Park 60 E. Township Line Road Elkins Park, PA 19027	390142	07/10/2007	PA	ASMBS
Lahey Clinic Medical Center 41 Mall Road Burlington, MA 01805	220171	06/22/2007	MA	ACS
St. Francis Hospital 34515 Ninth Ave South Federal Way, WA 98003	500141	07/26/2007	WA	ACS
California Foundation for Health 1401 Garces Highway Delano, CA 93215	050608	07/10/2007	CA	d.b.a. Delano Regional Medical Center; ASMBS
Northeast Alabama Regional Medical Center 400 East 10th Street Anniston, AL 36207	010078	07/30/2007	AL	ASMBS
Trinity Medical Center 4343 N. Josey Lane Carrollton, TX 75010	45-0730	07/30/2007	TX	ASMBS
Gratiot Medical Center 300 E. Warwick Drive Alma, MI 48801	23-0030	07/30/2007	MI	ASMBS
Cuyuna Regional Medical Center 320 East Main Street Crosby, MN 56441	241353	08/20/2007	MN	ASMBS
Valley Medical Center 400 South 43rd Street Renton, WA 98055	500088	07/30/2007	WA	ASMBS

Renaissance Hospital Dallas 427 W. 20th Street Suite 300 Houston, TX 77008	670002	08/08/2007	TX	ASMBS
UPMC Presbyterian Shadyside 5230 Centre Avenue Pittsburgh, PA 15232	39-0114	08/20/2007	PA	ASMBS
Clarian North Medical Center 6625 Network Way Suite 100 Indianapolis, IN 46202	15-0161	08/20/2007	IN	ASMBS
Genesis Medical Center 1227 East Rusholme Street Davenport, IA 52803	160033	08/08/2007	IA	ASMBS
University General Hospital 7501 Fannin Street Houston, TX 77054	670019	08/08/2007	TX	ASMBS
Ellis Hospital 1101 Nott Street Schenectaday, NY 12308	330153	06/19/2007	NY	ASMBS
University of Texas Medical Branch 301 University Boulevard Galveston, TX 77555-1168	450018	08/16/2007	TX	ACS
UPMC Presbyterian Shadyside 5230 Centre Avenue Pittsburgh, PA 15232	39-0114	08/20/2007	PA	ABMS
Christiana Care Health Services 4755 Ogletown – Stanton Road Newark, DE 19718	080001	08/29/2007	DE	ASMBS
Stanford Hospital and Clinics 300 Pasteur Drive Stanford, CA 94305	050441	09/13/2007	CA	ACS

Summa Health Systems Hospital 95 Arch Street Suite 240 Akron, OH 44304	360020	09/21/2007	OH	ASMBS
Memorial Regional Hospital 3500 Johnson Street Hollywood, FL 33021	100038	09/11/2007	FL	ASMBS
Temple University Hospital 3401 North Broad Street Philadelphia, PA 19140	390027	09/21/2007	PA	ASMBS
Good Samaritan Hospital 2425 Samaritan Drive San Jose, CA 95124	50380	09/21/2007	CA	ASMBS
Johnson City Medical Center 400 North State of Franklin Road Johnson City, TN 37604	HSP440063	09/27/2007	TN	ASMBS
Providence Saint Joseph Medical Center 201 South Buena Vista Street Suite 425 Burbank, CA 91505	50235	N/A	CA	ASMBS – 09/17/2007; ACS – 09/05/2007
Baptist Bariatric Center of Excellence 1000 West Moreno Street Pensacola, FL 32501	10-0093	09/27/2007	FL	ASMBS
Hillcrest Hospital 2104 Woodruff Road Greenville, SC 29607	43-0037	10/10/2007	SC	ASMBS
Fairway Medical 67252 Industry Lane Covington, LA 70433	190267	10/10/2007	LA	ASMBS
John T. Mather Memorial Hospital 75 North Country Road	JTM 33-0185	10/10/2007	NY	ASMBS

Port Jefferson, NY 11777				
Lenox Hill Hospital 110 East 59th Street, Suite 8A New York, NY 10022	10003F8	10/10/2007	NY	ASMBS
Easton Hospital 250 South 21st Street Easton, PA 18042	390162	10/10/2007	PA	ASMBS
Medical City Dallas Hospital 7777 Forest Lane, Suite 240A Dallas, TX 75230	000340	10/10/2007	TX	ASMBS
St Vincent's East 50 Medical Park East Drive Birmingham, AL 35235	010011	10/10/2007	AL	ASMBS
Northside Hospital 1000 Johnson Ferry Road Atlanta, GA 30342	11-0161	10/10/2007	GA	ASMBS
Missouri Bariatric Services 1000 W. Nifong Boulevard, Building 2, Suite 210 Columbia, MO 65203	000011108	10/10/2007	MO	ASMBS
Presbyterian Hospital of Plano 6200 West Parker Road Plano, TX 75093	45-0771	10/10/2007	TX	ASMBS
Norton Suburban Hospital 315 East Broadway Louisville, KY 40202	180088	10/10/2007	KY	ASMBS
Sky Ridge Medical Center 10101 RidgeGate Parkway Lone Tree, CO 80124	060112	10/30/2007	CO	ASMBS
St. Mary Medical Center 1050 Linden Avenue Long Beach, CA 90813	050191	10/30/2007	CA	ASMBS

Scott and White Hospital 2401 S. 31st Street Temple, TX 76508	450054	10/24/2007	TX	ACS
The Methodist Hospitals, Inc. 303 East 89th Avenue Merrillville, IN 46410	150132	10/30/2007	IN	ASMBS
Parkview Community Hospital 3865 Jackson Street Riverside, CA 92503	050102	10/30/2007	CA	ASMBS
Evergreen Hospital 12040 NE 128th Street Kirkland, WA 98034	500124	10/30/2007	WA	ASMBS
University of Maryland Medical Center 22 South Greene Street Baltimore, MD 21201-1595	21002	11/05/2007	MD	ACS
Montefiore Medical Center 111 East 210th Street Bronx, NY 10467	330059	11/07/2007	NY	Group #: 330059, Dr. Karen Gibbs #: 140341, Dr. Pratibha Vemulapalli #: 3097H1; ACS
Emory Crawford Long Hospital 1364 Clifton Road, NE Atlanta, GA 30322	110078	11/13/2007	GA	ACS
El Camino Hospital 2500 Grant Road Mountain View, CA 94039	050308	11/19/2007	CA	ASMBS
Northeast Baptist Hospital 8811 Village Drive San Antonio, TX 78217	450058	11/19/2007	TX	ASMBS

University of Iowa Hospitals and Clinics 4624 JCP Bariatric Surgery Iowa City, IA 52242	160058	11/19/2007	IA	ASMBS
El Camino Hospital 2500 Grant Road Mountain View, CA 94039	050308	11/19/2007	CA	ASMBS
Aspirus Wausau Hospital 333 Pineridge Boulevard Wausau, WI 54401	52-0030	11/28/2007	WI	ASMBS
Eastern Idaho Regional Medical Center 2860 Channing Way Suite 102 Idaho Falls, ID 83404	13-0018	12/10/2007	ID	ASMBS
Mount Sinai Medical Center 4701 North Meridian Avenue Miami Beach, FL 33140	10-0034	12/11/2007	FL	ASMBS
North Florida Regional Medical Center 6400 Newberry Road Suite 106 Gainesville, FL 32605	21536	12/27/2007	FL	ASMBS
Baylor Regional Medical Center at Plano 470 Alliance Boulevard Plano, TX 75093	45-0890	01/04/2008	TX	ASMBS
Memorial Medical Center 1800 Coffee Road Suite 30 Modesto, CA 95350	050557	01/04/2008	CA	ASMBS
Pennsylvania Hospital 800 Spruce Street 2 Cathcart Philadelphia, PA 19107	39-0226	01/08/2008	PA	ASMBS

Houston Northwest Medical Center 710 FM 1960 Road West Houston, TX 77090	450638	01/08/2008	TX	ASMBS
St. Bernadine Medical Center 2101 North Waterman Avenue San Bernadino, CA 92404	05-0129	01/04/2008	CA	ASMBS
UCLA Medical Center 10833 Le Conte Avenue CHS 72-236 Los Angeles, CA 90095	050262	01/08/2008	CA	ASMBS
Lourdes Medical Center Burlington County 218-A Sunset Road Willingboro, NJ 08046	310061	01/30/2008	NJ	ASMBS
Sacred Heart Medical Center 1200 Hilyard Street Suite S-570 Eugene, OR 97401	380033	01/23/2008	OR	ASMBS
Salt Lake Regional Medical Center 1050 East South Temple Salt Lake City, UT 84102	460003	02/11/2008	UT	ASMBS
Kaiser Permanente-South San Francisco 1200 El Camino Real South San Francisco, CA 94080	050070	01/30/2008	CA	ASMBS
Chilton Memorial Hospital 97 West Parkway Pompton Plains, NJ 07444	310017	02/12/2008	NJ	ASMBS
Mary Imogene Bassett Hospital One Atwell Road Cooperstown, NY 13326	330136	02/12/2008	NY	ASMBS
Sharp Memorial Hospital 7901 Frost Street – 5 South /ACC	0150100	02/11/2008	CA	ASMBS

San Diego, CA 92123				
Doctors Hospital at White Rock Lake 9440 Poppy Drive Dallas, TX 75218	450678	01/30/2008	TX	ASMBS
Rhode Island Hospital 2 Dudley Street Suite 470 Providence, RI 02905	410007	02/25/2008	RI	ASMBS
Munson Medical Center 1105 Sixth Street Traverse City, MI 49684	23-0097	02/19/2008	MI	ASMBS
DayOne Health at 900 N. Michigan Surgical Center 409 West Huron Suite 300 Chicago, IL 60613	538810	02/19/2008	IL	ASMBS
USC University Hospital 1500 San Pablo Los Angeles, CA 90033	05-0696	01/30/2008	CA	ASMBS
Lexington Medical Center 2720 Sunset Boulevard West Columbia, SC 29169-4810	See other information	01/14/2008	SC	ACS; NPI: Hospital Services 1356366314; Professional Services 1144248097
Saint Clare's Hospital 400 West Blackwell Street Dover, NJ 07801	310050	03/17/2008	NJ	ASMBS
Hartford Hospital 85 Seymour Street, Suite 415 Hartford, CT 06106	07-0025	03/25/2008	CT	ASMBS
Singing River Hospital 2809 Denny Avenue Pascagoula, MS 39581	250040	03/17/2008	MS	ASMBS

St. John's Regional Health Center 1235 East Cherokee Street Springfield, MO 65804	260065	03/17/2008	MO	ASMBS
Willis Knighton Health System 2551 Greenwood Road Suite 340 Shreveport, LA 71103	190111	03/17/2008	LA	ASMBS
Cottage Health System PO Box 689 Pueblo at Bath Street Santa Barbara, CA 93102-0689	030596	02/25/2008	CA	ASMBS
Syosset Hospital 221 Jericho Turnpike Syosset, NY 11791	330106	02/19/2008	NY	ASMBS
The Hospital of Central Connecticut 1000 Grand Street New Britain, CT 06050	070035	03/11/2008	CT	ASMBS
Stringfellow Memorial Hospital 105 Windsor Lane Rainbow City, AL 35906	01-0038	03/11/2008	AL	ASMBS
Providence Alaska Medical Center 3200 Providence Drive Anchorage, AK 99519-6604	02-0001	03/17/2008	AK	ASMBS
The Reading Hospital and Medical Center 2603 Keiser Boulevard Wyomissing, PA 19610	390044	03/25/2008	PA	ASMBS
Good Samaritan Hospital 255 Lafayette Avenue Suffern, NY 10901	330158	03/25/2008	NY	ASMBS
San Joaquin Community Hospital 2819 H Street	04055	04/01/2008	CA	ASMBS

Bakersfield, CA 93301				
Lowell General Hospital 295 Varnum Avenue Lowell, MA 01854		02/22/2008	MA	Medicare: 220063; Medicaid Inpatientt #: 100228; Medicaid Outpatient #: 1201069; ACS
Memorial Health University Medical Center 4700 Waters Avenue Savannah, GA 31404	11-0036	04/08/2008	GA	ASMBS
Christiana Care Health Services 3506 Kennett Pike Wilmington, DE 19807	080001	04/18/2008	DE	ACS
Abington Memorial Hospital 1235 Old York Road, Suite G-28 Abington, PA 19001	390231	04/21/2008	PA	ASMBS
Gateway Medical Center 1771 Madison Street Clarksville, TN 37043	440035	04/21/2008	TN	ASMBS
Westchester Medical Center 95 Grasslands Road Valhalla, NY 10595	W94181	04/07/2008	NY	ACS
High Point Regional Health System 601 N. Elm Street High Point, NC 27261	34-0004	05/02/2008	NC	ACS
Desert Regional Medical Center 1150 North Indian Canyon Drive Palm Springs, CA 92262	05-0243	05/12/2008	CA	ASMBS
Southwest General Hospital 7400 Barlite Boulevard San Antonio, TX 78224	450697-A	05/22/2008	TX	ASMBS

Muhlenberg Regional Medical Center Park Avenue and Randolph Road Plainfield, NJ 07061	310063	06/02/2008	NJ	ASMBS
St. Mary's Medical Center 407 East 3rd Street Duluth, MN 55805	240002	06/09/2008	MN	ASMBS
St. Charles Medical Center - Bend 2500 NE Neff Road Bend, OR 97701	380047	06/30/2008	OR	ASMBS
Bay Area Hospital 1775 Thompson Road Coos Bay, OR 97420	380090	06/30/2008	OR	ASMBS
Saint Elizabeth Regional Medical Center 555 South 70th Street Lincoln, NE 68510	280020	07/21/2008	NE	ASMBS 6th Floor Surgical Unit
Holston Valley Medical Center 130 Ravine Street Kingsport, TN 37660	44-0017	07/29/2008	TN	ASMBS
Holy Cross Hospital 1500 Forest Glen Road Silver Spring, MD 20910	210004	07/29/2008	MD	ACS
North Carolina Baptist Hospital Medical Center Boulevard Winston Salem, NC 27157	340047	07/29/2008	NC	ASMBS
Flagler Hospital 400 Health Park Boulevard St. Augustine, FL 32086	100090	07/31/2008	FL	ASMBS
Torrance Memorial Medical Center 3330 Lomita Boulevard Torrance, CA 90505	05-0351	08/02/2008	CA	ASMBS

St. John Macomb-Oakland Hospital 27483 Dequindre Road Madison Heights, MI 48701	230195	08/07/2008	MI	ASMBS Suite 204
Nebraska Methodist Hospital 10060 Regency Circle Omaha, NE 68114	280040	08/07/2008	NE	ASMBS
Marquette General Hospital 580 West College Avenue Marquette, MI 49855	23-0054	08/07/2008	MI	ASMBS
Sacred Heart Hospital 5149 North 9th Avenue Suite G-32 Pensacola, FL 32504	100025	08/19/2008	FL	ASMBS
Central Mississippi Medical Center 1850 Chadwick Drive Jackson, MS 39204	250072	08/26/2008	MS	ASMBS
Vista Hospital of Dallas 2696 West Walnut Street Garland, TX 75042	450315	08/26/2008	TX	ASMBS
St. Alexius Medical Center 1555 Barrington Road Hoffman Estates, IL 60169	14-0290	08/26/2008	IL	ASMBS
Alexian Brothers Medical Center 800 Biesterfield Road Elk Grove Village, Illinois 60007	14-0290	08/26/2008	IL	ASMBS 6th Floor

Alegent Health Immanuel Medical Center 6828 North 72nd Street Suite 5500 Omaha, NE 68122	280081	08/29/2008	NE	ASMBS
MountainView Hospital 3100 North Tenya Way Las Vegas, NV 89128	290039	09/03/2008	NV	ASMBS
Southwest Washington Medical Center 400 NE Mother Joseph Place Vancouver, WA 98664	500050	09/08/2008	WA	ASMBS
JFK Medical Center 5301 South Congress Avenue Atlantis, FL 33462	100080	09/18/2008	FL	ASMBS
McLaren Regional Medical Center 401 South Ballenger Highway Flint, MI 48532	230141	09/24/2008	MI	ASMBS
Cheyenne Regional Medical Center 2301 House Avenue, Suite 500 Cheyenne, WY 82001	530014	09/24/2008	WY	ASMBS
St. Mary Mercy Hospital 14555 Levan Road, Suite 311 Livonia, MI 48154	12200126	09/25/2008	MI	ASMBS
Altru Health System 1000 South Columbia Road Grand Forks, ND 58206	350019	09/25/2008	ND	ASMBS
Lutheran Hospital of Indiana Bariatric Center 7836 West Jefferson, Suite 101 Ft. Wayne, IN 46804	150017	09/25/2008	IN	ASMBS
Seton Medical Center 1201 West 38th Street Austin, TX 78705	450056	09/25/2008	TX	ASMBS

St. Elizabeth and St. Joseph Surgical 452 Broadway Street Youngstown, OH 44504	36-0161	09/25/2008	OH	ASMBS
Henry Ford Macomb Hospital – Warren Campus 13355 East 10 Mile Road Warren, MI 48089	230204	10/07/2008	MI	ASMBS
Saint Alphonsus Regional Medical Center 1055 North Curtis Road Boise, ID 83706	130007	10/07/2008	ID	ASMBS
Riverside Methodist Hospital 3535 Olentangy River Road Columbus, OH 43214	36-0006	10/21/2008	OH	ASMBS
Lawrence Hospital Center 55 Palmer Avenue Bronxville, NY 10708	330061	11/05/2008	NY	ACS
Winthrop University Hospital 120 Mineola Boulevard Suite 320 Mineola, NY 11501	330167	11/10/2008	NY	ASMBS
St. John's Regional Medical Center 1700 North Rose Avenue #380 Oxnard, CA 93030	050082	12/02/2008	CA	ASMBS
Floyd Medical Center PO Box 233 Rome, GA 30162	110054	01/07/2009	GA	ASMBS
Hazleton General Hospital 700 East Broad Street Hazleton, PA 18201	390185	04/20/2009	PA	ASMBS
Memorial Hermann Texas Medical Center 6411 Fannin Street	45-0068	01/29/2009	TX	ACS

Houston, TX 77030				
Mercy Medical Center 1111 6th Avenue Des Moines, IA 50314-9906	160083	01/28/2009	IA	ASMBS
Northwest Medical Center 1980 W. Hospital Drive Suite 200 Tucson, AZ 85741	03-0085	04/06/2009	AZ	ASMBS
Plaza Medical Center of Fort Worth 900 8th Avenue PAT-Bariatrics Ft. Worth, TX 76104	450672	03/20/2009	TX	ASMBS
SUNY Upstate Medical University 750 E. Adams Street, University Hospital Syracuse, NY 13210	NPI #: 1578554630	03/27/2009	NY	ACS; General Acute Care Hospital Number: 330241
Winchester Medical Center Bariatric Program 1840 Amherst Street Winchester, VA 22601	490005	03/20/2009	VA	ASMBS
Vanderbilt University Medical Center 1215 21st Avenue South Nashville, TN 37232	1952356065	05/05/2009	TN	ACS
Mother Frances Regional Medical Center 910 East Houston Street Suite 550 Tyler, TX 75702	450102	05/07/2009	TX	ASMBS
Sparrow Health System 2900 Hannah Boulevard Suite B-107 East Lansing, MI 48823	230230	05/15/2009	MI	ASMBS
First Street Hospital	67009	05/18/2009	TX	ASMBS

4801 Bissonnet Street Bellaire, TX 77401				
Good Samaritan Hospital Medical Center 1000 Montauk Highway West Islip, NY 11795	330286	05/18/2009	NY	ASMBS
St. Joseph Hospital 1100 West Stewart Drive Orange, CA 92868	050069	05/18/2009	CA	ASMBS
Borgess Medical Center 1521 Gull Road Kalamazoo, MI 49048	23-0117	05/28/2009	MI	ASMBS
UT Southwestern Medical Center 5909 Harry Hines Boulevard Dallas, TX 75235	45-0044	05/28/2009	TX	ACS
Brookdale University Hospital/ Medical Center 1 Brookdale Plaza New York, NY 11212	33-0233	06/05/2009	NY	ASMBS
Des Peres Hospital 2345 Dougherty Ferry Road St. Louis, MO 63122	75-269-5810	06/05/2009	MO	ASMBS
Surgical Weight Loss Program at Eastern Maine Medical Center 905 Union Street Suite 11 Bangor, ME 4401	1790789147	06/10/2009	ME	ACS
Baylor Medical Center at Frisco 5601 Warren Parkway Frisco, TX 75034	450853	06/22/2009	TX	ASMBS
Trinity Hospital of Augusta 1500 Johns Road Suite 3 Augusta, GA 30904	110039	06/29/2009	GA	ASMBS

The Nebraska Medical Center 988142 Nebraska Medical Center Omaha, NE 68198-8142	28-0013	06/29/2009	NE	ASMBS
Day Surgery at Renaissance DBA Doctors Hospital at Renaissance 5501 S. McColl Road Edinburg, TX 78539	450869	07/13/2009	TX	ASMBS
Gunderson Lutheran Medical 1900 South Avenue LaCrosse, WI 54601	1851343115	04/28/2009	WI	ACS
Princeton Baptist Medical Center 917 Tuscaloosa Avenue, SW Birmingham, AL 35211	1144312430	07/01/2009	AL	
Centegra Health System Memorial Medical Center 3701 Doty Road Woodstock, IL 60098	140176	08/14/2009	IL	ASMBS
Wesley Long Community Hospital 501 North Elam Avenue Greensboro, NC 27403-1199	1477591055	06/29/2009	NC	ACS
South Miami Hospital 3 East Tower Building, 6200 SW 73rd Street South Miami, FL 33143	100154	06/22/2009	FL	ASMBS
Castle Medical Center 640 Ulukahiki Street Kailua, HI 96734	120006	09/08/2009	HI	ASMBS
Advocate Good Samaritan Hospital 3815 Highland Avenue Downers Grove, IL 60515	140288	09/08/2009	IL	ASMBS

Sacred Heart Medical Center 3377 RiverBend Drive Springfield, OR 97477	380033	01/23/2008	OR	ASMBS
Holzer Weight Loss Solutions 100 Jackson Pike Gallipolis, OH 45631	3600542	09/30/2009	OH	ASMBS
Christus Schumpert Health System One St. Mary Place Shreveport, Louisiana 71101	190041	12/02/2005	LA	ASMBS
Day Surgery at Renaissance DBA Doctors Hospital at Renaissance 5501 S. McColl Road Edinburg, TX 78539	450869	07/13/2009	TX	ASMBS
Gunderson Lutheran Medical 1900 South Avenue LaCrosse, WI 54601	1851343115	04/28/2009	WI	ACS
Princeton Baptist Medical Center 917 Tuscaloosa Avenue, SW Birmingham, AL 35211	1144312430	07/01/2009	AL	
Centegra Health System Memorial Medical Center 3701 Doty Road Woodstock, IL 60098	140176	08/14/2009	IL	ASMBS
Wesley Long Community Hospital 501 North Elam Avenue Greensboro, NC 27403-1199	1477591055	06/29/2009	NC	ACS
South Miami Hospital 3 East Tower Building, 6200 SW 73 Street South Miami, FL 33143	100154	06/22/2009	FL	ASMBS
Castle Medical Center 640 Ulukahiki Street	120006	09/08/2009	HI	ASMBS

Kailua, HI 96734				
Advocate Good Samaritan Hospital 3815 Highland Avenue Downers Grove, IL 60515	140288	09/08/2009	IL	ASMBS
Sacred Heart Medical Center 3377 RiverBend Drive Springfield, OR 97477	380102	01/23/2008	OR	ASMBS
Holzer Weight Loss Solutions 100 Jackson Pike Gallipolis, OH 45631	3600542	09/30/2009	OH	ASMBS
Christus Schumpert Health System One St. Mary Place Shreveport, Louisiana 71101	190041	12/02/2005	LA	ASMBS
AnMed Health Medical Center 800 North Fant Street Anderson, SC 29621	420027	09/30/2009	SC	ASMBS
Sinai Hospital of Baltimore 2435 W. Belvedere Avenue Baltimore, MD 21215	1285672204	09/25/2009	MD	ACS
Maine Medical Center 10 Andover Road Portland, ME 04102-1954	6320255	09/28/2009	ME	ACS
Palmyra Medical Center 2000 Palmyra Road Albany, GA 31702-1908	110163	11/09/2009	GA	ASMBS
Fresno Heart and Surgical Hospital 15 East Audobon Drive Fresno, CA 93720	050732	09/30/2009	CA	ASMBS
Englewood Hospital and Medical Center 350 Engle Street Englewood, NJ 07631	310045	11/09/2009	NJ	ASMBS
Central Baptist Hospital	180103	11/17/2009	KY	ASMBS

1740 Nicholasville Road Lexington, KY 40503				
Providence Health Center 405 Londonderry, Suite 312 Waco, TX 76712	450042	11/17/2009	TX	ASMBS
Foundation Surgical Hospital 9522 Huebner San Antonio, TX 78420	670054	11/25/2009	TX	ASMBS
Middle Tennessee Medical Center 400 North Highland Avenue Murfreesboro, TN 37129	44-0053	11/17/2009	TN	ASMBS
Iowa Methodist Medical Center 6000 University Avenue West Des Moines, IA 50266	160082	12/16/2009	IA	ASMBS
Parkway Medical Center 1854 Beltline Road SW Decatur, AL 35601	01-0054	12/18/2009	AL	ASMBS
Texas Health Presbyterian Hospital Denton 3000 I-35 North Denton, TX 76201	45-0743	12/16/2009	TX	ASMBS
Catholic Medical Center 100 McGregor Street Manchester, NH 03102	30-0034	12/15/2009	NY	ASMBS
Wood County Hospital 950 West Wooster Street Bowling Green, OH 43402	36-0029	12/18/2009	OH	ASMBS
West Jefferson Medical Center 1101 Medical Center Boulevard Marrero, LA 70072	190039	12/29/2009	LA	ASMBS
Exempla Saint Joseph Hospital 1835 Franklin Street Denver, CO 80218	06-0028	12/15/2009	CO	ASMBS
Wise Regional Health System 800 Medical Center Drive	450271	01/08/2010	TX	ASMBS

Decatur, TX 76234				
Overlake Hospital Medical Center 1035 116th Avenue NE Bellevue, WA 98004	500051	01/08/2010	WA	ASMBS
Henry Ford Wyandotte Hospital 2333 Biddle Avenue Wyandotte, MI 48192	23-0146	01/15/2010	MI	ASMBS
Harlem Hospital Center 506 Lenox Avenue New York, NY 10037	330240	12/29/2009	NY	ASMBS
Flagstaff Medical Center 1200 North Beaver Street Flagstaff, AZ 86001	030023	11/17/2009	AZ	ASMBS;
Forest Health Medical Center 135 South Prospect Ypsilanti, MI 48198	230144	12/28/2009	MI	ASMBS
St. Luke's Hospital and Health Network 1736 Hamilton Street Allentown, PA 18104	39-0049	01/25/2010	PA	ASMBS
Lutheran Medical Center 150 55th Street Brooklyn, NY 11220b	330306	8/22/2005	NY	ASMBS
Saint Luke's Hospital of Kansas City 4401 Wornall Road Kansas City, MO	W19F145	01/2/2010	MO	ASMBS
North Shore Medical Center - Salem Hospital 81 Highland Avenue Salem, MA 01970	220035	12/11/2009	MA	ACS
Bellevue Hospital 550 First Avenue NBV 15 South 7 New York, NY 10016	1073535027	02/12/2010	NY	ASMBS

CentraState Medical Center 901 West Main Street Freehold, NJ 07728	31-0111	02/12/2010	NJ	ASMBS
Robert Wood Johnson University Hospital Hamilton 1 Hamilton Health Place Hamilton, NJ 08690	310110	02/12/2010	NJ	ASMBS
Carteret General Hospital 3500 Arendell Street Morehead City, NC 28557	34-0142	03/12/2010	NC	ASMBS
Saint Joseph's Hospital 1000 North Oak Avenue Marshfield, WI 54449-5777	520037	02/19/2010	WI	ASMBS
Blount Memorial Hospital 907 East Lamar Alexander Parkway Maryville, TN 37801	440011	7/6/2006	TN	ASMBS
McAllen Heart Hospital 1900 South D Street McAllen, TX 78503	45-0119	04/09/2010	TX	ASMBS
Texsan Heart Hospital 6700 IH 10 West San Antonio, TX 78201-2009	450878	04/09/2010	TX	ASMBS
West Virginia University - School of Medicine One Medical Center Drive Morgantown, WV 26506	NPI 1144487042	04/09/2010	WV	ASMBS
Methodist Hospital of Sacramento 7500 Hospital Drive Sacramento, CA 95823	050590	04/09/2010	CA	ASMBS
Mennonite General Hospital of Cayey dba Hospital Menonita Cayey PO Box 373130 Cayey, PR 00737-3130	400013	03/29/2010	PR	ASMBS

Portsmouth Regional Hospital 333 Borthwick Avenue Portsmouth, NH 03801	30-0029	04/09/2010	NH	ASMBS
Harford Memorial Hospital 421 South Union Ave, Suite 201 Havre de Grace, MD 21078	1770589533	12/22/2009	MD	ACS
Windber Medical Center 600 Somerset Avenue Windber, PA 15963	36-0180	04/30/2010	PA	ASMBS

Addendum XVI—FDG–PET for Dementia and Neurodegenerative Diseases Clinical Trials

In a National Coverage Determination for fluorodeoxyglucose positron emission tomography (FDG–PET) for Dementia and Neurodegenerative Diseases (220.6.13) we indicated that an FDG–PET scan is considered reasonable and necessary in patients with mild cognitive impairment or early dementia only in the context of an approved clinical trial that contains patient safeguards and protections to ensure proper administration, use, and evaluation of the FDG–PET scan.

Facility name	Provider No.	Date approved	State	Name of trial	Principal investigator
UCLA Medical Center 10833 Le Conte Avenue Los Angeles, CA 90095	HW13029	06/07/2006	CA	Early and Long-Term Value of Imaging Brain Metabolism.	Dr. Daniel Silverman.
Santa Monica-UCLA Medical Center. 1245 16th Street Suite 105 Santa Monica, CA 90404	W11817A	01/12/2007	CA	N/A	N/A.
University of Buffalo 3435 Main Street Buffalo, NY 14214	14414A	03/12/2007	NY	Metabolic Cerebral Imaging in Incipient Dementia (MCI–ID).	Dr. Daniel Silverman.
Center for Alzheimer's Care, Imaging and Research (University of Utah). 650 Komas Drive Suite 106–A Salt Lake City, UT 84108	460009	02/17/2009	UT	Metabolic Cerebral Imaging in Incipient Dementia (MCI–ID).	Norman Foster, M.D.
Medical University of South Carolina. 169 Ashley Avenue PO Box 250322 Charleston, SC 29425	1073605879	02/17/2009	SC	N/A	Kenneth Spicer.
Cedars-Sinai Medical Center 8700 Beverly Boulevard Nuc Suite 1239 Los Angeles, CA 90048	951644600	10/09/2009	CA	"Early and Long-term Value of Imaging Brain Metabolism".	Dr. Alan Waxman.

[FR Doc. 2010–15257 Filed 6–25–10; 8:45 am]

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Federal Register

Monday,
June 28, 2010

Part III

Department of the Treasury

Internal Revenue Service

26 CFR Parts 54 and 602

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2590

Department of Health and Human Services

45 CFR Parts 144, 146, and 147

Patient Protection and Affordable Care Act; Requirements for Group Health Plans and Health Insurance Issuers Under the Patient Protection and Affordable Care Act Relating to Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections; Final Rule and Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 54 and 602

[TD 9491]

RIN 1545–BJ61

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AB43

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OCIIO–9994–IFC]

45 CFR Parts 144, 146, and 147

RIN 0991–AB69

Patient Protection and Affordable Care Act: Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections

AGENCIES: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Office of Consumer Information and Insurance Oversight, Department of Health and Human Services.

ACTION: Interim final rules with request for comments.

SUMMARY: This document contains interim final regulations implementing the rules for group health plans and health insurance coverage in the group and individual markets under provisions of the Patient Protection and Affordable Care Act regarding preexisting condition exclusions, lifetime and annual dollar limits on benefits, rescissions, and patient protections.

DATES: *Effective Date.* These interim final regulations are effective on August 27, 2010.

Comment Date. Comments are due on or before August 27, 2010.

Applicability Dates:

1. *Group health plans and group health insurance coverage.* These interim final regulations, except those under Public Health Service Act (PHS Act) section 2704 (26 CFR 54.9815–2704T, 29 CFR 2590.715–2704, 45 CFR 147.108), generally apply to group health plans and group health insurance issuers for plan years beginning on or after September 23, 2010. These interim final regulations under PHS Act section 2704 (26 CFR 54.9815–2704T, 29 CFR 2590.715–2704, 45 CFR 147.108) generally apply for plan years beginning on or after January 1, 2014, except that in the case of individuals who are under 19 years of age, these interim final regulations under PHS Act section 2704 apply for plan years beginning on or after September 23, 2010.

2. *Individual health insurance coverage.* These interim final regulations, except those under PHS Act section 2704 (45 CFR 147.108), generally apply to individual health insurance issuers for policy years beginning on or after September 23, 2010. These interim final regulations under PHS Act section 2704 (45 CFR 147.108) generally apply to individual health insurance issuers for policy years beginning on or after January 1, 2014, except that in the case of enrollees who are under 19 years of age, these interim final regulations under PHS Act section 2704 apply for policy years beginning on or after September 23, 2010.

ADDRESSES: Written comments may be submitted to any of the addresses specified below. Any comment that is submitted to any Department will be shared with the other Departments. Please do not submit duplicates.

All comments will be made available to the public. **Warning:** Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are posted on the Internet exactly as received, and can be retrieved by most Internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously.

Department of Labor. Comments to the Department of Labor, identified by RIN 1210–AB43, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: E-OHPSCA715.EBSA@dol.gov.*
- *Mail or Hand Delivery:* Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Room N–5653, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, *Attention:* RIN 1210–AB43.

Comments received by the Department of Labor will be posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* and available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

Department of Health and Human Services. In commenting, please refer to file code OCIIO–9994–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

- *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions under the "More Search Options" tab.
- *By regular mail.* You may mail written comments to the following address ONLY: Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, Attention: OCIIO–9994–IFC, P.O. Box 8016, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

- *By express or overnight mail.* You may send written comments to the following address ONLY: Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, Attention: OCIIO–9994–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.
- *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:
  - For delivery in Washington, DC—Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the OCIIO drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

  - For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call (410) 786–7195 in advance to

schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Submission of comments on paperwork requirements. You may submit comments on this document's paperwork requirements by following the instructions at the end of the "Collection of Information Requirements" section in this document.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. EST. To schedule an appointment to view public comments, phone 1–800–743–3951.

Internal Revenue Service. Comments to the IRS, identified by REG–120399–10, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* CC:PA:LPD:PR (REG–120399–10), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.
- *Hand or courier delivery:* Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–120399–10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington DC 20224.

All submissions to the IRS will be open to public inspection and copying in Room 1621, 1111 Constitution Avenue, NW., Washington, DC from 9 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Beth Baum, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 622–6080; Jim Mayhew, Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, at (410) 786–1565. *Customer Service Information:* Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*http://www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS) Web site (*http://www.cms.hhs.gov/HealthInsReformforConsume/01_Overview.asp*) and information on health reform can be found at *http://www.healthreform.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act (the Affordable Care Act), Public Law 111–148, was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (the Reconciliation Act), Public Law 111–152, was enacted on March 30, 2010. The Affordable Care Act and the Reconciliation Act reorganize, amend, and add to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. The term "group health plan" includes both insured and self-insured group health plans.[1] The Affordable Care Act adds section 715(a)(1) to the Employee Retirement Income Security Act (ERISA) and section 9815(a)(1) to the Internal Revenue Code (the Code) to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, and make them applicable to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans. The PHS Act sections incorporated by this reference are sections 2701 through 2728. PHS Act sections 2701 through 2719A are substantially new, though they incorporate some provisions of prior law. PHS Act sections 2722 through 2728 are sections of prior law renumbered, with some, mostly minor, changes.

Subtitles A and C of title I of the Affordable Care Act amend the requirements of title XXVII of the PHS Act (changes to which are incorporated into ERISA section 715). The preemption provisions of ERISA section 731 and PHS Act section 2724[2] (implemented in 29 CFR 2590.731(a) and 45 CFR 146.143(a)) apply so that the requirements of part 7 of ERISA and title XXVII of the PHS Act, as amended by the Affordable Care Act, are not to be "construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group or individual health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement" of the Affordable Care Act. Accordingly, State laws that impose on health insurance issuers requirements that are stricter than the requirements imposed by the Affordable Care Act will not be superseded by the Affordable Care Act.

The Departments of Health and Human Services, Labor, and the Treasury (the Departments) are issuing regulations in several phases implementing the revised PHS Act sections 2701 through 2719A and related provisions of the Affordable Care Act. The first phase in this series was a pair of publications consisting of a Request for Information relating to the medical loss ratio provisions of PHS Act section 2718 and a Request for Information relating to the rate review process of PHS Act 2794, both published in the **Federal Register** on April 14, 2010 (75 FR 19297 and 19335). The second phase was interim final regulations implementing PHS Act section 2714 (requiring coverage of adult children to age 26), published in the **Federal Register** on May 13, 2010 (75 FR 27122). The third phase was interim final regulations implementing section 1251 of the Affordable Care Act (relating to status as a grandfathered health plan), published in the **Federal Register** on June 17, 2010 (75 FR 34538). These interim final regulations are being published to implement PHS Act sections 2704 (prohibiting preexisting condition exclusions), 2711 (regarding lifetime and annual dollar limits on benefits), 2712 (regarding restrictions on rescissions), and 2719A (regarding patient protections). PHS Act section 2704 generally is effective for plan years (in the individual market, policy years) beginning on or after January 1, 2014.

[1] The term "group health plan" is used in title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, and is distinct from the term "health plan," as used in other provisions of title I of the Affordable Care Act. The term "health plan" does not include self-insured group health plans.

[2] Code section 9815 incorporates the preemption provisions of PHS Act section 2724. Prior to the Affordable Care Act, there were no express preemption provisions in chapter 100 of the Code.

However, with respect to enrollees, including applicants for enrollment, who are under 19 years of age, PHS Act section 2704 is effective for plan years beginning on or after September 23, 2010 (which is six months after the March 23, 2010 date of enactment of the Affordable Care Act); or in the case of individual health insurance coverage, for policy years beginning, or applications denied, on or after September 23, 2010.[3] The rest of these provisions generally are effective for plan years (in the individual market, policy years) beginning on or after September 23, 2010. The implementation of other provisions of PHS Act sections 2701 through 2719A will be addressed in future regulations.

II. Overview of the Regulations

A. PHS Act Section 2704, Prohibition of Preexisting Condition Exclusions (26 CFR 54.9815–2704T, 29 CFR 2590.715–2704, 45 CFR 147.108)

Section 1201 of the Affordable Care Act adds a new PHS Act section 2704, which amends the HIPAA [4] rules relating to preexisting condition exclusions to provide that a group health plan and a health insurance issuer offering group or individual health insurance coverage may not impose any preexisting condition exclusion. The HIPAA rules (in effect prior to the effective date of these amendments) apply only to group health plans and group health insurance coverage, and permit limited exclusions of coverage based on a preexisting condition under certain circumstances. The Affordable Care Act provision prohibits any preexisting condition exclusion from being imposed by group health plans or group health insurance coverage and extends this protection to individual health insurance coverage. This prohibition generally is effective with respect to plan years (in the individual market, policy years) beginning on or after January 1, 2014, but for enrollees who are under 19 years of age, this prohibition becomes effective for plan years (in the individual market, policy years) beginning on or after September 23, 2010. Until the new Affordable Care Act rules take effect, the HIPAA rules regarding preexisting condition exclusions continue to apply.

HIPAA generally defines a preexisting condition exclusion [5] as a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for the coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date. Based on this definition, PHS Act section 2704, as added by the Affordable Care Act, prohibits not just an exclusion of coverage of specific benefits associated with a preexisting condition in the case of an enrollee, but a complete exclusion from such plan or coverage, if that exclusion is based on a preexisting condition.

The protections in the new PHS Act section 2704 generally apply for plan years (in the individual market, policy years) beginning on or after January 1, 2014. The Affordable Care Act provides, however, that these protections apply with respect to enrollees under age 19 for plan years (in the individual market, policy years) beginning on or after September 23, 2010. An enrollee under age 19 thus could not be denied benefits based on a preexisting condition. In order for an individual seeking enrollment to receive the same protection that applies in the case of such an enrollee, the individual similarly could not be denied enrollment or specific benefits based on a preexisting condition. Thus, for plan years (in the individual market, policy years) beginning on or after September 23, 2010, PHS Act section 2704 protects individuals under age 19 with a preexisting condition from being denied coverage under a plan or health insurance coverage (through denial of enrollment or denial of specific benefits) based on the preexisting condition.

These interim final regulations do not change the HIPAA rule that an exclusion of benefits for a condition under a plan or policy is not a preexisting condition exclusion if the exclusion applies regardless of when the condition arose relative to the effective date of coverage. This point is illustrated with examples in the HIPAA regulations on preexisting condition exclusions, which remain in effect.[6] (Other requirements of Federal or State law, however, may prohibit certain benefit exclusions.)

Application to grandfathered health plans. Under the statute and these interim final regulations, a grandfathered health plan that is a group health plan or group health insurance coverage must comply with the PHS Act section 2704 prohibition against preexisting condition exclusions; however, a grandfathered health plan that is individual health insurance coverage is not required to comply with PHS Act section 2704. See 26 CFR 54.9815–1251T, 29 CFR 2590.715–1251, and 45 CFR 147.140 regarding status as a grandfathered health plan.

B. PHS Act Section 2711, Lifetime and Annual Limits (26 CFR 54.9815–2711T, 29 CFR 2590.715–2711, 45 CFR 147.126)

Section 2711 of the PHS Act, as added by the Affordable Care Act, and these interim final regulations generally prohibit group health plans and health insurance issuers offering group or individual health insurance coverage from imposing lifetime or annual limits on the dollar value of health benefits.

The restriction on annual limits applies differently to certain account-based plans, especially where other rules apply to limit the benefits available. For example, under section 9005 of the Affordable Care Act, salary reduction contributions for health flexible spending arrangements (health FSAs) are specifically limited to $2,500 (indexed for inflation) per year, beginning with taxable years in 2013. These interim final regulations provide that the PHS Act section 2711 annual limit rules do not apply to health FSAs. The restrictions on annual limits also do not apply to Medical Savings Accounts (MSAs) under section 220 of the Code and Health Savings Accounts (HSAs) under section 223 of the Code. Both MSAs and HSAs generally are not treated as group health plans because the amounts available under the plans are available for both medical and non-medical expenses.[7] Moreover, annual contributions to MSAs and HSAs are subject to specific statutory provisions that require that the contributions be limited.

Health Reimbursement Arrangements (HRAs) are another type of account-based health plan and typically consist of a promise by an employer to reimburse medical expenses for the year up to a certain amount, with unused amounts available to reimburse medical expenses in future years. *See* Notice 2002–45, 2002–28 IRB 93; Rev. Rul. 2002–41, 2002–28 IRB 75. When HRAs are integrated with other coverage as part of a group health plan and the other coverage alone would comply with the

[3] Section 1255 of the Affordable Care Act. *See also* section 10103(e)–(f) of the Affordable Care Act.

[4] HIPAA is the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191).

[5] Before the amendments made by the Affordable Care Act, PHS Act section 2701(b)(1); after the amendments made by the Affordable Care Act, PHS Act section 2704(b)(1). *See also* ERISA section 701(b)(1) and Code section 9801(b)(1).

[6] *See* Examples 6, 7, and 8 in 26 CFR 54.9801–3(a)(1)(ii), 29 CFR 701–3(a)(1)(ii), 45 CFR 146.111(a)(1)(ii).

[7] Distributions from MSAs and HSAs that are not used for qualified medical expenses are included in income and subject to an additional tax, under sections 220(f)(1), (4) and 223(f)(1), (4) of the Code.

requirements of PHS Act section 2711, the fact that benefits under the HRA by itself are limited does not violate PHS Act section 2711 because the combined benefit satisfies the requirements. Also, in the case of a stand-alone HRA that is limited to retirees, the exemption from the requirements of ERISA and the Code relating to the Affordable Care Act for plans with fewer than two current employees means that the retiree-only HRA is generally not subject to the rules in PHS Act section 2711 relating to annual limits. The Departments request comments regarding the application of PHS Act section 2711 to stand-alone HRAs that are not retiree-only plans.

The statute prohibits annual limits on the dollar value of benefits generally, but allows "restricted annual limits" with respect to essential health benefits (as defined in section 1302(b) of the Affordable Care Act) for plan years (in the individual market, policy years) beginning before January 1, 2014. Grandfathered individual market policies are exempted from this provision. In addition, the statute provides that, with respect to benefits that are not essential health benefits, a plan or issuer may impose annual or lifetime per-individual dollar limits on specific covered benefits. These interim final regulations define "essential health benefits" by cross-reference to section 1302(b) of the Affordable Care Act [8] and applicable regulations. Regulations under section 1302(b) of the Affordable Care Act have not yet been issued.

For plan years (in the individual market, policy years) beginning before the issuance of regulations defining "essential health benefits", for purposes of enforcement, the Departments will take into account good faith efforts to comply with a reasonable interpretation of the term "essential health benefits". For this purpose, a plan or issuer must apply the definition of essential health benefits consistently. For example, a plan could not both apply a lifetime limit to a particular benefit—thus taking the position that it was not an essential health benefit—and at the same time treat that particular benefit as an essential health benefit for purposes of applying the restricted annual limit.

[8] Section 1302(b) of the Affordable Care Act defines essential health benefits to "include at least the following general categories and the items and services covered within the categories: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care."

These interim final regulations clarify that the prohibition under PHS Act section 2711 does not prevent a plan or issuer from excluding all benefits for a condition, but if any benefits are provided for a condition, then the requirements of the rule apply. Therefore, an exclusion of all benefits for a condition is not considered to be an annual or lifetime dollar limit.

The statute and these interim final regulations provide that for plan years (in the individual market, policy years) beginning before January 1, 2014, group health plans and health insurance issuers offering group or individual health insurance coverage may establish a restricted annual limit on the dollar value of essential health benefits. The statute provides that in defining the term restricted annual limit, the Departments should ensure that access to needed services is made available with a minimal impact on premiums. For a detailed discussion of the basis for determining restricted annual limits, see section IV.B.3 later in this preamble.

In order to mitigate the potential for premium increases for all plans and policies, while at the same time ensuring access to essential health benefits, these interim final regulations adopt a three-year phased approach for restricted annual limits. Under these interim final regulations, annual limits on the dollar value of benefits that are essential health benefits may not be less than the following amounts for plan years (in the individual market, policy years) beginning before January 1, 2014:

- For plan or policy years beginning on or after September 23, 2010 but before September 23, 2011, $750,000;
- For plan or policy years beginning on or after September 23, 2011 but before September 23, 2012, $1.25 million; and
- For plan or policy years beginning on or after September 23, 2012 but before January 1, 2014, $2 million.

As these are minimums for plan years (in the individual market, policy years) beginning before 2014, plans or issuers may use higher annual limits or impose no limits. Plans and policies with plan or policy years that begin between September 23 and December 31 have more than one plan or policy year under which the $2 million minimum annual limit is available; however, a plan or policy generally may not impose an annual limit for a plan year (in the individual market, policy year) beginning after December 31, 2013.

The minimum annual limits for plan or policy years beginning before 2014 apply on an individual-by-individual basis. Thus, any overall annual dollar limit on benefits applied to families may not operate to deny a covered individual the minimum annual benefits for the plan year (in the individual market, policy year). These interim final regulations clarify that, in applying annual limits for plan years (in the individual market, policy years) beginning before January 1, 2014, the plan or health insurance coverage may take into account only essential health benefits.

The restricted annual limits provided in these interim final regulations are designed to ensure, in the vast majority of cases, that individuals would have access to needed services with a minimal impact on premiums. So that individuals with certain coverage, including coverage under a limited benefit plan or so-called "mini-med" plans, would not be denied access to needed services or experience more than a minimal impact on premiums, these interim final regulations provide for the Secretary of Health and Human Services to establish a program under which the requirements relating to restricted annual limits may be waived if compliance with these interim final regulations would result in a significant decrease in access to benefits or a significant increase in premiums. Guidance from the Secretary of Health and Human Services regarding the scope and process for applying for a waiver is expected to be issued in the near future.

Under these interim final regulations, individuals who reached a lifetime limit under a plan or health insurance coverage prior to the applicability date of these interim final regulations and are otherwise still eligible under the plan or health insurance coverage must be provided with a notice that the lifetime limit no longer applies. If such individuals are no longer enrolled in the plan or health insurance coverage, these interim final regulations also provide an enrollment (in the individual market, reinstatement) opportunity for such individuals. In the individual market, this reinstatement opportunity does not apply to individuals who reached their lifetime limits on individual health insurance coverage if the contract is not renewed or otherwise is no longer in effect. It would apply, however, to a family member who reached the lifetime limit in a family policy in the individual market while other family members remain in the coverage. These notices and the enrollment opportunity must be provided beginning not later than the first day of the first plan year (in the individual market, policy year) beginning on or after September 23, 2010. Anyone eligible for an enrollment

opportunity must be treated as a special enrollee.[9] That is, they must be given the right to enroll in all of the benefit packages available to similarly situated individuals upon initial enrollment.

Application to grandfathered health plans. The statute and these interim final regulations relating to the prohibition on lifetime limits apply to all group health plans and health insurance issuers offering group or individual health insurance coverage, whether or not the plan qualifies as a grandfathered health plan, for plan years (in the individual market, policy years) beginning on or after September 23, 2010. The statute and these interim final regulations relating to the prohibition on annual limits, including the special rules regarding restricted annual limits for plan years beginning before January 1, 2014, apply to group health plans and group health insurance coverage that qualify as a grandfathered health plan, but do not apply to grandfathered health plans that are individual health insurance coverage. The interim final regulations issued under section 1251 of the Affordable Care Act provide that:

- A plan or health insurance coverage that, on March 23, 2010, did not impose an overall annual or lifetime limit on the dollar value of all benefits ceases to be a grandfathered health plan if the plan or health insurance coverage imposes an overall annual limit on the dollar value of benefits.
- A plan or health insurance coverage, that, on March 23, 2010, imposed an overall lifetime limit on the dollar value of all benefits but no overall annual limit on the dollar value of all benefits ceases to be a grandfathered health plan if the plan or health insurance coverage adopts an overall annual limit at a dollar value that is lower than the dollar value of the lifetime limit on March 23, 2010.
- A plan or health insurance coverage that, on March 23, 2010, imposed an overall annual limit on the dollar value of all benefits ceases to be a grandfathered health plan if the plan or health insurance coverage decreases the dollar value of the annual limit (regardless of whether the plan or health insurance coverage also imposed an overall lifetime limit on March 23, 2010 on the dollar value of all benefits).

C. PHS Act Section 2712, Prohibition on Rescissions (26 CFR 54.9815–2712T, 29 CFR 2590.715–2712, 45 CFR 147.128)

PHS Act section 2712 provides rules regarding rescissions of health coverage for group health plans and health insurance issuers offering group or individual health insurance coverage. Under the statute and these interim final regulations, a group health plan, or a health insurance issuer offering group or individual health insurance coverage, must not rescind coverage except in the case of fraud or an intentional misrepresentation of a material fact. This standard sets a Federal floor and is more protective of individuals with respect to the standard for rescission than the standard that might have previously existed under State insurance law or Federal common law. That is, under prior law, rescission may have been permissible if an individual made a misrepresentation of material fact, even if the misrepresentation was not intentional or made knowingly. Under the new standard for rescissions set forth in PHS Act section 2712 and these interim final regulations, plans and issuers cannot rescind coverage unless an individual was involved in fraud or made an intentional misrepresentation of material fact. This standard applies to all rescissions, whether in the group or individual insurance market, and whether insured or self-insured coverage. These rules also apply regardless of any contestability period that may otherwise apply.

This provision in PHS Act section 2712 builds on already-existing protections in PHS Act sections 2703(b) and 2742(b) regarding cancellations of coverage. These provisions generally provide that a health insurance issuer in the group and individual markets cannot cancel, or fail to renew, coverage for an individual or a group for any reason other than those enumerated in the statute (that is, nonpayment of premiums; fraud or intentional misrepresentation of material fact; withdrawal of a product or withdrawal of an issuer from the market; movement of an individual or an employer outside the service area; or, for bona fide association coverage, cessation of association membership). Moreover, this new provision also builds on existing HIPAA nondiscrimination protections for group health coverage in ERISA section 702, Code section 9802, and PHS Act section 2705 (previously included in PHS Act section 2702 prior to the Affordable Care Act's amendments and reorganization to PHS Act title XXVII). The HIPAA nondiscrimination provisions generally provide that group health plans and group health insurance issuers may not set eligibility rules based on factors such as health status and evidence of insurability—including acts of domestic violence or disability. They also provide limits on the ability of plans and issuers to vary premiums and contributions based on health status. For policy years beginning on or after January 1, 2014, additional protections will apply in the individual market, including guaranteed issue of all products, nondiscrimination based on health status, and no preexisting condition exclusions. These protections will reduce the likelihood of rescissions.

These interim final regulations also clarify that other requirements of Federal or State law may apply in connection with a rescission or cancellation of coverage beyond the standards established in PHS Act section 2712, if they are more protective of individuals. For example, if a State law applicable to health insurance issuers were to provide that rescissions are permitted only in cases of fraud, or only within a contestability period, which is more protective of individuals, such a law would not conflict with, or be preempted by, the Federal standard and would apply.

These interim final regulations include several clarifications regarding the standards for rescission in PHS Act section 2712. First, these interim final regulations clarify that the rules of PHS Act section 2712 apply whether the rescission applies to a single individual, an individual within a family, or an entire group of individuals. Thus, for example, if an issuer attempted to rescind coverage of an entire employment-based group because of the actions of an individual within the group, the standards of these interim final regulations would apply. Second, these interim final regulations clarify that the rules of PHS Act section 2712 apply to representations made by the individual or a person seeking coverage on behalf of the individual. Thus, if a plan sponsor seeks coverage from an issuer for an entire employment-based group and makes representations, for example, regarding the prior claims experience of the group, the standards of these interim final regulations would also apply. Finally, PHS Act section 2712 refers to acts or practices that constitute fraud. These interim final regulations clarify that, to the extent that an omission constitutes fraud, that omission would permit the plan or issuer to rescind coverage under this section. An example in these interim final regulations illustrates the application of the rule to misstatements of fact that are inadvertent.

For purposes of these interim final regulations, a rescission is a cancellation or discontinuance of

[9] *See* 26 CFR 54.9801–6(d), 29 CFR 2590.701–6(d), and 45 CFR 146.117(d).

coverage that has retroactive effect. For example, a cancellation that treats a policy as void from the time of the individual's or group's enrollment is a rescission. As another example, a cancellation that voids benefits paid up to a year before the cancellation is also a rescission for this purpose. A cancellation or discontinuance of coverage with only a prospective effect is not a rescission, and neither is a cancellation or discontinuance of coverage that is effective retroactively to the extent it is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage. Cancellations of coverage are addressed under other Federal and State laws, including section PHS Act section 2703(b) and 2742(b), which limit the grounds for cancellation or non-renewal of coverage, as discussed above. Moreover, PHS Act section 2719, as added by the Affordable Care Act and incorporated in ERISA section 715 and Code section 9815, addresses appeals of coverage determinations and includes provisions for keeping coverage in effect pending an appeal. The Departments expect to issue guidance on PHS Act section 2719 in the very near future.

In addition to setting a new Federal floor standard for rescissions, PHS Act section 2712 adds a new advance notice requirement when coverage is rescinded where still permissible. Specifically, the second sentence in section 2712 provides that coverage may not be cancelled unless prior notice is provided. These interim final regulations provide that a group health plan, or a health insurance issuer offering group health insurance coverage, must provide at least 30 calendar days advance notice to an individual before coverage may be rescinded.[10] The notice must be provided regardless of whether the rescission is of group or individual coverage; or whether, in the case of group coverage, the coverage is insured or self-insured, or the rescission applies to an entire group or only to an individual within the group. This 30-day period will provide individuals and plan sponsors with an opportunity to explore their rights to contest the rescission, or look for alternative coverage, as appropriate. The Departments expect to issue future guidance on any notice requirements under PHS Act section 2712 for cancellations of coverage other than in the case of rescission.

In this new Federal statutory protection against rescissions, the Affordable Care Act provides new rights to individuals who, for example, may have done their best to complete what can sometimes be long, complex enrollment questionnaires but may have made some errors, for which the consequences were overly broad and unfair. These interim final regulations provide initial guidance with respect to the statutory restrictions on rescission. If the Departments become aware of attempts in the marketplace to subvert these rules, the Departments may issue additional regulations or administrative guidance to ensure that individuals do not lose health coverage unjustly or without due process.

Application to grandfathered health plans. The rules regarding rescissions and advance notice apply to all grandfathered health plans.

D. PHS Act Section 2719A, Patient Protections (26 CFR 54.9815–2719AT, 29 CFR 2590.715–2719A, 45 CFR 147.138)

Section 2719A of the PHS Act imposes, with respect to a group health plan, or group or individual health insurance coverage, a set of three requirements relating to the choice of a health care professional and requirements relating to benefits for emergency services. The three requirements relating to the choice of health care professional apply only with respect to a plan or health insurance coverage with a network of providers.[11] Thus, a plan or issuer that has not negotiated with any provider for the delivery of health care but merely reimburses individuals covered under the plan for their receipt of health care is not subject to the requirements relating to the choice of a health care professional. However, such plans or health insurance coverage are subject to requirements relating to benefits for emergency services. These interim final regulations reorder the statutory requirements so that all three of the requirements relating to the choice of a health care professional are together and add a notice requirement for those three requirements. None of these requirements apply to grandfathered health plans.

1. Choice of Health Care Professional

The statute and these interim final regulations provide that if a group health plan, or a health insurance issuer offering group or individual health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer must permit each participant, beneficiary, or enrollee to designate any participating primary care provider who is available to accept the participant, beneficiary, or enrollee. Under these interim final regulations, the plan or issuer must provide a notice informing each participant (or in the individual market, the primary subscriber) of the terms of the plan or health insurance coverage regarding designation of a primary care provider.

The statute and these interim final regulations impose a requirement for the designation of a pediatrician similar to the requirement for the designation of a primary care physician. Specifically, if a plan or issuer requires or provides for the designation of a participating primary care provider for a child by a participant, beneficiary, or enrollee, the plan or issuer must permit the designation of a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if the provider participates in the network of the plan or issuer and is available to accept the child. In such a case, the plan or issuer must comply with the notice requirements with respect to designation of a primary care provider. The general terms of the plan or health insurance coverage regarding pediatric care otherwise are unaffected, including any exclusions with respect to coverage of pediatric care.

The statute and these interim final regulations also provide rules for a group health plan, or a health insurance issuer offering group or individual health insurance coverage, that provides coverage for obstetrical or gynecological care and requires the designation of an in-network primary care provider. In such a case, the plan or issuer may not require authorization or referral by the plan, issuer, or any person (including a primary care provider) for a female participant, beneficiary, or enrollee who seeks obstetrical or gynecological care provided by an in-network health care professional who specializes in obstetrics or gynecology. The plan or issuer must inform each participant (in the individual market, primary subscriber) that the plan or issuer may not require authorization or referral for obstetrical or gynecological care by a participating health care professional

[10] Even though prior notice must be provided in the case of a rescission, applicable law may permit the rescission to void coverage retroactively.

[11] The statute and these interim final regulations refer to providers both in terms of their participation (participating provider) and in terms of a network (in-network provider). In both situations, the intent is to refer to a provider that has a contractual relationship or other arrangement with a plan or issuer.

who specializes in obstetrics or gynecology. Nothing in these interim final regulations precludes the plan or issuer from requiring an in-network obstetrical or gynecological provider to otherwise adhere to policies and procedures regarding referrals, prior authorization for treatments, and the provision of services pursuant to a treatment plan approved by the plan or issuer. The plan or issuer must treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, by the professional who specializes in obstetrics or gynecology as the authorization of the primary care provider. For this purpose, a health care professional who specializes in obstetrics or gynecology is any individual who is authorized under applicable State law to provide obstetrical or gynecological care, and is not limited to a physician.

The general terms of the plan or coverage regarding exclusions of coverage with respect to obstetrical or gynecological care are otherwise unaffected. These interim final regulations do not preclude the plan or issuer from requiring that the obstetrical or gynecological provider notify the primary care provider or the plan or issuer of treatment decisions.

When applicable, it is important that individuals enrolled in a plan or health insurance coverage know of their rights to (1) choose a primary care provider or a pediatrician when a plan or issuer requires designation of a primary care physician; or (2) obtain obstetrical or gynecological care without prior authorization. Accordingly, these interim final regulations require such plans and issuers to provide a notice to participants (in the individual market, primary subscribers) of these rights when applicable. Model language is provided in these interim final regulations. The notice must be provided whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage, or in the individual market, provides a primary subscriber with a policy, certificate, or contract of health insurance.

2. Emergency Services

If a plan or health insurance coverage provides any benefits with respect to emergency services in an emergency department of a hospital, the plan or issuer must cover emergency services in a way that is consistent with these interim final regulations. These interim final regulations require that a plan or health insurance coverage providing emergency services must do so without the individual or the health care provider having to obtain prior authorization (even if the emergency services are provided out of network) and without regard to whether the health care provider furnishing the emergency services is an in-network provider with respect to the services. The emergency services must be provided without regard to any other term or condition of the plan or health insurance coverage other than the exclusion or coordination of benefits, an affiliation or waiting period permitted under part 7 of ERISA, part A of title XXVII of the PHS Act, or chapter 100 of the Code, or applicable cost-sharing requirements. For a plan or health insurance coverage with a network of providers that provides benefits for emergency services, the plan or issuer may not impose any administrative requirement or limitation on benefits for out-of-network emergency services that is more restrictive than the requirements or limitations that apply to in-network emergency services.

Additionally, for a plan or health insurance coverage with a network, these interim final regulations provide rules for cost-sharing requirements for emergency services that are expressed as a copayment amount or coinsurance rate, and other cost-sharing requirements. Cost-sharing requirements expressed as a copayment amount or coinsurance rate imposed for out-of-network emergency services cannot exceed the cost-sharing requirements that would be imposed if the services were provided in-network. Out-of-network providers may, however, also balance bill patients for the difference between the providers' charges and the amount collected from the plan or issuer and from the patient in the form of a copayment or coinsurance amount. Section 1302(c)(3)(B) of the Affordable Care Act excludes such balance billing amounts from the definition of cost sharing, and the requirement in section 2719A(b)(1)(C)(ii)(II) that cost sharing for out-of-network services be limited to that imposed in network only applies to cost sharing expressed as a copayment or coinsurance rate.

Because the statute does not require plans or issuers to cover balance billing amounts, and does not prohibit balance billing, even where the protections in the statute apply, patients may be subject to balance billing. It would defeat the purpose of the protections in the statute if a plan or issuer paid an unreasonably low amount to a provider, even while limiting the coinsurance or copayment associated with that amount to in-network amounts. To avoid the circumvention of the protections of PHS Act section 2719A, it is necessary that a reasonable amount be paid before a patient becomes responsible for a balance billing amount. Thus, these interim final regulations require that a reasonable amount be paid for services by some objective standard. In establishing the reasonable amount that must be paid, the Departments had to account for wide variation in how plans and issuers determine both in-network and out-of-network rates. For example, for a plan using a capitation arrangement to determine in-network payments to providers, there is no in-network rate per service. Accordingly, these interim final regulations consider three amounts: the in-network rate, the out-of-network rate, and the Medicare rate. Specifically, a plan or issuer satisfies the copayment and coinsurance limitations in the statute if it provides benefits for out-of-network emergency services in an amount equal to the greatest of three possible amounts—

(1) The amount negotiated with in-network providers for the emergency service furnished;

(2) The amount for the emergency service calculated using the same method the plan generally uses to determine payments for out-of-network services (such as the usual, customary, and reasonable charges) but substituting the in-network cost-sharing provisions for the out-of-network cost-sharing provisions; or

(3) The amount that would be paid under Medicare for the emergency service.[12] Each of these three amounts is calculated excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee.

For plans and health insurance coverage under which there is no per-service amount negotiated with in-network providers (such as under a capitation or other similar payment arrangement), the first amount above is disregarded, meaning that the greatest amount is going to be either the out-of-network amount or the Medicare amount. Additionally, with respect to determining the first amount, if a plan or issuer has more than one negotiated amount with in-network providers for a particular emergency service, the amount is the median of these amounts, treating the amount negotiated with each provider as a separate amount in determining the median. Thus, for example, if for a given emergency

[12] As of the date of publication of these interim final regulations, these rates are available to the public at *http://www.cms.hhs.gov/MedicareAdvtgSpecRateStats/downloads/oon-payments.pdf.*

service a plan negotiated a rate of $100 with three providers, a rate of $125 with one provider, and a rate of $150 with one provider; the amounts taken into account to determine the median would be $100, $100, $100, $125, and $150; and the median would be $100. Following the commonly accepted definition of median, if there are an even number of amounts, the median is the average of the middle two. (Cost sharing imposed with respect to the participant, beneficiary, or enrollee would be deducted from this amount before determining the greatest of the three amounts above.)

The second amount above is determined without reduction for out-of-network cost sharing that generally applies under the plan or health insurance coverage with respect to out-of-network services. Thus, for example, if a plan generally pays 70 percent of the usual, customary, and reasonable amount for out-of-network services, the second amount above for an emergency service is the total (that is, 100 percent) of the usual, customary, and reasonable amount for the service, not reduced by the 30 percent coinsurance that would generally apply to out-of-network services (but reduced by the in-network copayment or coinsurance that the individual would be responsible for if the emergency service had been provided in-network).

Although a plan or health insurance coverage is generally not constrained by the requirements of PHS Act section 2719A for cost-sharing requirements other than copayments or coinsurance, these interim final regulations include an anti-abuse rule with respect to such other cost-sharing requirements so that the purpose of limiting copayments and coinsurance for emergency services to the in-network rate cannot be thwarted by manipulation of these other cost-sharing requirements. Accordingly, any other cost-sharing requirement, such as a deductible or out-of-pocket maximum, may be imposed with respect to out-of-network emergency services only if the cost-sharing requirement generally applies to out-of-network benefits. Specifically, a deductible may be imposed with respect to out-of-network emergency services only as part of a deductible that generally applies to out-of-network benefits. Similarly, if an out-of-pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must apply to out-of-network emergency services. A plan or health insurance coverage could fashion these other cost-sharing requirements so that a participant, beneficiary, or enrollee is required to pay less for emergency services than for general out-of-network services; the anti-abuse rule merely prohibits a plan or health insurance coverage from fashioning such rules so that a participant, beneficiary, or enrollee is required to pay more for emergency services than for general out-of-network services.

In applying the rules relating to emergency services, the statute and these interim final regulations define the terms emergency medical condition, emergency services, and stabilize. These terms are defined generally in accordance with their meaning under the Emergency Medical Treatment and Labor Act (EMTALA), section 1867 of the Social Security Act. There are, however, some minor variances from the EMTALA definitions. For example, both EMTALA and PHS Act section 2719A define "emergency medical condition" in terms of the same consequences that could reasonably be expected to occur in the absence of immediate medical attention. Under EMTALA regulations, the likelihood of these consequences is determined by qualified hospital medical personnel, while under PHS Act section 2719A the standard is whether a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in such consequences.

Application to grandfathered health plans. The statute and these interim final regulations relating to certain patient protections do not apply to grandfathered health plans. However, other Federal or State laws related to these patient protections may apply regardless of grandfather status.

III. Interim Final Regulations and Request for Comments

Section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act authorize the Secretaries of the Treasury, Labor, and HHS (collectively, the Secretaries) to promulgate any interim final rules that they determine are appropriate to carry out the provisions of chapter 100 of the Code, part 7 of subtitle B of title I of ERISA, and part A of title XXVII of the PHS Act, which include PHS Act sections 2701 through 2728 and the incorporation of those sections into ERISA section 715 and Code section 9815.

In addition, under Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) a general notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. The provisions of the APA that ordinarily require a notice of proposed rulemaking do not apply here because of the specific authority granted by section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act. However, even if the APA were applicable, the Secretaries have determined that it would be impracticable and contrary to the public interest to delay putting the provisions in these interim final regulations in place until a full public notice and comment process was completed. As noted above, numerous provisions of the Affordable Care Act are applicable for plan years (in the individual market, policy years) beginning on or after September 23, 2010, six months after date of enactment. Had the Departments published a notice of proposed rulemaking, provided for a 60-day comment period, and only then prepared final regulations, which would be subject to a 60-day delay in effective date, it is unlikely that it would have been possible to have final regulations in effect before late September, when these requirements could be in effect for some plans or policies. Moreover, the requirements in these interim final regulations require significant lead time in order to implement. For example, in the case of the requirement under PHS Act section 2711 prohibiting overall lifetime dollar limits, these interim final regulations require that an enrollment opportunity be provided for an individual whose coverage ended by reason of reaching a lifetime limit no later than the first day this requirement takes effect. Preparations presumably would have to be made to put such an enrollment process in place. In the case of requirements for emergency care under PHS Act section 2719A, plans and issuers need to know how to process charges by out-of-network providers by as early as the first plan or policy year beginning on or after September 23, 2010. With respect to all the changes that would be required to be made under these interim final regulations, whether adding coverage of children with a preexisting condition under PHS Act section 2704, or determining the scope of rescissions prohibited under PHS Act section 2712, group health plans and health insurance issuers have to be able to take these changes into account in establishing their premiums, and in making other changes to the designs of plan or policy benefits, and these premiums and plan or policy changes would have to receive necessary approvals in advance of the plan or policy year in question.

Accordingly, in order to allow plans and health insurance coverage to be

designed and implemented on a timely basis, regulations must be published and available to the public well in advance of the effective date of the requirements of the Affordable Care Act. It is not possible to have a full notice and comment process and to publish final regulations in the brief time between enactment of the Affordable Care Act and the date regulations are needed.

The Secretaries further find that issuance of proposed regulations would not be sufficient because the provisions of the Affordable Care Act protect significant rights of plan participants and beneficiaries and individuals covered by individual health insurance policies and it is essential that participants, beneficiaries, insureds, plan sponsors, and issuers have certainty about their rights and responsibilities. Proposed regulations are not binding and cannot provide the necessary certainty. By contrast, the interim final regulations provide the public with an opportunity for comment, but without delaying the effective date of the regulations.

For the foregoing reasons, the Departments have determined that it is impracticable and contrary to the public interest to engage in full notice and comment rulemaking before putting these interim final regulations into effect, and that it is in the public interest to promulgate interim final regulations.

IV. Economic Impact and Paperwork Burden

A. Summary—Department of Labor and Department of Health and Human Services

As stated earlier in this preamble, these interim final regulations implement PHS Act sections 2704 (prohibiting preexisting condition exclusions), 2711 (prohibiting lifetime and annual dollar limits on benefits), 2712 (rules regarding rescissions), and 2719A (patient protections).[13] These interim final regulations also provide guidance on the requirement to provide enrollment opportunities to individuals who reached a lifetime limit. PHS Act section 2704 regarding preexisting condition exclusions generally is effective for plan years (in the individual market, policy years) beginning on or after January 1, 2014. However, with respect to enrollees, including applicants for enrollment, who are under 19 years of age, this section is effective for plan years beginning on or after September 23, 2010; or in the case of individual health insurance coverage, for policy years beginning on or after September 23, 2010.[14] The rest of these provisions generally are effective for plan years (in the individual market, policy years) beginning on or after September 23, 2010, which is six months after the March 23, 2010 date of enactment of the Affordable Care Act.

The Departments have crafted these interim final regulations to secure the protections intended by Congress in the most economically efficient manner possible. In accordance with OMB Circular A–4, they have quantified the benefits and costs where possible and provided a qualitative discussion of some of the benefits and the costs that may stem from these interim final regulations.

B. Executive Order 12866—Department of Labor and Department of Health and Human Services

Under Executive Order 12866 (58 FR 51735), "significant" regulatory actions are subject to review by the Office of Management and Budget (OMB). Section 3(f) of the Executive Order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has determined that this rule is significant within the meaning of section 3(f)(1) of the Executive Order, because it is likely to have an effect on the economy of $100 million in any one year. Accordingly, OMB has reviewed these rules pursuant to the Executive Order. The Departments provide an assessment of the potential costs and benefits of each regulatory provision below, summarized in the following table.

Table 1.1 Accounting Table

TABLE 1.1—*Accounting Table*

Benefits				
Qualitative: These patient protections are expected to expand coverage for children with preexisting conditions and individuals who face rescissions, lifetime limits, and annual limits as a result of high health care costs. Expanded coverage is likely to increase access to health care, improve health outcomes, improve worker productivity, and reduce family financial strain and "job lock". Many of these benefits have a distributional component, and promote equity, in the sense that they will be enjoyed by those who are especially vulnerable as a result of health problems and financial status. Choice of physician will likely lead to better, sustained patient-provider relationships, resulting in decreased malpractice claims and improved medication adherence and health promotion. Removing referrals and prior authorizations for primary care, obstetrical and gynecological care, and emergency services is likely to reduce administrative and time burdens on both patients and physicians, while improving health outcomes by allowing quicker access to medical services when necessary.				
Costs	**Estimate**	**Year dollar**	**Discount rate**	**Period covered[15]**
Annualized Monetized ($millions/year)	4.9	2010	7%	2011–2013
	4.9	2010	3%	2011–2013

[13] The Affordable Care Act adds Section 715 to the Employee Retirement Income Security Act (ERISA) and section 9815 to the Internal Revenue Code (the Code) to make the provisions of part A of title XXVII of the PHS Act applicable to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans, under ERISA and the Code as if those provisions of the PHS Act were included in ERISA and the Code.

[14] Section 1255 of the Affordable Care Act. *See also* section 10103(e)–(f) of the Affordable Care Act.

TABLE 1.1—*Accounting Table*—Continued

Monetized costs are due to a requirement to notify participants that exceeded their lifetime limit and were disenrolled from their plan or coverage of their right to re-enroll in the plan; a requirement that a group health plan or a health insurance issuer offering group or individual health insurance coverage must notify an affected individual 30 days before coverage may be rescinded; and a notice of a participant's right to choose any available participating primary care provider or pediatrician as their primary care provider, and of increased protections for those participants seeking emergency services.
Qualitative: To the extent these patient protections increase access to health care services, increased health care utilization and costs will result due to increased uptake. Expanding coverage to children with preexisting conditions and individuals subject to rescissions will likely increase overall health care costs, given that these groups tend to have high cost conditions and require more costly care than average.
Transfers
Qualitative: These patient protections create a small transfer from those paying premiums in the group market to those obtaining the increased patient protections. To the extent there is risk pooling in the individual market, a similar transfer will occur.

1. Need for Regulatory Action

a. Preexisting Condition Exclusions

As discussed earlier in this preamble, Section 2704 of the PHS Act as added by the Affordable Care Act, prohibits group health plans and health insurance issuers offering group or individual health insurance from imposing any preexisting condition exclusion. This new protection applies to children who are under age 19 for plan years (in the individual market, policy years) beginning on or after September 23, 2010. For individuals age 19 and over, this provision applies for plan years (in the individual market, policy years) beginning on or after January 1, 2014.

Preexisting conditions affect millions of Americans and include a broad range of conditions from heart disease—which affects one in three adults [16]—or cancer—which affects 11 million Americans [17]—to relatively minor conditions like hay fever, asthma, or previous sports injuries.[18]

Denials of benefits or coverage based on a preexisting condition make adequate health insurance unavailable to millions of Americans. Before the enactment of the Affordable Care Act, in 45 States, health insurance issuers in the individual market could deny coverage, charge higher premiums, and/or deny benefits for a preexisting condition.[19]

These interim final regulations are necessary to amend the Departments' existing regulations to implement this statutory provision, which was enacted by Congress to ensure that quality health coverage is available to more Americans without the imposition of a preexisting condition exclusion.

b. Lifetime and Annual Limits

As discussed earlier in this preamble, Section 2711 of the PHS Act was added to the Affordable Care Act to prohibit group health plans and health insurance issuers offering group or individual health insurance coverage from imposing lifetime limits on the dollar value of health benefits. Annual limits also are prohibited, but the statute includes a phase-in of this provision before January 1, 2014, that allows plans and issuers to impose "restricted annual limits" at the levels discussed earlier in this preamble.

These new protections ensure that patients are not confronted with devastating health costs because they have exhausted their health coverage when faced with a serious medical condition. For example, in one recent national survey, ten percent of all cancer patients reported that they reached a benefit limit in their insurance policy and were forced to seek alternative insurance coverage or pay the remainder of their treatment out-of-pocket.[20]

These interim final regulations are necessary to amend the Departments' existing regulations to implement the statutory provisions with respect to annual and lifetime limits that Congress enacted to help ensure that more Americans with chronic, long-term, and/or expensive illnesses have access to quality health coverage. The provisions of the regulations regarding restricted annual limits function as a type of transition rule, providing for staged implementation and helping ensure against adverse impacts on premiums or the offering of health coverage in the marketplace. For more detail about these provisions, see the discussion of PHS Act Section 2711, Lifetime and Annual Limits, in section II.B earlier in this preamble.

c. Rescission

As discussed earlier in this preamble, Section 2712 of the PHS Act was added by the Affordable Care Act to prohibit group health plans and health insurance issuers offering group or individual health insurance coverage from rescinding coverage except in the case of fraud or intentional misrepresentation of material fact.

Prior to the Affordable Care Act, thousands of Americans lost health coverage each year due to rescission. According to a House Energy and Commerce Committee staff memorandum,[21] rather than reviewing medical histories when applications are submitted, if the policyholders become sick and file expensive claims, insurance companies then initiate investigations to scrutinize the details of the policyholder's application materials and medical records, and if discrepancies, omissions, or misrepresentations are found, the insurer rescinds the policies, returns the premiums, and refuses payment for medical services. The Committee found some questionable practices in this area including insurance companies rescinding coverage even when discrepancies are unintentional or caused by others, for conditions that are unknown to policyholders, and for discrepancies unrelated to the medical

[15] The Departments' analysis extends to 2013. The analysis does not attempt to estimate effects in 2014 and beyond because the extensive changes provided for by the Affordable Care Act in sources of coverage, rating rules, and the structure of insurance markets make it nearly impossible to isolate the effects of the provisions of these interim final regulations.

[16] American Heart Association. *Heart Disease and Stroke Statistics 2009 Update-at-a-Glance. http://www.americanheart.org/downloadable/heart/1240250946756LS—1982%20Heart%20and%20Stroke%20Update.042009.pdf.*

[17] National Cancer Institute. *Cancer Query System: Cancer Prevalence Database. http://srab.cancer.gov/prevalence/canques.html.*

[18] Pollitz K, Sorian R. *How Accessible is Individual Health Insurance for Consumers in Less than Perfect Health*? Kaiser Family Foundation, June 2001.

[19] Kaiser State Health Facts. *http://statehealthfacts.org/comparetable.jsp?ind=353&cat=7.*

[20] USA Today/Kaiser Family Foundation/Harvard School of Public Health. National Survey of Households Affected by Cancer. November 2006.

[21] Terminations of Individual Health Insurance Policies by Insurance Companies, Hearing before the House Comm. on Energy and Commerce, Subcommittee on Oversight and Investigations, June 16, 2009) (supplemental memorandum) *http://energycommerce.house.gov/Press_111/20090616/rescission_supplemental.pdf.*

conditions for which patients sought medical care.

When a coverage rescission occurs, an individual's health coverage is retroactively cancelled, which means that the insurance company is no longer responsible for medical care claims that they had previously accepted and paid. Rescissions can result in significant financial hardship for affected individuals, because, in most cases, the individuals have accumulated significant medical expenses. The NAIC Regulatory Framework Task Force collected data on 52 companies covering the period 2004–2008, and found that rescissions averaged 1.46 per thousand policies in force.[22] This estimate implies there are approximately 10,700 rescissions per year.

These interim final regulations implement the statutory provision enacted by Congress to protect the most vulnerable Americans, those that incur substantial medical expenses due to a serious medical condition, from financial devastation by ensuring that such individuals do not unjustly lose health coverage by rescission.

d. Patient Protections

As discussed earlier in this preamble, Section 2719A of the PHS Act was added by the Affordable Care Act to require group health plans and health insurance issuers offering group or individual health insurance coverage to ensure choice of health care professionals and greater access to benefits for emergency services. As discussed in more detail below, provider choice is a strong predictor of patient trust in a provider, and patient-provider trust can increase health promotion and therapeutic effects.[23] Studies also have found that patients tend to experience better quality health care if they have long-term relationships with their health care provider.[24]

The emergency care provisions of PHS Act section 2719A require (1) non-grandfathered group health plans and health insurance issuers that cover emergency services to cover such services without prior authorization and without regard to whether the health care provider providing the services is a participating network provider, and (2) copayments and coinsurance for out-of-network emergency care not to exceed the cost-sharing requirements that would have been imposed if the services were provided in-network. These provisions will ensure that patients get emergency care when they need it, especially in situations where prior authorization cannot be obtained due to exigent circumstances or an in-network provider is not available to provide the services. It also will protect patients from the substantial financial burden that can be imposed when differing copayment or coinsurance arrangements apply to in-network and out-of-network emergency care.

This regulation is necessary to implement the statutory provision enacted by Congress to provide these essential patient protections.

2. PHS Act Section 2704, Prohibition of Preexisting Condition Exclusions (26 CFR 54.9815–2704T, 29 CFR 2590.715–2704, 45 CFR 147.108)

a. Summary

As discussed earlier in this preamble, section 1201 of the Affordable Care Act adds a new PHS Act section 2704, which amends the HIPAA rules relating to preexisting condition exclusions to provide that a group health plan and a health insurance issuer offering group or individual health insurance coverage may not impose any preexisting condition exclusion. The HIPAA rules (in effect prior to the effective date of these amendments) apply only to group health plans and group health insurance coverage, and permit limited exclusions of coverage based on a preexisting condition under certain circumstances. The Affordable Care Act and these interim final regulations prohibit any preexisting condition exclusions imposed by group health plans or group health insurance coverage and extends this protection to individual health insurance coverage. This prohibition generally is effective with respect to plan years (in the individual market, policy years) beginning on or after January 1, 2014, but for enrollees who are under 19 years of age, this prohibition becomes effective for plan years (in the individual market, policy years) beginning on or after September 23, 2010.

Under the statute and these interim final regulations, a grandfathered health plan that is a group health plan or group health insurance coverage must comply with the prohibition against preexisting condition exclusions; however, a grandfathered health plan that is individual health insurance coverage is not required to comply with PHS Act section 2704.

In this section, the Departments estimate the likely effects of these interim final regulations. Beginning with the population of individuals age 0–18, the number of individuals potentially affected is estimated in several steps. First, the number of children who have preexisting conditions that might cause them to be excluded from coverage is estimated. Second, a range of take-up rates is used to estimate the number of children who might be newly covered after these interim final regulations are implemented. In addition, the potential cost implications are discussed.

b. Estimated Number of Affected Individuals

In the individual market, those applying for insurance will no longer face exclusions or denials of coverage based on a preexisting condition exclusion if they are under the age of 19. In addition, children covered by non-grandfathered individual coverage with a rider or an exclusion period that excludes coverage for a preexisting condition will gain coverage for that condition. In the group market, participants and dependents who are under 19 years old and have experienced a lapse in coverage will no longer face up to a twelve-month exclusion for preexisting conditions.

The Departments' estimates in this section are based on the 2004–2006 Medical Expenditure Panel Survey Household Component (MEPS–HC) which was projected to 2010 and calibrated to be consistent with the National Health Accounts projections. The analysis tabulated counts and costs for persons under age 19 by age, health status, and insurance status.

There are two main categories of children who are most likely to be directly affected by these interim final regulations: First, children who have a preexisting condition and who are uninsured; second, children who are covered by individual insurance with a rider excluding coverage for a preexisting condition or a preexisting condition exclusion period. For the latter category, obtaining coverage for the preexisting condition may require terminating the child's existing policy and beginning a new one, because individual health insurance coverage that is a grandfathered health plan is not required to comply with PHS Act section 2704 or these interim final regulations.

[22] NAIC Rescission Data Call, December 17, 2009, p. 1.

[23] Piette, John, *et al.,* "The Role of Patient-Physician Trust in Moderating Medication Nonadherence Due to Cost Pressures." *Archives of Internal Medicine* 165, August (2005) and Roberts, Kathleen J., "Physician-Patient Relationships, Patient Satisfaction, and Antiretroviral Medication Adherence Among HIV-Infected Adults Attending a Public Health Clinic." *AIDS Patient Care and STDs* 16.1 (2002).

[24] Blewett, Lynn, *et al.,* "When a Usual Source of Care and Usual Provider Matter: Adult Prevention and Screening Services." *Journal of General Internal Medicine* 23.9 (2008).

It is difficult to estimate precisely how many uninsured children have a preexisting condition that would cause them to be denied coverage for that condition if they were to apply. Information on whether individuals have a preexisting condition for the purpose of obtaining health insurance is not collected in any major population-based survey. In its annual survey on market practices, America's Health Insurance Plans (AHIP) estimated that 429,464 applications for children were medically underwritten, and 20,747, or 4.8 percent, were denied.[25] The survey does not measure the number of applicants who did not make it through an underwriting process, nor does it measure the applicants' prior insurance status, and therefore, while useful, it does not provide direct estimates of the number or proportion of uninsured children who would be denied coverage based on a preexisting condition. Thus, the Departments use proxies for preexisting conditions available in nationally representative surveys to estimate the universe of potentially eligible individuals.

The Departments estimate that in 2010 there are approximately 78.0 million children under the age of 19 in the United States, of whom an estimated 19.4 million report "fair" or "poor" health or take three or more prescription medications. The Departments assume that these children have a preexisting condition. Whether or not the statute and these interim final regulations are likely to affect these children depends on their own and their parents' insurance status. Of the 19.4 million children that potentially have a preexisting condition, 10.2 million already have employer-sponsored insurance (ESI), 760,000 have individual coverage, and 7.9 million have public or other coverage, leaving 540,000 uninsured children with preexisting conditions.[26] The Departments assume that this group of 540,000 uninsured children with a preexisting condition would be denied coverage for that condition or altogether if they were to apply.

The likelihood that an uninsured child with a preexisting condition will gain coverage due to these interim final regulations will likely vary by the insurance status of the child's parent. As shown in Table 2.1, approximately one-half of the 540,000 uninsured children who the Departments estimate have a preexisting condition live with a parent who is also uninsured and is not offered ESI. An additional 190,000 have a parent who is covered by ESI, and 60,000 children have a parent who was offered ESI but did not accept the offer (and the insurance status of the parent is unknown).

TABLE 2.1—ESTIMATED NUMBER OF UNINSURED CHILDREN WITH PRE-EXISTING CONDITIONS, BY PARENT'S INSURANCE STATUS, 2010

Parent's insurance status	Number of children
Parent has employer-sponsored insurance (ESI)	190,000
Parent offered ESI	60,000
Parent has individual market insurance	10,000
Parent does not have private insurance*	270,000
No parent	20,000
Total **	540,000

* Primarily parents who are uninsured, but also including a small number who have public coverage.

** Total is not the sum of the components due to rounding.

Source: Departments' analysis of MEPS–HC data, 2004–2006, trended forward to 2010.

The group most likely to be affected by these interim final regulations is uninsured children whose parents have purchased non-group coverage, of whom there are an estimated 10,000. These parents have demonstrated a strong preference for coverage by being willing to pay for a non-group premium for themselves, but their child is uninsured. Although the Departments cannot know with any certainty, it is quite plausible that the child is uninsured because the insurer refused to sell coverage to the child due to a preexisting condition. If an individual market insurance policy does not change substantially and retains its grandfather status, the insurer is not required to add a child with a preexisting condition. However, if the parent terminates the existing policy and purchases a new policy (which is quite plausible given the high prevalence of churning in the individual insurance market), then the new policy will be required to cover the child, and a substantial proportion of these children could gain access to coverage due to these interim final regulations.[27]

At the other extreme, roughly 190,000 uninsured children with a preexisting condition have a parent with ESI. It is possible that these children are uninsured because their parents' ESI does not offer dependent coverage. It is also possible that the parent could not afford the employee portion of a family plan premium. These interim final regulations are not likely to have much effect on coverage for children in these circumstances. A very small subset of uninsured children whose parents have ESI could have had to be in a preexisting exclusion period before coverage is provided for services to treat that condition. Under the statute and these interim final regulations, there would no longer be such a period, making coverage desirable. Such children may be affected by this provision.

Approximately 60,000 uninsured children with a preexisting condition have parents who were offered ESI but did not accept that offer. It also seems unlikely that these interim final regulations will have much effect on that group, because almost all of those parents could have chosen to cover themselves, and potentially their child, through ESI in the absence of these interim final regulations.

In between these extremes are the approximately 270,000 uninsured children whose parents are themselves uninsured. Many of these parents have low to moderate income, and many may not be able to afford insurance.[28] However, some of these parents might purchase a policy for their child with a preexisting condition if it were available to them.

While it is relatively easy to hypothesize about the relationship between parental insurance status and the likelihood that a child will be newly covered, it is much more difficult to estimate with any precision the take-up rates for each parental coverage category. Acknowledging substantial uncertainty, based on the discussion above, the Departments' mid-range estimate is that 50 percent of uninsured children whose parents have individual coverage will be newly insured, 15 percent of uninsured children whose parents are uninsured will be newly insured, and that very few children whose parents have ESI, are offered ESI, or who do not live with a parent will become covered as a result of these

[25] AHIP Center for Health Policy Research. *Individual Health Insurance 2009. http://www.ahipresearch.org/pdfs/2009IndividualMarketSurveyFinalReport.pdf.*

[26] These estimates are from the Departments' analysis of the 2004–2006 Medical Expenditure Panel Survey, trended forward to 2010.

[27] Adele M. Kirk. The Individual Insurance Market: A Building Block for Health Care Reform? *Health Care Financing Organization Research Synthesis. May 2008.*

[28] Approximately two-thirds of the uninsured are in families with income below 200 percent of the Federal Poverty Level. Current Population Survey, March 2008.

interim final regulations.[29] For the high-end estimate, the Departments assume that the 50 percent and 15 percent assumptions increase to 75 percent and 20 percent, respectively. For the low-end assumption, they assume that they decrease to 25 percent and 10 percent.

As shown in Table 2.2, the Departments' mid-range estimate is that 51,000 uninsured children with preexisting conditions could gain coverage as a result of these interim final regulations. At the low end of the range, this could be 31,000 and at the high end of the range, it could be 72,000. Given that most ESI already covers children with preexisting conditions, almost all of these children newly gaining coverage are expected to gain individual coverage.[30]

TABLE 2.2—ESTIMATED NUMBER OF UNINSURED CHILDREN GAINING COVERAGE

	Gain employer-sponsored insurance	Gain individual market insurance	Total
High Take-Up	10,000	62,000	72,000
Medium Take-Up	6,000	45,000	51,000
Low Take-Up	2,000	29,000	31,000

Source: Departments' analysis of 2004–2006 MEPS–HC, trended forward to 2010.

The other group of children who will be affected by these interim final regulations is children who already have non-group insurance coverage, but who are covered with a "condition waiver" that excludes coverage or imposes an exclusion period for coverage of a preexisting condition. After the implementation of these interim final regulations, children whose parents purchase individual coverage will not be subject to condition waivers or preexisting condition exclusion periods. The Departments estimate that there are 90,000 children covered by individual insurance with a condition waiver (or with a period during which coverage for a preexisting condition is excluded).[31] The individual market issuers who insure these estimated 90,000 children with a condition waiver may decide to remain grandfathered health plans and thus these children will not be directly affected by these interim final regulations. However, the parents of those children could choose to switch from an individual policy that is a grandfathered health plan to a new policy that is not grandfathered, although the premium that they pay for such coverage could increase. Similarly, for those children currently covered but in a preexisting condition exclusion period, curtailing the exclusion period would require the termination of the current plan and purchase of a policy on or after September 23, 2010.

c. Benefits

The benefits of PHS Act Section 2704 and these interim final regulations are expected to amply justify the costs. These interim final regulations will expand and improve coverage for those under the age of 19 with preexisting conditions. This will likely increase access to health care, improve health outcomes, and reduce family financial strain and "job lock," as described below.

Numerous studies confirm that when children become insured, they are better able to access health care. Uninsured children are six times more likely than insured children to lack a usual site of care.[32] By contrast, one year after enrollment in health insurance, nearly every child in one study had a regular physician and the percentage of children who saw a dentist increased by approximately 25 percent.[33] Insured children also experience fewer unmet needs and delays in care. In one study, 37 percent of the children 15 to 19 years of age faced some unmet need or delayed physician care in the prior 6 months, whereas at 12 months after insurance enrollment, only 3.7 percent reported such delays or care deficiencies.[34]

With regular access to health care, children's health and well-being are likely to improve. When children are sick and without health insurance, they may, out of financial necessity, have to forgo treatment; insurance improves the likelihood that children get timely and appropriate health care services.[35] Insured children are less likely to experience avoidable hospital stays than uninsured children[36] and, when hospitalized, insured children are at less risk of dying.[37] When children are insured, it not only improves their health status, but also confers corollary benefits. Children without health insurance may not be allowed to participate in as many physical activities as peers because parents are

[29] The Departments researched the literature in an attempt to provide support for the take-up rate assumptions made here. There is a substantial literature on take-up rates among employees who are offered ESI, on take-up rates of public coverage among people eligible for Medicaid and Children's Health Insurance Program, and some work on the purchasing behavior of people who are choosing between being uninsured and buying individual insurance (Aizer, 2006; Kronson, 2009; KFF, 2007; Bernard and Selden, 2006; Sommers and Krimmel, 2008). This work shows that take-up rates are very high for workers who are offered ESI, but that approximately 25 percent of people without ESI purchase individual coverage. This literature can also be used to estimate the price-elasticity of demand, as has been used by the Congressional Budget Office in its estimates of the effects of the Affordable Care Act (*http://www.cbo.gov/ftpdocs/87xx/doc8712/10-31-HealthInsurModel.pdf*) However, none of this work is very helpful in estimating the level of take-up the Departments should expect as parents are given the opportunity to purchase coverage for their children with preexisting conditions. In the absence of strong empirical guidance, the Departments consulted with experts, used their best judgment, and provide a wide range for our assumptions.

[30] For those parents who turned down an offer of ESI and whose insurance status is not known, the Departments assume that half of the children who takeup coverage join ESI, and half join a private insurance plan in the individual insurance market.

[31] The 2009 AHIP survey for individual coverage estimated that approximately 2.7 percent of children with individual coverage are covered with a condition waiver. This 3 percent estimate was applied to the MEPS-based estimate that there are approximately 3.3 million children covered by individual insurance. A separate analysis of MEPS by the Departments similarly found about 90,000 children with a preexisting condition (defined as being in fair or poor health or taking three or more prescription medications) had a low actuarial value of coverage for their condition.

[32] "Children's Health, Why Health Insurance Matters." *Kaiser Commission on Medicaid and the Uninsured,* available at: *http://www.kff.org/uninsured/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14132.*

[33] Ibid.

[34] Keane, Christopher *et al.* "The Impact of Children's Health Insurance Program by Age." *Pediatrics* 104:5 (1999), available at: *http://pediatrics.aappublications.org/cgi/reprint/104/5/1051.*

[35] Uninsured children are at least 70 percent more likely than insured children to not receive medical care for common childhood conditions like sore throats, ear infections, and asthma. Ibid.

[36] Ibid.

[37] Bernstein, Jill *et al.* "How Does Insurance Coverage Improve Health Outcomes?" *Mathematica Policy Research* (2010), available: *http://www.mathematica-mpr.com/publications/PDFs/Health/Reformhealthcare_IB1.pdf.*

concerned about the financial impacts of unintentional injury. One study determined that 12 percent of uninsured children had various activity restrictions (*e.g.,* related to sports or biking). However, almost all of these restrictions were removed once they gained insurance.[38] And health insurance and access to care improve school attendance. An evaluation of an initiative designed to connect children to Healthy Kids, an insurance program piloted in Santa Clara County, California for children in low-income families, found that the proportion of children missing three or more school days in the previous month decreased from 11 percent among non-enrollees to 5 percent after enrollment in the insurance program.[39]

In addition to their benefits relating to access to care, health, and well-being of children, these interim final regulations are likely to lower families' out of pocket health care spending. Some families would face the possibility of paying high out-of-pocket expenses for health care for children under 19 who could not obtain insurance because of a preexisting condition. Further, expanded insurance coverage should reduce the number of medical bankruptcies.[40] In cases where medical expenses are substantial, families may no longer need to spend down their assets in order to qualify for Medicaid and other public assistance programs. Approximately 34 States offer Medicaid eligibility to adults and children who spend-down to State-established medically needy income limits.[41] Eight percent of Medicaid beneficiaries qualify via spend-down yet this group accounts for a disproportionately high percentage of Medicaid spending nationally (14 percent), due to the fact that coverage kicks in when individuals' medical costs are high.[42] Despite the fact that medically needy populations become eligible on account of onerous medical bills, this group is especially vulnerable to losing coverage because States are not *required* to cover this group. For example, in 2003, when Oklahoma eliminated its medically needy program due to a budget shortfall, an estimated 800 children lost coverage.[43] Such coverage interruptions likely contribute to higher rates of uncompensated care—the primary source for which is Federal funding.[44] Reduced reliance on these programs under these interim final regulations will benefit State and Federal governments and, by extension, taxpayers.

In addition, these interim final regulations may reduce instances of "job lock"—situations in which workers are unable to change jobs due to concerns regarding health insurance coverage for their children.[45] For example, under the Affordable Care Act and these interim final regulations, someone currently insured through the group market with less than 18 months of continuous coverage may be more willing to leave her job and become a self-employed entrepreneur if she has a child under age 19 with a preexisting condition, because her child now will be able to obtain immediate coverage for the preexisting condition in the individual market. Similarly, even a worker with more than 18 months of continuous coverage who is already protected by HIPAA may be more likely to consider switching firms and changing policies because he would not have to worry that his child's preexisting condition would be excluded for up to 12 months.[46] While the total reduction in job-lock may be small, the impact on those families with children with preexisting conditions may be significant. The effect of these interim final regulations on job-lock is discussed further in the summary section below.

Executive Order 12866 explicitly requires agencies to take account of "distributive impacts" and "equity." Requiring health insurers to provide coverage to children with preexisting conditions will, as described below, result in a small increase in premium for relatively healthy adults and children, and a large increase in health and financial security for children with preexisting conditions and their parents. This transfer is a meaningful increase in equity, and is a benefit of these interim final regulations.

d. Costs and Transfers

Children with preexisting conditions have high health care costs—approximately three times the average for those without such conditions.[47] Although children with preexisting conditions have higher health care costs than healthier children, among children with preexisting conditions, those who are uninsured have expenditures that are somewhat lower than the average for all children with preexisting conditions. Therefore, it is expected that when uninsured children obtain coverage, there will be additional demand for and utilization of services. There will also be a transfer from out-of-pocket spending to spending covered by insurance, which will partially be mitigated by a reduction in cost-shifting of uncompensated care to the insured population as coverage expands.

As shown above in Table 2.2, the Departments estimate that approximately 2,000 to 10,000 children whose parents have ESI or an offer of ESI will be newly covered in the group market. Because few children are likely to be newly covered in the group market, the estimated costs and transfers are extremely small, on the order of hundredths of a percent.

The Departments expect that these interim final regulations will have a larger effect on the number of children covered in the individual market, resulting in new coverage for between 29,000 and 62,000 children. Medical expenses for these newly covered children are likely to be greater than for the average child covered by individual insurance. The Departments' analysis

[38] "Children's Health, Why Health Insurance Matters." *Kaiser Commission on Medicaid and the Uninsured,* available at: *http://www.kff.org/uninsured/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14132.*

[39] Howell, Embry and Trenholm, Christopher "Santa Clara County Children's Health Initiative Improves Children's Health." *Mathematica Policy Research and The Urban Institute* (2007), available at: *http://www.mathematica-mpr.com/publications/PDFs/CHIimproves.pdf.*

[40] Himmelstein, D., Warren, E., Thorne, D., and Woolhandler, S. Illness and Injury as Contributors to Bankruptcy, *Health Affairs* W5–63, February 2 (2005); Himmelstein, D., Thorne, D., Warren, E., Woolhandler, S. Medical Bankruptcy in the United States, 2007: The Results of a National Study, *The American Journal of Medicine* June 4 (2009).

[41] *http://www.statehealthfacts.org/comparereport.jsp?rep=60&cat=4.*

[42] Page 4: *http://www.kff.org/medicaid/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14325.*

[43] Page 4: *http://www.nashp.org/sites/default/files/shpmonitor_medicallyneedy.pdf.*

[44] Page 4: *http://www.kff.org/uninsured/upload/The-Cost-of-Care-for-the-Uninsured-What-Do-We-Spend-Who-Pays-and-What-Would-Full-Coverage-Add-to-Medical-Spending.pdf.*

[45] A CEA report suggests that the overall cost of job-lock could be $3.7 billion annually, which is about 10 percent of affected workers wages. While these interim final regulations may only have an impact on a small percentage of all individuals affected by job-lock it could still have a large dollar impact for those affected. Council of Economic Advisors Report, The Economic Case for Health Reform (June 2009), at *http://www.whitehouse.gov/assets/documents/CEA_Health_Care_Report.pdf.*

[46] A 2006 study found no evidence that the introduction of HIPAA, which reduced preexisting condition exclusions, had any impact on job lock, but HIPAA still allows a 12-month preexisting condition exclusion meaning that for conditions that need immediate care someone could still effectively be uninsured for up to a year. In contrast, the provisions of the statute and these interim final regulations would not allow any preexisting condition exclusion. *See e.g.,* Paul Fronstin, *Health Insurance Portability and Job Lock: Findings from the 1998 Health Confidence Survey,* Employee Benefit Research Institute Notes, Volume 19, Number 8, pages 4–6 (Aug. 1998) and Anna Sanz-de-Galdeano, *Job-Lock and Public Policy: Clinton's Second Mandate,* Industrial and Labor Relations Review, Volume 59, Number 3, pages 430–37 (Apr. 2006).

[47] From the Departments' analysis of MEPS data.

also assumes that children with preexisting conditions gaining insurance under these interim final regulations will have greater health needs than the average uninsured child with a preexisting condition. This assumption concerning adverse selection is common to most analyses of purchasing behavior in the individual insurance market.

In the majority of States that do not require community rating, much of the additional cost of care for newly-covered children with preexisting condition is likely to be borne by the parents who purchase coverage for their children. Based on discussions with industry experts, it appears that even in the absence of community rating, it is rare for an insurer to charge more than twice the standard rate for someone in poor health. The Departments' analysis assumes that in non-community rated States, the parents of newly insured children will pay a premium that is equal to twice the standard rate, and the remainder of the additional costs will be spread to other policy holders in the individual market.[48] However, with the enactment of the Affordable care Act and the issuance of these interim final regulations, rating practices in the insurance industry could certainly change, lending uncertainty to this estimate. In the approximately twenty States that require adjusted community rating or rating bands in the individual market, the Departments' analysis assumes that all of the additional costs of newly covered children will be spread across policies in the individual market that are not grandfathered health plans.[49] Making these assumptions, the estimated increase in premiums is 1 percent or less in community rated States, and approximately one-half of one percent in States without community rating.

Finally, for the estimated 90,000 children with existing individual coverage that excludes coverage for the preexisting condition or requires an exclusion period before coverage for that condition begins, the Departments assume that many of these children will receive coverage for their condition(s). Because their existing individual policies could be grandfathered, the parents of these children may need to purchase new policies in order to gain coverage for their children's condition without a waiver. Children in a preexisting condition exclusion period in particular will need to terminate their current policy and purchase a new one in order to take advantage of the elimination of any preexisting condition exclusion period. Of note, the Departments estimate that turnover in the individual market is between 40 percent and 70 percent per year.[50] Therefore, in a few years, most children who would have been covered with a condition waiver in the absence of these interim final regulations are expected to be in new policies that are not grandfathered health plans in any case.

The Departments analyzed expenditures for the approximately 90,000 children who reported fair or poor health, or who were taking three or more prescription medications, and for whom insurance covered only a small portion of spending for one or more medical conditions. Total spending for these 90,000 children was not much different than spending for the children who did not appear to have a preexisting condition waiver, although less of the spending was covered by private insurance, and more of it was paid for out-of-pocket or by other sources.[51]

Similar to the expectations for newly covered children in the individual market, in States that require rating bands or some form of community rating, much of the additional cost for eliminating condition waivers will be spread across the insured population, while in States without rating restrictions, much of the additional costs will be borne by the parents who purchase the coverage. However, the estimate that insured benefits per child will increase by a relatively modest amount suggests that even in States with community rating, the cost and transfer effects will be relatively small, at most a few tenths of a percent over the next few years.

In evaluating the impact of this provision, it is important to remember that the full net effects of this provision cannot be estimated because of its interactions with other provisions in the Affordable Care Act that go into effect at the same time. For example, under the current guaranteed renewability protections in the individual market, if a child with a preexisting condition is now able to obtain coverage on a parental plan, he or she can potentially stay on that plan until age 26. As another example, the Affordable Care Act will require non-grandfathered health plans to provide recommended preventive services at no cost-sharing. This will amplify the benefits of coverage for newly insured children with preexisting conditions. Therefore, the Departments cannot provide a more precise estimation of either the benefits or the costs and transfers of this provision.

3. PHS Act Section 2711, No Lifetime or Annual Limits (26 CFR 54.9815–2711T, 29 CFR 2590.715–2711, 45 CFR 147.126)

a. Summary

As discussed earlier in this preamble, section 2711 of the PHS Act, as added by the Affordable Care Act, and these interim final regulations generally prohibits group health plans and health insurance issuers offering group or individual health insurance coverage from imposing lifetime or annual limits on the dollar value of health benefits. The statute also provides a special rule allowing "restricted annual limits" with respect to essential health benefits (as defined in section 1302(b) of the Affordable Care Act) for plan years (in the individual market, policy years) beginning before January 1, 2014. In addition, the statute specifies that a plan or issuer may impose annual or lifetime per-individual limits on specific covered benefits that are not essential health benefits to the extent that such limits are permitted under Federal or State law.

For purposes of establishing a restricted annual limit on the dollar value of essential health benefits, the statute provides that in defining the term restricted annual limit, the Departments "ensure that access to needed services is made available with a minimal impact on premiums."[52] Based on this Congressional directive, the interim final regulations allow annual limits on the dollar value of benefits that are essential health benefits of no less than $750,000 for plan years

[48] The Departments assume that in non-community rated States, parents purchasing individual coverage for a child with a preexisting condition will be charged a rate equal to 200 percent of the standard rate for a child, because it is rare for insurers to charge more than this amount, but it seems unlikely they will charge less. To the extent that the estimated expenditures for newly covered children are above the premium that the Departments assume will be charged, the analysis assumes that the difference will be spread over all policies in the individual market.

[49] *http://www.statehealthfacts.kff.org/comparetable.jsp?ind=354&cat=7.*

[50] Adele M. Kirk. The Individual Insurance Market: A Building Block for Health Care Reform? *Health Care Financing Organization Research Synthesis.* May 2008.

[51] The Departments' analysis used MEPS data to identify approximately 90,000 children with individual coverage for whom insurance coverage for one or more conditions was extremely low—averaging 10 percent of covered expenditures, compared to approximately 80 percent for other children. The analysis assumes that these children were subject to a preexisting condition waiver, and then assumes that when these waivers are eliminated, the expenditures that are not covered by insurance in the MEPS data will now be shifted to insurance.

[52] PHS Act section 2711(a)(2) as added by Section 1001(5) of the Affordable Care Act and amended by section 10101(a) of such Act.

(in the individual market, policy years) beginning on or after September 23, 2010, but before September 23, 2011; $1.25 million for plan years (in the individual market, policy years) beginning on or after September 23, 2011, but before September 23, 2012; and $2 million for plan years (in the individual market, policy years) beginning on or after September 23, 2012, but before January 1, 2014. For plan years (in the individual market, policy years) beginning January 1, 2014, no annual limits may be placed on essential health benefits.

The statute and these interim final regulations relating to the prohibition on *lifetime* limits generally apply to all group health plans and health insurance issuers offering group or individual health insurance coverage, whether or not the plan qualifies as a grandfathered health plan, for plan years (in the individual market, policy years) beginning on or after September 23, 2010. The statute and these interim final regulations relating to the prohibition on *annual* limits, including the special rules for plan years beginning before January 1, 2014, generally apply to group health plans and group health insurance coverage that qualify as a grandfathered health plan, but do not apply to grandfathered health plans that are individual health insurance coverage.

b. Estimated Number of Affected Entities

In 2009, the latest data available indicates that both the incidence and amount of lifetime limits vary by market and plan type (*e.g.,* HMO, PPO, POS). Table 3.1 displays the prevalence of lifetime limits for large employer, small employer and individual markets by plan type. Sixty-three percent of large employers had lifetime limits; 52 percent of small employers had lifetime limits and 89 percent of individual market plans had lifetime limits. HMO plans are the least likely to have a lifetime limit with only 37 percent of large employer HMO plans having a limit, 16 percent of small employer HMO plans having a limit and 23 percent of individual HMO plans having a limit. The generosity of the limit also varies, with 45 percent of all large employer plans imposing a lifetime limit of $2,000,000 or more; 39 percent of small employers' plans imposing a limit of $2,000,000 or more and 86 percent of individual market plans imposing a limit of $2,000,000 or more. Note that small employers are more likely than large employers to offer HMOs that tend not to have lifetime limits, but when small businesses offer plans with lifetime limits, the maximum limit tends to be lower than those in large firms.[53]

TABLE 3.1—PREVALENCE OF LIFETIME LIMITS

Market	Prevalence of limit (percent)	Number of enrollees
Large group		
Under $1,000,000	1	1,000,000
$1,000,000–$2,000,000	18	18,700,000
$2,000,000 or higher	45	46,600,000
No Limit	37	38,300,000
Small group		
Under $1,000,000	1	500,000
$1,000,000–$2,000,000	12	6,300,000
$2,000,000 or higher	39	20,500,000
No Limit	48	25,200,000
Individual		
Under $1,000,000	2	200,000
$1,000,000–$2,000,000	1	100,000
$2,000,000 or higher	86	8,400,000
No Limit	11	1,100,000

Source: Large and Small Employer Health Plan Enrollment: and Lifetime Maximum Exhibit 5.2 and Exhibit 13.12, respectively, Employer Health Benefits: 2009 Annual Survey. Washington, DC: Henry J. Kaiser Family Foundation and Health Research & Educational Trust (September 2009). Individual Health Plan Enrollment and Lifetime Maximum: Table 10 and Table 17, respectively, AHIP Center for Policy Research Individual Health Insurance 2009: A Comprehensive Survey of Premiums, Availability, and Benefits.

There are scant data on annual limits on which to base this impact analysis. Table 3.2 displays the prevalence of annual limits by market, plan type and amount of the limit. Only 8 percent of large employers, 14 percent of small employers and 19 percent of individual market policies impose an annual limit and thus would be directly impacted by these interim final regulations.[54] In the first year of implementation (beginning September 23, 2010), it is estimated that less than 0.08 percent (less than one tenth of one percent) of large employer plans, approximately 2.6 percent of

[53] *Employer Health Benefits: 2009 Annual Survey.* Washington, DC: Henry J. Kaiser Family Foundation and Health Research & Educational Trust (September 2009).

[54] There is limited survey data on annual total benefit limits. The data utilized in these analyses are derived from data collected by Mercer's Health and Benefits Research Unit for their 2005, 2008 and 2009 National Survey of Employer-Sponsored Health Plans. For employer plans, the Mercer data provides prevalence information for PPOs and HMOs, and median annual limit levels for PPOs, split by small and large employer plans. In order to generate a plausible baseline of annual benefit maximums, broken by level of maximum, the reported percentages of employer plans that had annual maximums were spread into four intervals broken at $500k, $1 million, and $2 million. For PPOs and HMOs, the data were spread using the dispersion observed in lifetime benefit maximums (using data from the KFF/HRET employer surveys), and the distribution was constrained to be consistent with the Mercer reported median values for annual maximums. For annual benefit limits in individual coverage the relationship observed between AHIP's reported lifetime benefit maximum levels and the KFF/HRET employer lifetime benefit maximums was used to generate corresponding distributions from the synthesized employer annual limits.

small employer plans, and 2.3 percent of individual plans would have to raise their annual limit to $750,000.[55] This first-year increase in annual limits would potentially affect an estimated 1,670,000 persons across the three markets. The second year of the phase-in, beginning September 23, 2011, would affect additional plans and policies, requiring a cumulative 0.7 percent of large employer plans, 3.9 percent of small employer plans, and 5.3 percent of individual policies to increase their annual limit to $1,250,000. The second-year increase in annual limits would affect an estimated 3,278,250 persons across the three markets. The third and final year of the phase-in period (beginning on September 23, 2012) would affect additional plans and policies requiring a cumulative 2.4 percent of large employer plans, 8.1 percent of small employer plans and 14.3 percent of individual policies to increase their annual limit to $2 million. The third-year increase in annual limits would affect an estimated 8,104,500 persons across the three markets. Note that the estimated number of plans and people affected are upper-bound estimates since they do not take into account grandfathered health plans and plans that receive a waiver from the annual limits policy.

TABLE 3.2—PERCENT OF PLANS EMPLOYING ANNUAL LIMITS IN EACH MARKET

Annual limit (percent)	Large employer (percent)	Small employer (percent)	Individual (percent)
Under $250,000	*	0.4	0.4
$250,000–499,999	*	1.3	1.2
$500,000–999,999	*	1.7	1.6
$1,000,000–1,999,999	2.3	5.5	12.0
$2,000,000 plus	5.8	5.5	3.8
Total	8.2	14.4	19.0

* Less than 0.1%.

Source: The data are derived from data collected by Mercer's Health and Benefits Research Unit for their 2005, 2008 and 2009 National Survey of Employer-Sponsored Health Plans. For employer plans, the Mercer data provides prevalence information for PPOs and HMOs, and median annual limit levels for PPOs, split by small and large employer plans. In order to generate a plausible baseline of annual benefit maximums, broken by level of maximum, the reported percentages of employer plans that had annual maximums were spread into four intervals broken at $500k, $1 million, and $2 million. For PPOs and HMOs, the data were spread using the dispersion observed in lifetime benefit maximums (using data from the KFF/HRET employer surveys), and the distribution was constrained to be consistent with the Mercer reported median values for annual maximums. For annual benefit limits in individual coverage the relationship observed between AHIP's reported lifetime benefit maximum levels and the KFF/HRET employer lifetime benefit maximums was used to generate corresponding distributions from the synthesized employer annual limits.

TABLE 3.3—NUMBER OF PERSONS SUBJECTED TO ANNUAL LIMITS IN EACH MARKET

Annual limit	Large employer	Small employer	Individual	Total
Under $250,000	15,000	225,000	38,000	278,000
$250,000–499,999	45,000	675,000	115,000	835,000
$500,000–999,999	60,000	900,000	153,000	1,113,000
$1,000,000–1,999,999	2,389,000	2,869,000	1,177,000	6,435,000
$2,000,000 plus	6,041,000	2,869,000	377,000	9,287,000
Total	8,550,000	7,538,000	1,860,000	17,948,000

Source: The data are derived from data collected by Mercer's Health and Benefits Research Unit for their 2005, 2008 and 2009 National Survey of Employer-Sponsored Health Plans. For employer plans, the Mercer data provides prevalence information for PPOs and HMOs, and median annual limit levels for PPOs, split by small and large employer plans. In order to generate a plausible baseline of annual benefit maximums, broken by level of maximum, the reported percentages of employer plans that had annual maximums were spread into four intervals broken at $500k, $1 million, and $2 million. For PPOs and HMOs, the data were spread using the dispersion observed in lifetime benefit maximums (using data from the KFF/HRET employer surveys), and the distribution was constrained to be consistent with the Mercer reported median values for annual maximums. For annual benefit limits in individual coverage the relationship observed between AHIP's reported lifetime benefit maximum levels and the KFF/HRET employer lifetime benefit maximums was used to generate corresponding distributions from the synthesized employer annual limits.

Fear and anxiety about reaching annual or lifetime limits on coverage is a major concern among Americans who have health insurance. At the same time, the data suggest that relatively few individuals actually reach their policies' annual and lifetime limits. Thus, while such limits are relatively common in health insurance, the numbers of people expected to exceed either an annual or lifetime limit is quite low. The estimates provided in Table 3.4 provide a high and low range of the number of people who would hit such limits. Such a range is necessary because of the tremendous uncertainty around high-cost individuals. First, data are sparse, given that high-cost individuals lie at the tail of statistical cost distributions. The Departments attempted to extrapolate characteristics of the high-cost population who would be affected by these interim final regulations using several data sources. Second, data on per-capita cost is available on a year-by-year basis, and not on a lifetime basis. Assumptions were necessary to convert annual costs into lifetime costs, including considerations of how current spending could be related to future spending.[56]

[55] These figures and the ones that follow in this paragraph are estimated from Tables 2.2 and 2.3 by assuming a uniform distribution within each cell.

[56] To estimate the conditional premium impact of moving a given plan with a given annual benefit maximum to a higher benefit maximum, the percentage change in estimated benefit rates (percent of medical spending that the plan pays for as benefits) based on simulated benefit payments for such coverage was used. The underlying assumed medical spending profile was drawn from

Considering these caveats, Table 3.4 illustrates that raising the restriction of annual limits to $2 million by 2013 would extend additional coverage to 2,700 to 3,500 people per year.[57] The elimination of lifetime limits would extend coverage to an estimated 18,650 to 20,400 people who would be expected to exceed a lifetime limit during a calendar year.

TABLE 3.4—PERCENT AND NUMBER OF PERSONS EXPECTED TO EXCEED A LIFETIME OR ANNUAL LIMIT

	Projected to ever exceed limit	
	Percentage	Number
Current Lifetime Limit:		
Under $1,000,000	0.03–0.06	550–1,050
$1,000,000 to $1,999,999	0.02	4,500–5,000
$2,000,000 plus	0.02	13,600–14,350
Current Annual Limit:		
Under $250,000	0.19–0.23	550–650
$250,000 to $499,999	0.08–0.10	650–850
$500,000 to $999,000	0.03–0.06	350–700
$1,000,000 to $1,999,999	0.02	1,150–1,300
$2,000,000 or more	0.01–0.02	750–1,750

Source: *Estimates of the expected percentage of the insured population who would exceed a limit are based on an analysis of the MEPS–HC expenditure data supplemental with adjusted insurer claims from the Society of Actuaries large claims database; http://www.soa.org/files/pdf/Large_Claims_Report.pdf. Numbers of people rounded to the nearest 50.*

c. *Benefits*

Annual and lifetime limits exist in the individual, small group and large group health insurance markets. These limits function as caps on how much an insurance company will spend on medical care for a given insured individual over the course of a year, or the individual's lifetime. Once a person reaches this limit or cap, the person is essentially uninsured: He or she must pay the remaining cost of medical care out-of-pocket. These limits particularly affect people with high-cost conditions,[58] which are typically very serious. For example, one recent survey found that 10 percent of cancer patients reached the limit of what insurance would pay for treatment.[59] The same survey also found that 25 percent of cancer patients or their family members used up all or most of their savings, 13 percent were contacted by a collection agency, and 11 percent said they were unable to pay for basic necessities like food and housing as a result of the financial cost of dealing with cancer. By prohibiting lifetime limits and restricting annual limits, these interim final regulations will help families and individuals experiencing financial burdens due to exceeding the benefit limits of their insurance policy. By ensuring and continuing coverage, these interim final regulations also reduce uncompensated care, which would otherwise increase premiums of the insured population through cost-shifting, as discussed in more detail in section IV.B.6 later in this preamble.

These interim final regulations will also improve access to care. Reaching a limit could interrupt or cause the termination of needed treatment, leading to worsening of medical conditions. Moreover, those with medical debt are more likely to skip a needed test or treatment, and less likely to fill a prescription or visit a doctor or clinic for a medical issue.[60] The removal and restriction of benefit limits helps ensure continuity of care and the elimination of the extra costs that arise when an untreated or undertreated condition leads to the need for even more costly treatment, that could have been prevented if no loss of coverage had occurred. Lack of insurance coverage leads to additional mortality and lost workplace productivity, effects that would be amplified for a sicker population such as those who would reach a benefit limit.[61] By ensuring continuation of coverage, these interim final regulations benefit the health and the economic well-being of participants, beneficiaries, and enrollees.

These interim final regulations also benefit those without an alternative source of health coverage in the group health insurance market. Under HIPAA rules, when an individual exceeds a limit and loses coverage, that individual has a special enrollment right. If his or her plan offered multiple benefit packages or a spouse has access to ESI, the individual could enroll in the coverage, although it might lead to a change in providers and less generous coverage. Those without an alternative option would lose coverage, and the history of high medical claims and presence of preexisting conditions could make health insurance in the individual market impossible. Under these interim final regulations, people will no longer be treated differently depending on whether they have an alternative source of coverage.

Executive Order 12866 explicitly requires agencies to take account of "distributive impacts" and "equity," and these considerations help to motivate the relevant statutory provisions and these interim final regulations. Prohibiting lifetime limits and restricting annual limits assures that insurance will perform the function for which it was designed—namely, protecting health and financial well being for those most in need of care.

MEPS–HC person level spending data, calibrated to National Health Account levels, with the shape of the distribution modified based on high-cost claims data from the Society of Actuaries. The conditional premium increases were then applied to the fractions of plans in each of the three market segments by level of current annual limits to calculate the aggregate increase in premiums for the possible option.

[57] Numbers in this paragraph calculated from Table 2.4 may differ due to rounding.

[58] An April 2008 study by Milliman "2008 U.S. Organ and Tissue transplant cost estimates", found that the average one year billed charges related to a heart transplant averaged $787,000 while a liver transplant averaged $523,400. The lifetime costs for the treatment chronic disease such as of HIV infection have been well documented with one estimate of $618,000 (*Med Care* 2006;44: 990–997).

[59] *See* "National Survey of Households Affected by Cancer." (2006) accessed at *http://www.kff.org/kaiserpolls/upload/7591.pdf.*

[60] Seifert, Robert W., and Mark Rukavina. "Bankruptcy Is The Tip Of A Medical-Debt Iceberg." *Health Affairs* Web Exclusive (2006).

[61] *See* Institute of Medicine.(2003). *Hidden Costs, Value Lost: Uninsurance in America.* Washington, DC: National Academy Press; and Institute of Medicine (2002) *Care Without Coverage: Too Little, Too Late.* Washington, DC: National Academy Press.

This represents a meaningful improvement in equity, which is a benefit associated with these interim final regulations.

d. *Costs and Transfers*

Extending health insurance coverage for individuals who would otherwise hit a lifetime or annual limit will increase the demand for and utilization of health care services, thereby generating additional costs to the system. The three year phase-in of the elimination of annual limits and the immediate elimination of lifetime limits will increase the actuarial value of the insurance coverage for affected plans and policies if no other changes are made to the plan or policy. Issuers and plans in the group market may choose to make changes to the plan or policy to maintain the pre-regulation actuarial value of the plan or policy, such as changing their provider networks or copayments in some manner. To the extent that higher premiums (or other plan or policy changes) are passed on to all employees, there will be an explicit transfer from workers who would not incur high medical costs to those who do incur high medical costs. If, instead, the employers do not pass on the higher costs of insurance coverage to their workers, this could result in lower profits or higher prices for the employer's goods or services. Given the relatively small proportion of people who exceed the benefit limits in the current group markets, the Departments anticipate such transfers to be minimal when spread across the insured population (at a premium increase of one-half of a percent or less for lifetime limits and one-tenth of a percent or less for annual limits), compared with the substantial benefit rendered to individual high-cost enrollees. However, as this discussion demonstrates, there is substantial uncertainty in data and in the choices plans will decide to make in response to these interim final regulations, preventing more precise estimations of effects.

In the individual market, where policies are individually underwritten with no rating bands in the majority of States, the Departments expect the added premium cost or other benefit changes to be largely borne by the individual policyholder. As discussed in the impact analysis for Section 2704, if costs exceed 200 percent of the standard rate, some of the additional costs could be spread across the insurance market. In the 20 States with modified community rating, issuers could spread the increased costs across the entire individual market, leading to a transfer from those who would not incur high medical costs to those who do incur such costs. However, as with the group market, such a transfer is expected to be modest, given the small numbers of people who would exceed their benefit limit. The Departments estimate that the transfer would be three-quarters of a percent or less for lifetime limits and one-tenth of a percent or less for annual limits, under a situation of pure community rating where all the costs get spread across the insured population. This impact does not apply to grandfathered individual market plans. Also, given the wide variation in State insurance markets, a more precise estimation is not possible, and the premium impact would be even less in the majority of States that allow underwriting in the individual insurance market.

It is worth noting that the transfers discussed above will be significantly mitigated by the associated expansion of coverage that these interim final regulations create. The Departments expect, as a result of the gradual elimination of annual limits and the immediate elimination of lifetime limits, fewer people will be left without protection against high medical costs. This will lead fewer individuals to spend down resources and enroll in Medicaid or receive other State and locally funded medical support. It can be anticipated that such an effect will be amplified due to the high-cost nature of people who exceed benefit limits. As a result, there will be a reduction in Medicaid, State and local funded health care coverage programs, as well as uncompensated care, all of which would otherwise raise taxes and/or premiums for the larger population. Unfortunately, data around these high-cost individuals is limited, preventing the Departments from quantifying these benefits at the present time.

Additional uncertainty prevents more precise estimation of the benefits and impacts of this provision. As discussed in the impact analysis for Section 2704, there are interactive effects of the various provisions in these interim final regulations which cannot be estimated. For example, prohibiting rescissions and lifetime limits could mean that someone who would have had a policy rescinded now maintains coverage, and also maintains coverage beyond a previous lifetime limit. Moreover, it is important to note that the estimates presented here, by necessity, utilize "average" experiences and "average" plans. Different plans have different characteristics of enrollees, for example in terms of age or health status, meaning that provisions such as eliminating lifetime or restricting annual limits could affect them differently. This also means that average impacts of the various provisions in these interim final regulations or others cannot simply be added to obtain a total impact, since a plan may be affected by one provision but not another. Moreover, plans and issuers will consider these impacts when making decisions about whether or not to make other changes to their coverage that could affect their grandfather status—a consideration that is pertinent in the case of restricted annual limits, which do not apply to the grandfathered individual market. This further compounds any precise calculation of benefits and costs.

e. *Enrollment Opportunity*

These interim final regulations provide an enrollment (or, in the case of the individual market, reinstatement) opportunity for individuals who reached their lifetime limits in a group health plan or health insurance coverage and remain otherwise eligible for the coverage. In the individual market, the reinstatement opportunity does not apply to individuals who reached their lifetime limits in individual health insurance coverage if the contract is not renewed or otherwise is no longer in effect. It would apply, however, to a family member who reached the lifetime limit in an individual health insurance family policy while other family members remain in coverage. Such enrollment opportunity would generate a total hour burden of 3,800 hours and a cost burden of $21,000, as detailed in the Paperwork Reduction Act section.

f. *Alternatives*

PHS Act section 2711(a)(2) requires the Departments to "ensure that access to needed services is made available with a minimal impact on premiums." Accordingly, the Departments undertook an analysis of different restricted annual limit thresholds to study the issue, taking into consideration several factors: (1) The current use of annual limits in the group and individual market; (2) the average premium impact of imposing different annual limits on the individual, small group, and large group markets; (3) the number of individuals who will continue to have annual medical expenses that exceed an annual limit; and (4) the possibility that a plan or issuer would switch to an annual limit when lifetime limits are prohibited. In order to mitigate the potential for premium increases for all plans and policies, while at the same time ensuring access to essential health benefits, the Departments decided to

adopt a three-year phased approach for restricted annual limits.

As discussed above, it is important to note that it is difficult to predict exactly how plans and issuers will respond under the new regulations. Annual or lifetime limits on benefits help control risk and costs, and the elimination of a lifetime limit or a possible increase in an annual limit may lead plans and issuers to alter benefit design (such as increasing cost-sharing), and/or raise premiums. The Departments cannot determine which option or combination of options plans and issuers will choose. Therefore, it is very difficult to measure the impact on premiums due to the elimination of lifetime limits and a maximum annual limit. This uncertainty is compounded by the data uncertainties discussed earlier in section IV.B.2.b of this preamble.

Given the above data limitations, the Departments modeled the impact on premiums of increasing the annual limits for plans that currently have annual limits, assuming that the only reaction to a required increase in annual limits would be an increase in premiums. Because some plans may choose to avoid or offset the potential premium increase by increasing cost sharing, tightening the network of providers, adopting cost savings tools, or making other plan changes, the modeled premium impacts represent the high-end of the possible increases in premiums.

The Departments modeled a range of options and ways to implement a restricted annual limit. Two of the options considered were setting the annual restricted limit on essential benefits at $1 million or at $2 million. The higher the limit is set, the fewer the people that would exceed the limit and experience a gap in insurance coverage. However, plans with current low limits could see increases in costs and potentially premiums because the proportion of claims covered by the plans would increase. One final issue to consider is that for plan years (in the individual market, policy years) beginning after January 1, 2014, all group plans and non-grandfathered individual policies will be required to remove annual limits. A low annual limit until 2014 would offer less protection to those with medical expenses exceeding the limit, and could result in an increase in premiums in 2014 (although a variety of other changes that will be implemented in 2014 could be expected to result in lower premium increases in most States). Therefore, a stepped approach allowing the restricted annual limit to be phased in over time seemed to be the fairest approach and most likely to result in a minimal impact on premiums, so it was selected.

Table 3.5 demonstrates premium impacts at different annual limit thresholds, and Table 3.4 above demonstrates the numbers of people expected to exceed different annual limit thresholds. The Departments chose to set the restricted annual limit relatively low in the first year, and to then increase the limit up to $2 million over the three-year period. This phased approach was intended to ease any increases in premiums in any one year, particularly for plans with low initial annual limits, and to help group plans and non-grandfathered individual policies transition to no annual limits starting in 2014. With this approach, a threshold of $750,000 was associated with a 5.1 percent premium impact for plans with very low annual limits of $250,000, but it is anticipated that these plans comprise only less than one-half of one percent of the market. On the other hand, raising the restricted annual limits to $2,000,000 under these interim final regulations could be expected to help an estimated 2,700 to 3,500 people [62] who would no longer exceed their annual limit, ensuring financial protection to those who have high medical claims.

It is important to note that these interim final regulations also provide that the Secretary of HHS may establish a waiver program under which issuers or plans may assert that adhering to the restricted annual limit provisions of these interim final regulations would result in a significant decrease in access to benefits or a significant premium increase. The Departments provided for this waiver in order to prevent the loss of coverage for enrollees in low-benefit plans (for example, "mini-med" plans) that have low annual limits. While the impact of this policy is not quantified, it, too, is intended to mitigate any unintended consequences given the paucity of data on the incidence and prevalence of annual limits in the markets today.[63]

TABLE 3.5—ESTIMATED PREMIUM IMPACTS FOR A PLAN MOVING TO A NEW ANNUAL LIMIT

Current limit	People subject to current limit	New limit				
		$500k %	$750k %	$1 million %	$1.5 million %	$2 million %
$250k	278,000	3.7	5.1	6.1	6.2–6.4	[63] 6.2–6.6
$500k	835,000		1.4	2.3	2.4–2.6	2.4–2.8
$750k	1,113,000			1.0	1.0–1.2	1.0–1.5
$1 million	6,435,000				0.1–0.3	0.1–0.5
$1.5 million	9,287,000					0.04–0.2

Source: Premium estimates are calculated based MEPS–HC supplemented with the Society of Actuaries Large Claim Database—To estimate the conditional premium impact of moving a given plan with a given annual benefit maximum to a higher benefit maximum, the percentage change in estimated benefit rates (percent of medical spending that the plan pays for as benefits) based on simulated benefit payments for such coverages was used. The underlying assumed medical spending profile was drawn from MEPS–HC person level spending data, calibrated to National Health Account levels, with the shape of the distribution modified based on high-cost claims data from the Society of Actuaries. The conditional premium increases were then applied to the fractions of plans in each of the three market segments by level of current annual limits to calculate the aggregate increase in premiums for the possible option. For the low impact estimates, the distributions were then adjusted only for the expected marginal loading impact of using commercial reinsurance for many of the smaller carriers. For the high impact estimates, the distributions were also adjusted to reflect possible underestimation of the tails of the expenditure distribution once coverage of unlimited benefit levels was required. The adjustments were set at levels that generated aggregate impacts that were conservative relative to estimates from PricewaterhouseCoopers' March 2009 study of lifetime limits for the National Hemophilia Foundation.

[62] Numbers calculated from Table 3.4 may differ due to rounding.

[63] If a second decimal place were included, the lower end of the range in this column would be greater than the lower end of the range in the $1.5 million column.

4. PHS Act Section 2712, Rescissions (26 CFR 54.9815–2712T, 29 CFR 2590.715–2712, 45 CFR 147.128)

a. Summary

As discussed earlier in this preamble, PHS Act Section 2712 provides rules regarding rescissions for group health plans and health insurance issuers that offer group or individual health insurance coverage. A plan or issuer must not rescind coverage under the plan, policy, certificate, or contract of insurance from the individual covered under the plan or coverage unless the individual (or a person seeking coverage on behalf of the individual) performs an act, practice, or omission that constitutes fraud, or unless the individual makes an intentional misrepresentation of material fact, as prohibited by the terms of the plan or coverage. These interim final regulations provide that a group health plan, or a health insurance issuer offering group health insurance coverage, must provide at least 30 calendar days advance notice to an individual before coverage may be rescinded.[64] The notice must be provided regardless of whether the rescission is of group or individual coverage; or whether, in the case of group coverage, the coverage is insured or self-insured, or the rescission applies to an entire group or only to an individual within the group.

PHS Act Section 2712 and these interim final regulations create a statutory Federal standard and enforcement power in the group and individual markets where it did not exist. Prior to this provision taking effect, varying court-made Federal common law existed for ERISA plans. State rules pertaining to rescission have been found to be preempted by ERISA by five circuit courts (5th, 6th, 7th, 9th and 11th as of 2008). Each styled a remedy looking to State law, the majority of Federal courts or the Restatement of Contracts. According to a House Energy and Commerce Committee staff memorandum,[65] rather than reviewing medical histories when applications are submitted, some insurers engage in "post-claims underwriting." Under this practice, if the policyholders become sick and file expensive claims, the insurance companies initiate investigations to scrutinize the details of the policyholder's application materials and medical records, and if discrepancies, omissions, or misrepresentations are found, the insurer rescinds the policies, returns the premiums, and refuses payment for medical services. The Committee found some questionable practices in this area including insurance companies rescinding coverage even when discrepancies are unintentional or caused by others, for conditions that are unknown to policyholders, and for discrepancies unrelated to the medical conditions for which patients sought medical care. According to the Committee, the current regulatory framework governing the individual insurance market in this area is a haphazard collection of inconsistent State and Federal laws. Protections for consumers and enforcement actions by regulators vary depending on where individuals live. Because of these varying standards, many patients lack adequate protections against rescission, prompting the need for and benefits from this rule.

When a coverage rescission occurs, an individual's health insurance coverage is retroactively cancelled, which means that the insurance company is no longer responsible for medical care claims that they had previously accepted and paid. Rescissions can result in significant financial hardship for affected individuals, because, in most cases, the individuals have accumulated significant medical expenses.

b. Estimated Number of Affected Entities

The Departments assume that these interim final regulations will have their largest impact on the individual insurance market, because group health coverage rarely is rescinded.[66] By creating a new Federal standard governing when policies can be rescinded, the Departments expect these interim final regulations to potentially affect the approximately 17 million non-elderly individual health insurance policy holders and their dependents in the individual health insurance market.[67] In addition, approximately 490 health insurance issuers offering coverage in the individual health insurance market who currently could rescind health insurance coverage are expected to be affected.[68] That said, the actual incidence of individuals who are subject to rescissions each year is likely to be small. The NAIC Regulatory Framework Task Force collected data on 52 companies covering the period 2004–2008, and found that rescissions averaged 1.46 per thousand policies in force.[69] This estimate implies there are approximately 10,700 rescissions per year.

c. Benefits

There are many benefits that flow from these interim final regulations, which the Departments believe justify the costs. As noted, Executive Order 12866 requires consideration of "distributive impacts" and "equity." To the extent that rescissions are arbitrary and revoke the insurance that enrollees paid for and expected to cover the cost of expensive illnesses and conditions, preventing rescissions would prevent inequity and greatly increase health and economic well-being. Consumers would have greater confidence that purchasing insurance would be worthwhile, and policies would represent better value for money. As discussed further in section IV.B.6.b of this preamble, it is also well-documented that lack of insurance leads to lost workplace productivity and additional mortality and morbidity. Thus, these rules would contribute to reducing the burden from lost productivity that arises from people being uncovered. These effects would be especially large relative to the number of individuals affected given that the affected population tends to be much sicker on average.

Specifically, this provision also could protect against interruptions or terminations in care resulting from rescissions. As a result of the statute and these interim final regulations, people with high-cost illnesses at risk of rescission would have continued access to care throughout their illness, possibly avoiding more expensive and debilitating complications down the road. Gaps in health insurance, even if brief, can have significant health and financial consequences.[70] A survey from the Commonwealth Fund found that about three of five adults with any time uninsured said they had not received needed health care in the past year because of costs—more than two times the rate of adults who were insured all year. Further, 44 percent of respondents who had experienced any coverage break during the prior year said they had failed to go to a doctor or clinic

[64] Even though prior notice must be provided in the case of a rescission, applicable law may permit the rescission to void coverage retroactively.

[65] *Terminations of Individual Health Insurance Policies by Insurance Companies, Hearing before the House Comm. On Energy and Commerce, Subcommittee On Oversight and Investigations,* June 16, 2009 (supplemental memorandum), at: *http://energycommerce.house.gov/Press_111/20090616/rescission_supplemental.pdf.*

[66] This statement is based on the Departments' conversations with industry experts.

[67] 2009 Current Population Survey.

[68] Estimates are from 2007 NAIC financial statements data and the California Department of Managed Healthcare (*http://wpso.dmhc.ca.gov/hpsearch/viewall.aspx*).

[69] NAIC Rescission Data Call, December 17, 2009, p.1.

[70] This point is discussed further in the section IV.B.6.b. later in this preamble.

when they had a medical problem because of costs, compared with 15 percent of adults who did not experience such breaks.[71]

These interim final regulations will also have substantial financial benefits for individuals who otherwise would have had their policies rescinded. While there has been minimal documentation of financial losses associated with rescissions, reports suggest severe financial hardships may result. In one case, a woman faced more than $129,000 in medical bills and was forced to stop chemotherapy for several months after being dropped by an insurer.[72] The maintenance of coverage through illness not only prevents financial hardship for the particular enrollee, but can also translate into lower premiums for the broader insured population by reducing cost-shifting from the costs of uncompensated care.

d. Costs and Transfers

The prohibition of rescissions except in cases of fraud or intentional misrepresentation of material fact could lead insurers to spend more resources checking applications before issuing policies than they did before the Affordable Care Act, which would increase administrative costs. However, these costs could be partially offset by decreased costs associated with reduced post-claims underwriting under the interim final rule. Due to lack of data on the administrative costs of underwriting and post-claims underwriting, as well as lack of data on the full prevalence of rescissions, it is difficult for the Departments to quantify these costs. The new requirement for an advance notice prior to rescission of a policy imposes an hour burden of 350 hours and a cost burden of $29,000. These costs are discussed in more detail in the Paperwork Reduction Act section later in this preamble.

To the extent that continuing coverage for these generally high-cost populations leads to additional demand for and utilization of health care services, there will be additional costs generated in the health care system. However, given the relatively low rate of rescissions (approximately 0.15 percent of individual policies in force) and the relatively sick nature of people who have policies rescinded (who would have difficulty going without treatment), the Departments estimate that these additional costs would be small.

Under this provision of these interim final regulations, a transfer likely will occur within the individual health insurance market from policyholders whose policies would not have been rescinded before the Affordable Care Act to some of those whose policies would have been rescinded before the Affordable Care Act, depending on the market and the rules which apply to it. This transfer could result from higher overall premiums insurers will charge to recoup their increased costs to cover the health care costs of very sick individuals whose policies previously could be rescinded (the precise change in premiums depends on the competitive conditions in specific insurance markets). However, rescissions are extremely rare in group markets where such costs would be most likely to be transferred through premium increases. As described earlier, they are also rare in the individual market, affecting 0.15 percent of policies. In this market, the potential costs would likely be born by the individuals themselves unless they live in a State with regulations limiting rate increases based on health, as discussed further below.

While the Departments are unable to estimate the impact of prohibiting rescissions except in cases of fraud or intentional misrepresentation with certainty, they expect it to be small. Even the high rates of rescission acknowledged by some smaller insurers would still be expected to translate into only a small average impact across the individual health insurance market. And since this small impact across the market would be primarily attributable to insurers paying benefits to persons with substantial medical expenditures, the transfer would be useful.

The Departments assume for their analysis that the individuals covered by the rescinded policies are much sicker than average. Specifically, these individuals are assumed to have total spending in the top 10 percent of spending, which represents about 70 percent of total spending for the population as a whole, as estimated from the 2007 MEPS–HC person level medical expenditure distributions. If the overall NAIC rescission rate of 0.15 percent comes from this subset randomly, then they would account for one percent of claims. Depending on the percentage of rescissions that no longer occur as a result of these interim final regulations, and other changes to the insurance market as detailed below, these claims would now have to be covered, representing a transfer of costs from the affected entities to the larger insured population.

Substantial uncertainty exists around the estimated transfer discussed above. First, since post-claims underwriting is limited by these interim final regulations, plans may expand their pre-claims underwriting practices, potentially leading to increased denials, preexisting condition riders, or rate-ups.[73] This in turn would decrease the number of rescissions, but without expanding coverage or increasing claims paid. Second, there is uncertainty concerning what proportion of the rescissions would be considered to result from fraud or intentional misrepresentation of material fact, and also uncertainty regarding the interaction of this provision with other provisions, such as the elimination of lifetime limits discussed in the impact analysis for PHS Act section 2711, or the prohibition of preexisting condition exclusions for children—since new children will now be able to enroll in policies which also cannot be rescinded. As a result of this uncertainty, the Departments are unable to precisely estimate an overall or average premium impact from this provision, but given the relatively low prevalence of rescissions in the current market, the impact is estimated to be at most a few tenths of a percent.

5. PHS Act Section 2719A, Patient Protections (26 CFR 54.9815–2719AT, 29 CFR 2590.715–2719A, 45 CFR 147.138)

As discussed earlier in this preamble, Section 2719A of the PHS Act and these interim final regulations impose, with respect to a group health plan, or group or individual health insurance coverage, a set of three requirements relating to the choice of a health care professional and requirements relating to benefits for emergency services. The three requirements relating to the choice of health care professional apply only with respect to a plan or health insurance coverage with a network of providers. Thus, a plan or issuer that has not negotiated with any provider for the delivery of health care but merely reimburses individuals covered under the plan for their receipt of health care is not subject to the requirements relating to the choice of a health care professional. However, all plans or health insurance coverage are subject to requirements relating to benefits for

[71] Collins *et al.* "Gaps in Health Insurance: An All American Problem" *Commonwealth Fund* (2006), available at: *http://www.commonwealthfund.org/usr_doc/Collins_gapshltins_920.pdf.*

[72] Girion, Lisa "Health Net Ordered to Pay $9 million after Canceling Cancer Patient's Policy," *Los Angeles Times* (2008), available at: *http://www.latimes.com/business/la-fi-insure23feb23,1,5039339.story.*

[73] These interim final regulations eliminate preexisting condition riders for children, but such riders will continue to be allowed for adults until January 1, 2014.

emergency services. The cost, benefits, and transfers associated with each of these requirements are discussed separately below.

PHS Act section 2719A and these interim final regulations are generally effective for plan years (or, in the case of the individual market, policy years) beginning on or after September 23, 2010.

a. Choice of Health Care Professional

i. Designation of Primary Care Provider

Summary. The statute and these interim final regulations provide that if a group health plan, or a health insurance issuer offering group or individual health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer must permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept the participant, beneficiary, or enrollee.

Estimated Number of Affected Entities. Choice or assignment to a primary care provider is typically required by health maintenance organizations (HMOs) and Point of Service plans (POS). Recent data suggest that there are 577 HMOs in the United States,[74] accounting for more than 32.3 million enrollees,[75] of whom about 40 percent have their primary care provider serve as a gatekeeper.[76] Similar data does not exist for POS plans, although as a reference, about 10 percent of workers with ESI are enrolled in POS plans.[77]

PHS Act section 2719A and these interim final regulations only apply to non-grandfathered health plans. However, due to the lack of data on HMO and POS enrollees by type of market, and the inability to predict new plans that may enter those markets, the Departments are unable to predict the number enrollees and plans that would be affected by these provisions. Moreover, there are no data on the number of plans that auto-assign patients to primary care physicians and do not already allow patients to make the final provider choice, as this would be the population to benefit maximally from the interim final rule. From conversations with industry experts the Departments expect, however, that this number would be very small, and therefore the benefits and costs of this provision would be small as well, as discussed further below.

Benefits. Provider choice allows patients to take into account factors they may value when choosing their provider, such as provider credentials, office hours and location, advice from professionals, and information on the experience of other patients.[78] Freedom of choice is an important value, particularly in this domain, even if it cannot easily be turned into monetary equivalents. Provider choice is a strong predictor of patient trust in their provider, which could lead to decreased likelihood of malpractice claims.[79] As well, studies show that better patient-provider trust results in improved medication adherence.[80] Research literature suggests that better patient-provider relationships also increase health promotion and therapeutic effects.[81] Moreover, one study found that adults who identified having a primary care provider, rather than a specialist, as their regular source of care had 33 percent lower annual adjusted health care expenditures and lower adjusted mortality.[82]

Studies have also found that patients who have long-term relationships with their health care providers tend to experience better quality health care. Adults that have a usual provider and place are more likely to receive preventive care and screening services than those who do not. For example, adults were 2.8 times more likely to receive a flu shot and women between the ages of 20–64 were 3.9 times more likely to receive a clinical breast exam if they had a usual provider and place of service.[83]

Regular contact with primary care providers also can decrease emergency department visits and hospitalizations. One study found that adolescents with the same regular source of care were more likely to receive preventive care and less likely to seek care in an emergency room.[84] Another study found that patients without a relationship with a regular physician were 60 percent more likely to go to the emergency department with a non-urgent condition.[85] Patients that have a usual source of care tend to also have fewer hospital admissions.[86]

Costs and Transfers. Although difficult to estimate given the data limitations described above, the costs for this provision are likely to be minimal. As previously noted, when enrollees like their providers, they are more likely to maintain appointments and comply with treatment, both of which could induce demand for services, but these services could then in turn reduce costs associated with treating more advanced conditions. However, the number of affected entities from this provision is very small, leading to small additional costs.

There will likely be negligible transfers due to this provision given no changes in coverage or cost-sharing.

ii. Designation of Pediatrician as Primary Care Provider

Summary. If a plan or issuer requires or provides for the designation of a participating primary care provider for a child by a participant, beneficiary, or enrollee, the plan or issuer must permit the designation of a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if the provider participates in the network of the plan or issuer and is available to accept the child. The general terms of the plan or health insurance coverage regarding pediatric care otherwise are unaffected,

[74] Kaiser Family Foundation, "Number of HMOs, July 2008," *available at http://www.statehealthfacts.kff.org/comparetable.jsp?ind=347&cat=7&sub=85&yr=71&typ=1&sort=a* Note that the number of HMOs also includes Medicaid and Medicare only HMOs that are not covered by these interim final regulations.

[75] Departments' estimates are based on the 2009 CPS and the 2008 Medical Expenditure Panel Survey.

[76] *See* Fang, Hai, *et al.,* "Has the use of physician gatekeepers declined among HMOs? Evidence from the United States." *International Journal of Health Care Finance and Economics* 9:183–19 5 (2009).

[77] *See* Kaiser Employer Health Benefits Annual Survey, 2009, Exhibit 5.2 ("Distribution of Health Plan Enrollment for Covered Workers, by Firm Size, Region, and Industry, 2009"), *available at http://ehbs.kff.org/pdf/2009/7936.pdf.*

[78] *See* Fanjiang, Gary, *et al.,* "Providing Patients Web-based Data to Inform Physician Choice: If You Build It, Will They Come?." *Journal of General Internal Medicine* 22.10 (2007).

[79] Balkrishnan, Rajesh, and Chu-Weininger, Ming Ying L., "Consumer Satisfaction with Primary Care Provider Choice and Associated Trust." *BMC Health Services Research* 22.10 (2007).

[80] Piette, John, *et al.,* "The Role of Patient-Physician Trust in Moderating Medication Nonadherence Due to Cost Pressures." *Archives of Internal Medicine* 165, August (2005) and Roberts, Kathleen J., "Physician-Patient Relationships, Patient Satisfaction, and Antiretroviral Medication Adherence Among HIV-Infected Adults Attending a Public Health Clinic." *AIDS Patient Care and STDs* 16.1 (2002).

[81] *Ibid. See also* DiMatteo, Robin M., *et al.,* "Physicians' Characteristics Influence Patients' Adherence to Medical Treatment: Results From the Medical Outcomes Study." *Health Psychology* 12.2 (1993), and Bazemore, Andrew, and Phillips, Robert, "Primary Care and Why it Matters for U.S. Health Reform." *Health Affairs* 29.5 (2010).

[82] Franks, P., and K. Fiscella, "Primary Care Physicians and Specialists as Personal Physicians. Health Care Expenditures and Mortality Experience." *Journal of Family Practice* 47 (1998).

[83] Blewett, Lynn, *et al.,* "When a Usual Source of Care and Usual Provider Matter: Adult Prevention and Screening Services." *Journal of General Internal Medicine* 23.9 (2008).

[84] Macinko, James, *et al.,* "Contribution of Primary Care to Health Systems and Health." *Milbank Quarterly* 83.3 (2005).

[85] Burstin, "Nonurgent Emergency Department Visits: The Effect of Having a Regular Doctor."

[86] Bazemore, "Primary Care and Why it Matters for U.S. Health Reform."

including any exclusions with respect to coverage of pediatric care.

Estimated Number of Affected Entities. Due to lack of data on enrollment in managed care organizations by age, as well as lack of data on HMO and POS enrollees by type of market, and the inability to predict new plans that may enter those markets, the Departments are unable to predict the number enrollees and plans that would be affected by these provisions. As a reference, there are an estimated 11.8 million individuals under age 19 with ESI who are in an HMO plan.[87]

Benefits. By expanding participating primary care provider options for children to include physicians who specialize in pediatrics, this provision could benefit individuals who are making decisions about care for their children. As discussed in the previous section, research indicates that when doctors and patients have a strong, trusting relationship, patients often have improved medication adherence, health promotion, and other beneficial health outcomes. Considering this research, this provision could lead to better, sustained patient-provider relationships and health outcomes.

In addition, allowing enrollees to select a physician specializing in pediatrics as their children's primary care provider could remove any referral-related delays for individuals in plans that require referrals to pediatricians and do not allow physicians specializing in pediatrics to serve as primary care providers.[88] The American Academy of Pediatrics (AAP) strongly supports the idea that the choice of primary care clinicians for children should include pediatricians.[89] Relatedly, at least two States have laws providing children immediate access to pediatricians.[90]

Regular pediatric care, including care by physicians specializing in pediatrics, can improve child health outcomes and avert preventable health care costs. For example, one study of Medicaid enrolled children found that when children were up to date for age on their schedule of well-child visits, they were less likely to have an avoidable hospitalization at a later time.[91] Likewise, if providers are able to proactively identify and monitor obesity in child patients, they may reduce the incidence of adult health conditions that can be expensive to treat; various studies have documented links between childhood obesity and diabetes, hypertension, and adult obesity.[92] One recent study modeled that a one-percentage-point reduction in obesity among twelve-year-olds would save $260.4 million in total medical expenditures.[93]

Giving enrollees in covered plans (that require the designation of a primary care provider) the ability to select a participating physician who specializes in pediatrics as the child's primary care provider benefits individuals who would not otherwise have been given these choices. Again, the extent of these benefits will depend on the number of enrollees with children that are covered by plans that do not allow the selection of a pediatrician as the primary care provider, which industry experts suggest would be small.

Costs and Transfers. Although difficult to estimate given the data limitations described above, the costs for this provision are likely to be small. Giving enrollees a greater choice of primary care providers by allowing them to select participating physicians who specialize in pediatrics as their child's primary care provider could lead to health care costs by increasing the take-up of primary care services, assuming they would not have utilized appropriate services as frequently if they had not been given this choice.

Any transfers associated with these interim final regulations are expected to be minimal. To the extent that pediatricians acting as primary care providers would receive higher payment rates for services provided than would other primary care physicians, there may be some transfer of wealth from policy holders of non grandfathered group plans to those enrollees that choose the former providers. However, the Departments do not believe that this is likely given the similarity in income for primary care providers that care for children.[94]

iii. Patient Access to Obstetrical and Gynecological Care

Summary. The statute and these interim final regulations also provide rules for a group health plan, or a health insurance issuer offering group or individual health insurance coverage, that provides coverage for obstetrical or gynecological care and requires the designation of an in-network primary care provider. Specifically, the plan or issuer may not require authorization or referral by the plan, issuer, or any person (including a primary care provider) for a female participant, beneficiary, or enrollee who seeks obstetrical or gynecological care provided by an in-network health care professional who specializes in obstetrics or gynecology. These plans and issuers must also treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, by the professional who specializes in obstetrics or gynecology as the authorization of the primary care provider. For this purpose, a health care professional specializing in obstetrics or gynecology is any individual who is authorized under applicable State law to provide obstetrical or gynecological care, and is not limited to a physician.

Estimated Number of Affected Entities. Requiring referrals or authorizations to health care professional who specializes in obstetrics or gynecology (OB/GYNs) is typically required by health maintenance organizations (HMOs) and Point of Service plans (POS). As a reference, according to the 2004 Kaiser Women's Health Survey, 46 percent of women reported seeing an OB/GYN in the past year and 47 percent of women of reproductive age counted OB/GYNs among their routine health care providers.[95] In 2006, there were 69.4 million visits to an OB/GYN according to the National Ambulatory Medical Care Survey conducted by the Centers for Disease Control and Prevention.[96] Although more recent data is not available, a 1999 survey showed that 60 percent of all OB/GYNs in plans

[87] U.S. Department of Labor/EBSA calculations using the March 2009 Current Population Survey Annual Social and Economic Supplement and the 2008 Medical Expenditure Panel Survey.

[88] There is no data available to estimate the number of plans that fall into this category.

[89] *See* AAP Policy, "Guiding Principles for Managed Care Arrangements for the Health Care of Newborns, Infants, Children, Adolescents, and Young Adults," *available at http://aappolicy.aappublications.org/cgi/reprint/pediatrics;105/1/132.pdf.*

[90] For example, Michigan and North Carolina mandate direct access to pediatricians as a part of patients' rights requirements. *See* Kaiser Family Foundation, "Patients' Rights: Direct Access to Providers, 2008," *available at http://www.statehealthfacts.kff.org/comparetable.jsp?ind=364&cat=7.*

[91] Bye, "Effectiveness of Compliance with Pediatric Preventative Care Guidelines Among Medicaid Beneficiaries."

[92] "Working Group Report on Future Research Directions in Childhood Obesity Prevention and Treatment." National Heart Lung and Blood Institute, National Institute of Health, U.S. Department of Health and Human Services (2007), *available at http://www.nhlbi.nih.gov/meetings/workshops/child-obesity/index.htm.*

[93] *Ibid.*

[94] *http://www.merritthawkins.com/pdf/2008-mha-survey-primary-care.pdf.*

[95] *See* Salganicoff, Alina, *et al.,* "Women and Health Care: A National Profile." Kaiser Family Foundation (2005).

[96] *See* Cherry, Donald K., *et al.,* "National Ambulatory Medical Care Survey: 2006 Summary." National Health Statistics Reports (August 2008), Centers for Disease Control and Prevention, *available at http://www.cdc.gov/nchs/data/nhsr/nhsr003.pdf.*

requiring the designation of a primary care provider reported that their gynecologic patients were either limited or barred from seeing their OB/GYNs without first getting permission from another physician, and 28 percent reported that their pregnant patients needed permission before seeing an OB/GYN.[97] Nearly 75 percent of surveyed OB/GYNs reported that their patients needed to return to their primary care physicians for permission before they could provide necessary follow-up care.

Notably, beginning in 1994, due to both consumer demand and efforts to regulate managed care, many States passed direct access laws for OB/GYNs, allowing patients to seek care at an OB/GYN office without a referral from a primary care physician. As of 2008, 36 States plus the District of Columbia have laws that provide direct access to OB/GYNs. However, 14 States have not mandated direct access: Alaska, Arizona, Hawaii, Indiana, Iowa, Nebraska, New Jersey, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Vermont, and Wyoming.[98] This provision gives females direct access to OB/GYNs in covered plans in these States, who may otherwise not have had this direct access. As well, because State law is preempted by ERISA, women in self-insured plans did not previously receive this legal protection. In addition, these women will not need to get an authorization from their primary care provider for the care and ordering of obstetrical and gynecological items and services by their participating OB/GYN.

These interim final regulations apply to non-grandfathered health plans. However, due to the lack of data on HMO and POS enrollees by type of market, and the inability to predict new plans that may enter those markets, the Departments are unable to predict the number enrollees and plans that would be affected by this provision. As a reference, there are an estimated 14.8 million females between ages 21 to 65 with ESI who are in HMO plans.[99]

Benefits. This provision gives women in covered plans easier access to their OB/GYNs, where they can receive preventive services such as pelvic and breast exams, without the added time, expense, and inconvenience of needing permission first from their primary care providers. Moreover, this provision may also save time and reduce administrative burden since participating OB/GYNs do not need to get an authorization from a primary care provider to provide care and order obstetrical and gynecological items and services. To the extent that primary care providers spend less time seeing women who need a referral to an OB/GYN, access to primary care providers will be improved. To the extent that the items and services are critical and would have been delayed while getting an authorization from the primary care provider, this provision could improve the treatment and health outcomes of female patients.

Access to such care can have substantial benefits in women's lives. About 42,000 American women die each year from breast cancer, and it is estimated that about 4,000 additional lives would be saved each year just by increasing the percentage of women who receive recommended breast cancer screenings to 90 percent.[100] As well, regular screening with pap smears is the major reason for the 30-year decline in cervical cancer mortality.[101]

To the extent that direct access to OB/GYN services results in increased utilization of recommended and appropriate care, this provision may result in benefits associated with improved health status for the women affected. Potential cost savings also exist since women in affected plans will not need to visit their primary care provider in order to get a referral for routine obstetrical and gynecological care, items, and services, thereby reducing unnecessary time and administrative burden, and decreasing the number of office visits paid by her and by her health plan.

Costs and Transfers. One potential area of additional costs associated with this provision would be induced demand, as women who no longer need a referral to see an OB/GYN may be more likely to receive preventive screenings and other care. Data is limited to provide an estimate of this induced demand, but the Departments believe it to be small.

To the extent these interim final regulations result in a shift in services to higher cost providers, it would result in a transfer of wealth from enrollees in non grandfathered group plans to those individuals using the services affected. However, such an effect is expected to be small.

b. Coverage of Emergency Services

i. Summary

PHS Act section 2719A and these interim final regulations provide that a group health plan and a health insurance issuer covering emergency services must do so without the individual or the health care provider having to obtain prior authorization (even if the emergency services are provided out of network). For a plan or health insurance coverage with a network of providers that provide benefits for emergency services, the plan or issuer may not impose any administrative requirement or limitation on benefits for out-of-network emergency services that is more restrictive than the requirements or limitations that apply to in-network emergency services.

Finally, these interim final regulations provide that cost-sharing requirements expressed as a copayment amount or coinsurance rate imposed for out-of-network emergency services cannot exceed the cost-sharing requirements that would be imposed if the services were provided in-network. These interim final regulations also provide that a plan or health insurance issuer pay for out-of-network emergency services (prior to imposing in-network cost-sharing), the greatest of: (1) The median in-network rate; (2) the usual customary and reasonable rate (or similar rate determined using the plans or issuer's general formula for determining payments for out-of-network services); or (3) the Medicare rate.

In applying the rules relating to emergency services, the statute and these interim final regulations define the terms emergency medical condition, emergency services, and stabilize. These terms are defined generally in accordance with their meaning under Emergency Medical Treatment and Labor Act (EMTALA), section 1867 of the Social Security Act. There are, however, some variances from the EMTALA definitions.

The statute and these interim final regulations relating to emergency services do not apply to grandfathered health plans; however, other Federal or State laws related to emergency services may apply regardless of grandfather status.

ii. Estimated Number of Affected Entities

These interim final regulations will directly affect out-of-pocket

[97] *See* American College of Obstetricians and Gynecologists/Princeton Survey Research Associates, 1999.

[98] Kaiser Family Foundation, "Mandates Direct Access to OB/GYNs?," *available at http://www.statehealthfacts.kff.org/comparemaptable.jsp?ind=493&cat=10&sub=114.*

[99] U.S. Department of Labor/EBSA calculations using the March 2009 Current Population Survey Annual Social and Economic Supplement and the 2008 Medical Expenditure Panel Survey.

[100] *See* National Commission on Prevention Priorities, "Preventive Care: A National Profile on Use, Disparities, and Health Benefits." Partnership for Prevention, August 2007.

[101] *See* "Preventive Care: A National Profile on Use, Disparities, and Health Benefits" at 26.

expenditures for individuals enrolled in non-grandfathered private health insurance plans (group or individual) whose copayment or coinsurance arrangements for emergency services differ between in network and out of network providers. These interim final regulations may also require some health plans to make higher payments to out of network providers than are made under their current contractual arrangements. There are no available data, however, that allow for national estimates of the number of plans (or number of enrollees in plans) that have different payment arrangements for out of network than in-network providers, or differences between in- and out-of-network copayment and coinsurance arrangements, in order to more precisely estimate the number of enrollees affected.

The Departments conducted an informal survey of benefits plans for large insurers in order to assess the landscape with regard to copayment and coinsurance for emergency department services, but found that a variety of arrangements currently exist in the marketplace. Many of the large insurers maintained identical copayment and/or coinsurance arrangements between in and out of network providers. Others have differing arrangements based on copayments, coinsurance rates, or a combination of the two. While useful for examining the types of arrangement that exist in the market place, these data do not contain enrollment information and therefore cannot be used to make impact estimates.

Although these data do not permit quantitative estimates of plans or persons affected, other data can be illustrative of overall magnitudes for emergency services. For a point of reference, in 2005, 115.3 million visits were made to hospital emergency departments. Of these, 39.9 percent were made by individuals with private insurance. This represents approximately 46.0 million visits, at approximately 1.7 visits per insured person that utilized emergency department services, or 27.4 million people.[102] While data on rates of out-of-network emergency room encounters is sparse, the Blue Cross Blue Shield (BCBS) Association reports that nationally about 8 percent of its emergency room visits are sought out-of-network.[103] Given the breadth of the Blue Cross networks, it is reasonable to assume that 8 percent to 16 percent of emergency room visits are out-of-network each year, since a plan with a smaller provider network will be more likely to have out-of-network use by enrollees. If each individual was equally likely to utilize out of network services, a maximum of 2.1 to 4.2 million individuals would be potentially affected by differing out-of-pocket requirements. Based on the informal survey, some proportion, possibly a large portion, of these individuals are covered by plans that have identical in and out-of-network requirements. Therefore, the number of individuals affected by this regulatory provision would be smaller.

iii. Benefits

Insurers maintain differing copayment and coinsurance arrangements between in- and out-of-network providers as a cost containment mechanism. Implementing reduced cost sharing for the use of in-network providers provides financial incentive for enrollees to use these providers, with whom plans often have lower-cost contractual arrangements. In emergency situations, however, the choice of an in-network provider may not be available—for example, when a patient is some distance from his or her local provider networks or when an ambulance transports a patient to the nearest hospital which may not have contractual arrangements with the person's insurer. In these situations, the differing copayment or coinsurance arrangements could place a substantial financial burden on the patient. These interim final regulations eliminate this disparity in out-of-pocket burden for enrollees, leading to potentially substantial financial benefit.

These interim final regulations also provide for potentially higher payments to out-of-network providers, if usual customary rates or Medicare rates are higher than median in-network rates. This could have a direct economic benefit to providers and patients, as the remaining differential between provider charge and plan payment will be smaller, leading to a smaller balance-bill for patients.

To the extent that expectations about such financial burden with out-of-network emergency department usage would cause individuals to delay or avoid seeking necessary medical treatment when they cannot access a network provider, this provision may result in more timely use of necessary medical care. It may therefore result in health and economic benefits associated with improved health status; and fewer complications and hospitalizations due to delayed and possibly reduced mortality. The Departments expect that this effect would be small, however, because insured individuals are less likely to delay care in emergency situations.

iv. Costs and Transfers

The economic costs associated with the emergency department provisions are likely to be minimal. These costs would occur to the extent that any lower cost-sharing would induce new utilization of out of network emergency services. Given the nature of these services as emergency services, this effect is likely to be small for insured individuals. In addition, the demand for emergency services in truly emergency situations can result in health care cost savings and population health improvements due to the timely treatment of conditions that could otherwise rapidly worsen.

The emergency services provisions are likely to result in some transfers from the general membership of non-grandfathered group policies that have differing copayment and coinsurance arrangements to those policy holders that use the out-of-network emergency services. The transfers could occur through two avenues. First, if there is reduced cost sharing for out-of-network emergency services, then plans must pay more when enrollees use those services. Out-of-pocket costs for the enrollees using out-of-network services will decrease, while plan costs will get spread across the insured market. Second, if the provision results in plans paying higher rates than they currently do for out-of-network providers, then those costs will get spread across the insured market while the individual enrollees using out-of-network care would potentially get a smaller balance bill. For all of the data issues described above, the precise amount of the transfer which would occur through an increase in premiums for these group plans is impossible to quantify with any precision, but it is likely to be less than one-tenth of one percent of premium, and only applies to non-grandfathered health plans.

c. Application to Grandfathered Health Plans

As discussed earlier in this preamble, the statute and these interim final regulations relating to certain patient protections do not apply to

[102] Vital and Health Statistics, Advanced Data No. 386, June 29, 2007.

[103] BCBS, however, reports its rates vary considerably by State, with 11 States having double digit rates ranging from 10 percent to a high of 41 percent. Moreover, because BCBS has reciprocity between many State Blue Cross Blue Shield plans, its statistics for out of network emergency services utilization should be considered a conservative estimate of the proportion of ER services that insured individuals receive out-of-network.

grandfathered health plans. However, other Federal or State laws related to these patient protections may apply regardless of grandfather status.

d. Patient Protection Disclosure Requirement

When applicable, it is important that individuals enrolled in a plan or health insurance coverage know of their rights to (1) choose a primary care provider or a pediatrician when a plan or issuer requires participants or subscribers to designate a primary care physician; or (2) obtain obstetrical or gynecological care without prior authorization. Accordingly, these interim final regulations require such plans and issuers to provide a notice to participants (in the individual market, primary subscribers) of these rights when applicable. Model language is provided in these interim final regulations. The notice must be provided whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage, or in the individual market, provides a primary subscriber with a policy, certificate, or contract of health insurance.

The Departments estimate that the cost to plans and insurance issuers to prepare and distribute the disclosure is $6.1 million in 2011. For a discussion of the Patient Protection Disclosure Requirement, see the Paperwork Reduction Act section later in this preamble.

6. Combined Effects of the Insurance Market Reforms

a. Summary

The Affordable Care Act includes a number of provisions that are effective for plan years (or in the case of individual health insurance coverage, for policy years) beginning on or after September 23, 2010. These interim final regulations include four of those provisions whose purpose is to improve consumer protections. Two additional provisions—the extension of dependent coverage to adult children and the rules defining a grandfathered health plan—were the subject of previously published interim final regulations. The implementation of other provisions—including those relating to coverage of preventive services (PHS Act section 2713) and appeals (PHS Act section 2719)—will be addressed in future regulations.

This set of regulations is distinct from the others in that its primary beneficiaries are people who generally already have some type of illness, injury or disability. The provision prohibiting preexisting condition exclusions for children could help 31,000 to 72,000 uninsured children gain insurance, and up to 90,000 children who have insurance with benefit carve-outs or preexisting condition exclusion periods. The policy on restricted annual limits could help up to 2,700 to 3,500 people who hit these limits each year; the prohibition on lifetime limits could help 18,650 to 20,400 each year who would be expected to have costs that exceed a limit. Based on an NAIC survey, the Departments estimate there are approximately 10,700 rescissions of policies in the individual market each year, and these interim final regulations are expected to reduce this number substantially.[104] And one of the patient protections, access to emergency care from out-of-network providers, could limit the out-of-pocket spending for up to 2.1 to 4.2 million individuals with some acute health care need. While the estimates on the number of people affected by these policies may be relatively small, a much larger number of Americans are at risk of hitting one of these barriers to insurance coverage and will gain indirect benefits of the legislation. This section describes the potential combined benefits, costs, and transfers of these provisions.

b. Benefits

These interim final regulations could generate significant economic and social welfare benefits to consumers. This would take the form of reductions in mortality and morbidity, a reduction in medical expenditure risk, an increase in worker productivity, and a decrease the cross-subsidy in premiums to offset uncompensated care, sometimes referred to as the "hidden tax." Each of these effects is described below. It should be noted that the benefits described are substantially greater in each of these areas once all the protections of the full Affordable Care Act are effective.

A first type of benefit is reductions in mortality and morbidity. While the empirical literature leaves many questions unresolved, a growing body of evidence convincingly demonstrates that health can be improved by spending more on at-risk individuals and by expanding health insurance coverage. For example, Almond *et al.*[105] find that newborns classified just below a medical threshold for "very low birthweight" have lower mortality rates than newborns classified as just above the threshold, despite an association between low birth weight and higher mortality in general, because they tend to receive additional medical care. In a study of severe automobile accidents, Doyle[106] found that uninsured individuals receive less care and have a substantially higher mortality rate. Currie and Gruber[107] found that increased eligibility for Medicaid coverage expanded utilization of care for otherwise uninsured children, leading to a sizeable and significant reduction in child mortality. A study of Medicare by Card et al.[108] found that individuals just old enough to qualify for coverage have lower mortality rates—despite similar illness severity—than do those just too young for eligibility. Finally, a report by the Institute of Medicine (IOM) [109] found mortality risks for uninsured individuals that were 25 percent higher than those of observably similar insured individuals. In addition to the prospect that expanded insurance coverage will result in reductions in mortality, it will almost certainly substantially reduce morbidity, as demonstrated in extensive reviews of the literature by Hadley and the IOM.[110]

These interim final regulations will expand access to currently uninsured individuals. These newly insured populations will likely achieve both mortality and meaningful morbidity reductions from the regulations, especially those populations who face rescissions, restricted annual or lifetime limits, or preexisting conditions exclusions, since they are on average in worse health and thus likely to benefit even more from insurance coverage than uninsured individuals in general.

[104] NAIC Rescission Data Call, December 17, 2009, p.1.

[105] Almond, Douglas, Joseph J. Doyle, Jr., Amanda E. Kowalski, and Heidi Williams. "Estimating Marginal Returns to Medical Care: Evidence from At-Risk Newborns." The Quarterly Journal of Economics, May 2010, 125(2): 591–634. *http://www.mit.edu/~jjdoyle/vlbw.pdf.*

[106] Doyle, Joseph J. "Health Insurance, Treatment and Outcomes: Using Auto Accidents as Health Shocks." The Review of Economics and Statistics, May 2005. 87(2):256–270. *http://www.mitpressjournals.org/doi/abs/10.1162/0034653053970348.*

[107] Currie, Janet and J. Gruber. "Health Insurance Eligibility, Utilization of Medical Care, and Child Health." The Quarterly Journal of Economics, May 1996. 111(2):431–466. *http://www.jstor.org/stable/2946684?cookieSet=1.*

[108] Card, David, C. Dobkin, and N. Maestas. "Does Medicare Save Lives?" The Quarterly Journal of Economics, May 2009. 124(2):597–636. *http://www.mitpressjournals.org/doi/abs/10.1162/qjec.2009.124.2.597.*

[109] Institute of Medicine. Care Without Coverage: Too Little, Too Late. Washington, DC: National Academy Press, 2002. *http://books.nap.edu/openbook.php?record_id=10367&page=R1.*

[110] Institute of Medicine, op. cit. Hadley J. Sicker and Poorer: The consequences of being uninsured. Medical Care Research and Review, Vol. 60, No. 2 suppl, 3S–75S (2003).

Because considerable uncertainty surrounds any specific estimate of the effect of expanded coverage on mortality and morbidity, this benefit is not quantified in this analysis.[111] However, the Departments conclude that reductions in mortality and morbidity are likely to be a significant benefit of these interim final regulations and will become substantially greater in 2014 and subsequent years, when millions of additional individuals will obtain health insurance coverage.

A second type of benefit from the cumulative effects of these interim final regulations is a reduction in medical risk. A central goal of health insurance is to protect individuals against catastrophic financial hardship that would come with a debilitating medical condition. By pooling expenses across healthy and sick individuals, insurance can substantially improve the economic well-being of the sick while imposing modest costs on the healthy. This insurance is valuable, and economic theory suggests that the gains to the sick from a properly implemented insurance system far exceed the costs to healthy individuals. A recent paper shows that the benefits from this reduction in exposure to financial risks would be sufficient to cover almost two-fifths of insurance costs.[112] Previous research also suggests that protecting patients who have very high medical costs or low financial assets is likely to have even larger benefits. Indeed, research indicates that approximately half of the more than 500,000 personal bankruptcies in the U.S. in 2007 were to some extent contributed to by very high medical expenses.[113] Exclusions from health insurance coverage based on preexisting conditions expose the uninsured to the aforementioned financial risks. Rescissions of coverage and binding annual or lifetime limits on benefits increase the chance that medical expenditures will go uncompensated, exposing individuals to the financial risks associated with illness. Regulations that prevent these practices thus reduce the uncertainty and hardship associated with these financial risks. Moreover, because they secure coverage for individuals with high probabilities of incurring extensive medical expenses, regulations that guard against rescissions and prevent insurance exclusion based on preexisting conditions for children are likely to have especially large economic benefits in terms of reducing financial risk. These interim final regulations will help insurance more effectively protect patients from the financial hardship of illness, including bankruptcy and reduced funds for non-medical purposes.

A third type of benefit from these interim final regulations is improved workplace productivity. These interim final regulations will benefit employers and workers by increasing workplace productivity and reducing absenteeism, low productivity at work due to preventable illness, and "job-lock." A June 2009 report by the Council of Economic Advisers found that increased access to health insurance coverage improves labor market outcomes by improving worker health.[114] The health benefits of eliminating coverage rescissions and lifetime coverage limits, restricting annual limits, and expanding access to primary care providers and OB/GYNs will help to reduce disability, low productivity at work due to preventable illness, and absenteeism in the work place, thereby increasing workplace productivity and labor supply. Economic theory suggests that these benefits would likely be shared by workers, employers, and consumers. In addition, these interim final regulations will increase labor market efficiency by reducing "job lock," or the reluctance to switch jobs or engage in entrepreneurship because such activities would result in the loss of health insurance or limitations on coverage. For example, without the regulations, a parent with generous coverage for a child with a medical condition might fear moving to a different employer or launching his or her own business given the concern that the new plan could exclude coverage for the child on the basis of the preexisting condition. These reforms will increase not only productivity and innovation through entrepreneurship, but also worker wages since job lock prevents workers from pursuing jobs with potentially higher salaries.[115] The Council of Economic Advisers' June 2009 report estimates that for workers between the ages of 25 and 54, the short-term gain from eliminating job lock would be an increase in wages of 0.3 percent.

Fourth, the Affordable Care Act's provisions will reduce the transfers in the health care system due to cost shifting of uncompensated care that lead to higher premiums for private insurance. The insurance market regulations will help expand the number of individuals who are insured and reduce the likelihood that individuals who have insurance do not bankrupt themselves by paying medical bills. Both effects will help reduce the amount of uncompensated care that imposes a "hidden tax" on consumers of health care since the costs of this care are shifted to those who are able to pay for services in the form of higher prices.

The Departments provide here an order of magnitude for the compensatory reduction in cost-shifting of uncompensated care that is associated with the expansion of coverage of these interim final regulations. Three assumptions were made. First, the uninsured populations affected by these interim final regulations tend to have worse health, greater needs for health care, higher health care spending, and less ability to reduce utilization when they are uninsured. These interim final regulations are therefore unlikely to induce as much demand for health care as would be assumed for the uninsured population in general when coverage expands. As such, the Departments assume that extending insurance coverage to this group is unlikely to significantly increase the overall costs of the U.S. health care system. The Departments therefore assume that the vast majority of the premium increases estimated in this regulatory impact analysis result from transfers from out-of-pocket or uncompensated care costs to covered costs, although we emphasize that there is considerable uncertainty surrounding this estimate.

Second, on the basis of the economics literature on the subject,[116] the Departments estimate that two-thirds of the previously uncovered costs would have been uncompensated care (with the remaining one-third paid for out-of-pocket), of which 75 percent would have been paid for by public sources, and 25 percent would have been paid for by private sources. If reductions in privately-financed uncompensated care are passed on in the form of lower prices charged by hospitals, and result in lower insurance premiums charged to consumers, then the Departments estimate that increased insurance

[111] Kronick, Richard. "Health insurance coverage and mortality revisited." Health Services Research. April 2009. 44(4):1211–1231. *http://www3.interscience.wiley.com/journal/122342601/abstract?CRETRY=1&SRETRY=0.*

[112] Amy Finkelstein and Robin McKnight. What Did Medicare Do? The Initial Impact of Medicare on Mortality and Out of Pocket Medical Spending. 2008. *Journal of Public Economics* 92: 1644–1669.

[113] David Himmelstein *et al,* 2009.

[114] Council of Economic Advisers. "The Economic Case for Health Reform." (2009).

[115] Gruber, J. and B. Madrian. "Health Insurance, Labor Supply, and Job Mobility: A Critical Review of the Literature." (2001).

[116] Hadley, Jack, J. Holahan, T. Coughlin, and D. Miller. "Covering the Uninsured in 2008: Current Costs, Sources of Payment, and Incremental Costs." Health Affairs, 2008, 27(5): w399–w415.

coverage for the vulnerable populations affected by these interim final regulations could result in reductions in insurance premiums of up to $1 billion in 2013.[117] There would also be corresponding decreases in public expenditure as uncompensated care is reduced.

c. Costs and Transfers

Premiums reflect both effects on health system costs as well as transfers in the payment of costs from one payer or group of individuals to another. For example, as consumer protections expand coverage and/or reduce cost-sharing, the costs for services that people previously paid for out of pocket—often creating substantial burdens as described above—will be distributed over a wider insured population. On the other hand, the cost-shifting that previously occurred onto the insured population when people could no longer pay for their out-of-pocket care will be reduced. Expansion of coverage will also generate induced demand for services, with corresponding benefits to health and productivity. These costs and transfers together will generate a change in premiums. As discussed previously, the populations affected by these interim final regulations tend to be in poorer health than the general uninsured population, leading to less induced demand when coverage expands.

The Departments estimate that the premium effect of prohibiting preexisting condition exclusions for children would be on average one percent or less in the individual market and negligible in the group market. The provisions relating to annual and lifetime limits would have approximately one-half of one percent impact on premiums in the group market and less than a one percent impact on premiums in the individual market. While the prohibition on lifetime limits applies to individual plans that are grandfathered, the restricted annual limit policy and preexisting condition exclusion policy for children do not, limiting the premium effect for the grandfathered market. Although precise estimates of the effects of restricting rescissions and expanding patient protections are even more difficult to make than for preexisting condition exclusions or annual and lifetime limits, the Departments' analysis suggest that the effects of restricting rescissions will be no more than a few tenths of one percent of premium, and that patient protections will increase premiums by less than one tenth of one percent.

The Departments emphasize that these individual premium effects cannot be simply added to get a combined impact on premiums for several reasons. The first relates to their simultaneous implementation. Quantifying the precise and unique premium impact of policies that take effect at the same time is difficult. Health insurers will consider the totality of the provisions in making decisions about coverage modifications, so that disentangling the effects of each provision is impossible. This is especially so given the complex interactions among the policies. For example, prohibiting rescissions and lifetime limits could mean that someone who would have had a policy rescinded now maintains coverage, and also maintains coverage beyond a previous lifetime limit. Under the current guaranteed renewability protections in the individual market, if a child with a preexisting condition is now able to obtain coverage on a parental plan, he or she can potentially stay on that plan until age 26.

This difficulty is compounded by the flexibility afforded in the grandfather rule. Plans and issuers will consider the cumulative impact of these provisions when making decisions about whether or not to make other changes to their coverage that could affect their grandfather status. It can be expected that the plans that are most affected by these provisions in terms of potential premium impact will likely be the most aggressive in taking steps to maintain grandfather status, although, as described in that regulatory impact analysis, other factors affect plans' decisions as well. It is unlikely that plans will make this calculation multiple times for the multiple provisions that will take effect at the same time.

Lastly, estimating these effects cumulatively compounds the errors of highly uncertain estimates. As discussed, plan and enrollee behaviors may change in response to the incentives created by these interim final regulations. Data are also limited in many areas, including: The prevalence of annual limits in insurance markets; characteristics of high-cost enrollees; prevalence and characteristics of rescissions; and take-up rates under different insurance scenarios. As discussed above, the estimates presented here, by necessity, utilize "average" experiences and "average" plans. Variability around the average increases substantially when multiple provisions are considered, since the number of provisions that affect each plan will differ (for example, a plan may already offer coverage without preexisting condition exclusions and bar rescissions, meaning they will not be affected by those provisions, but may have a lifetime limit of $1 million, meaning they will be affected by that provision). Different plans also have different characteristics of enrollees, for example in terms of age or health status, meaning that provisions such as eliminating lifetime limits could affect them differently. It is especially important to note the variation in insurance market reforms across States. Only a few States have community rating, where costs get distributed across the entire insured pool. Fractions of the cost will get distributed across the pool and to individual enrollees in other States depending on the degree of rating restrictions, if any exist. Uncertainty compounds as ranges and errors and assumptions are summed across provisions.

D. Regulatory Flexibility Act—Department of Labor and Department of Health and Human Services

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the APA (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act authorize the Secretaries to promulgate any interim final rules that they determine are appropriate to carry out the provisions of chapter 100 of the Code, part 7 of subtitle B or title I of ERISA, and part A of title XXVII of the PHS Act, which include PHS Act sections 2701 through 2728 and the incorporation of those sections into ERISA section 715 and Code section 9815.

Moreover, under Section 553(b) of the APA, a general notice of proposed rulemaking is not required when an

[117] The Departments come to this estimate using the following methods. First, they estimated the proportion of the population in group and individual markets using the Medical Expenditure Panel Survey (2008). Next, information from 75 FR 34538 (June 17, 2010) was used to estimate the proportion of employer and individual plans that maintain or lose grandfather status by 2013. Projections of national health expenditures from the National Health Expenditure Accounts to 2013 were distributed among these groups, and premium impacts as discussed in this regulatory impact analysis were applied. Potential premium reductions secondary to reductions in the cost-shifting of uncompensated care were then calculated using the information from the economic literature as presented in this discussion. The Departments note that to the extent that not all of the reductions in uncompensated care costs are passed onto insured populations, these estimates may be an overestimate.

agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. These interim final regulations are exempt from APA, because the Departments made a good cause finding that a general notice of proposed rulemaking is not necessary earlier in this preamble. Therefore, the RFA does not apply and the Departments are not required to either certify that the rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

Nevertheless, the Departments carefully considered the likely impact of the rule on small entities in connection with their assessment under Executive Order 12866. Consistent with the policy of the RFA, the Departments encourage the public to submit comments that suggest alternative rules that accomplish the stated purpose of the Affordable Care Act and minimize the impact on small entities.

E. Special Analyses—Department of the Treasury

Notwithstanding the determinations of the Department of Labor and Department of Health and Human Services, for purposes of the Department of the Treasury, it has been determined that this Treasury decision is not a significant regulatory action for purposes of Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the APA (5 U.S.C. chapter 5) does not apply to these interim final regulations. For the applicability of the RFA, refer to the Special Analyses section in the preamble to the cross-referencing notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

F. Paperwork Reduction Act

1. Department of Labor and Department of the Treasury

As further discussed below, these interim final regulations contain enrollment opportunity, rescission notice, and patient protection disclosure requirements that are information collection requests (ICRs) subject to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). Each of these requirements is discussed in detail below.

Currently, the Departments are soliciting 60 days of public comments concerning these disclosures. The Departments have submitted a copy of these interim final regulations to OMB in accordance with 44 U.S.C. 3507(d) for review of the information collections. The Departments and OMB are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the 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
- 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, for example, by permitting electronic submission of responses.

Comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Employee Benefits Security Administration either by fax to (202) 395–7285 or by e-mail to *oira_submission@omb.eop.gov.* A copy of the ICR may be obtained by contacting the PRA addressee: G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. E-mail: *ebsa.opr@dol.gov.* ICRs submitted to OMB also are available at reginfo.gov (*http://www.reginfo.gov/public/do/PRAMain*).

a. ICR Regarding Affordable Care Act Enrollment Opportunity Notice Relating to Lifetime Limits

As discussed earlier in this preamble these interim final regulations require a plan or issuer to provide an individual whose coverage ended due to reaching a lifetime limit on the dollar value of all benefits with an opportunity to enroll (including notice of an opportunity to enroll) that continues for at least 30 days, regardless of whether the plan or coverage offers an open enrollment period and regardless of when any open enrollment period might otherwise occur. This enrollment opportunity must be presented not later than the first day of the first plan year (or, in the individual market, policy year) beginning on or after September 23, 2010 (which is the applicability date of PHS Act section 2711). Coverage must begin not later than the first day of the first plan year (in the individual market, policy year) beginning on or after September 23, 2010.[118] The Affordable Care Act dependent coverage enrollment notice is an ICR subject to the PRA.

The Departments estimate that approximately 29,000 individuals qualify for this enrollment right, which as discussed more fully below, should be considered an upward bound. The estimate is based on the following methodology. The Departments estimate that of the approximately 139.6 million individuals in ERISA-covered plans,[119] 63 percent of such individuals are covered by plans with lifetime limits.[120]

While limited data are available regarding lifetime limits, the Departments estimated that the average lifetime limit across all markets is about $4.7 million,[121] which means that an individual would exceed a lifetime limit by incurring at least $4.7 million in medical expenses during one year or across many years. Although the Departments are unable to track spending across time to estimate the number of individuals that would reach the lifetime limit, the Departments estimate that about 0.033 percent of individuals incur more than $1 million in medical spending in a year.[122] If

[118] The interim final regulations require any individual enrolling in group health plan coverage pursuant to this enrollment right must be treated as a special enrollee, as provided under HIPAA portability rules. Accordingly, the individual must be offered all the benefit packages available to similarly situated individuals who did not lose coverage due to reaching a lifetime limit or cessation of dependent status. The individual also cannot be required to pay more for coverage than similarly situated individuals who did not lose coverage due to reaching a lifetime limit.

[119] The Departments' estimate is based on the 2009 March Current Population Survey (CPS).

[120] The Departments' estimate for large and small employer health plans is derived from The Kaiser Family Foundation and Health Research & Educational Trust, *Employer Health Benefits: 2009 Annual Survey* (Sept. 2009), *at http://ehbs.kff.org/pdf/2009/7936.pdf,* Exhibit 13.12.

[121] The Departments' estimate is based on America's Health Insurance Plans, *Individual Health Insurance 2009: A Comprehensive Survey of Premiums, Availability and Benefits,* (Oct. 2009) *at http://www.ahipresearch.org/pdfs/2009IndividualMarketSurveyFinalReport.pdf,* Table 17; and America's Health Insurance Plans, *Individual Health Insurance 2008: Small Group Health Insurance,* Table 22.

[122] The Departments' estimate is based on adjusted insurer claims and MEPS–HC expenditures.

these individuals incurred this amount every year, 29,000 individuals would incur expenses of at least the $4.7 million limit by the fifth year.

There are several reasons to suspect that these assumptions lead to an over-estimate. First, individuals would have to average $1 million in medical expenses per year to exceed the $4.7 million limit. Second, an individual's lifetime limit is reset if he switches employers or, for employees who work for employers with multiple health insurance coverage options, switches to a different health insurance plan.

The interim final regulations require plans or insurers to notify individuals whose coverage ended due to reaching a lifetime limit on the dollar value of all benefits that they are now eligible to reenroll in the plan or policy. The Departments assume that the notice for all plans and policies (including self-insured plans that are administered by insurers) will be prepared by the estimated 630 health insurers operating in the United States.[123] On average, the Departments expect that one-half hour of a legal professional's time, valued as $119, will be required to draft this notice, resulting in an hour burden of approximately 160 hours with an equivalent cost of $19,000.

The Departments assume that insurers track information regarding individuals that have lost coverage due to reaching a lifetime limit (including contact information in their administrative records). Based on the foregoing, the Departments estimate that, on average, five minutes of a clerical staff member's time, valued at $26 per hour will be required to incorporate the specific information into the notice and mail the estimated 29,000 notices. This results in an estimated hour burden of approximately 2,400 hours with an equivalent cost of $63,000. Therefore, the total hour burden of this notice requirement is approximately 2,600 hours with an equivalent cost of $82,000.

The associated cost burden of the rule results from material and mailing costs that are required to distribute the estimated 29,000 notices. The Departments estimate that the notice will be one-page in length, material and print costs will be five cents per page, and postage will be 44 cents per notice resulting in a per notice cost of 49 cents. This leads to a total cost burden of approximately $14,000 to distribute the notices.

Type of Review: New collection.

Agencies: Employee Benefits Security Administration, Department of Labor; Internal Revenue Service, U.S. Department of the Treasury.

Title: Notice of Special Enrollment Opportunity under the Patient Protection and Affordable Care Act Relating to Lifetime Limits.

OMB Number: 1210–0143; 1545–2179.

Affected Public: Business or other for-profit; not-for-profit institutions.

Total Respondents: 315.

Total Responses: 29,000.

Frequency of Response: One-time.

Estimated Total Annual Burden Hours: 1,300 hours (Employee Benefits Security Administration); 1,300 hours (Internal Revenue Service).

Estimated Total Annual Burden Cost: $7,000 (Employee Benefits Security Administration); $7,000 (Internal Revenue Service).

b. ICR Regarding Affordable Care Act Notice Relating to Rescission

As discussed earlier in this preamble, PHS Act Section 2712 and these interim final regulations provide rules regarding rescissions for group health plans and health insurance issuers that offer group or individual health insurance coverage. A plan or issuer must not rescind coverage under the plan, policy, certificate, or contract of insurance except in the case of fraud or intentional misrepresentation of a material fact. These interim final regulations provide that a group health plan or a health insurance issuer offering group health insurance coverage must provide at least 30 calendar days advance notice to an individual before coverage may be rescinded.

The Departments assume that rescissions are rare in the group market and that small group health plans are affected by rescissions. The Departments are not aware of a data source on the number of group plans whose policy is rescinded; therefore, the Departments assume that 100 group health plan policies are rescinded in a year. The Departments estimate that there is an average of 16 participants in small, insured plans.[124] Based on these numbers the Departments estimate that approximately 100 policies are rescinded during a year, which would result in 1,600 notices being sent to affected participants. The Departments estimate that 15 minutes of legal profession time at $119 per hour would be required by the insurers of the 100 plans to prepare the notice and one minute per notice of clerical professional time at $26 per hour would be required to distribute the notice. This results in an hour burden of approximately 50 hours with an equivalent cost of approximately $3,700. The Departments estimate that the cost burden associated with distributing the notices will be approximately $800.[125]

These paperwork burden estimates are summarized as follows:

Type of Review: New collection.

Agencies: Employee Benefits Security Administration, Department of Labor; Internal Revenue Service, U.S. Department of the Treasury.

Title: Required Notice of Rescission of Coverage under the Patient Protection and Affordable Care Act Disclosures.

OMB Number: 1210–0141; 1545–2180.

Affected Public: Business or other for-profit; not-for-profit institutions.

Total Respondents: 100.

Total Responses: 1,600.

Frequency of Response: Occasionally.

Estimated Total Annual Burden Hours: 25 hours (Employee Benefits Security Administration); 25 hours (Internal Revenue Service).

Estimated Total Annual Burden Cost: $400 (Employee Benefits Security Administration); $400 (Internal Revenue Service).

c. ICR Regarding Affordable Care Act Patient Protection Disclosure Requirement

As discussed earlier in this preamble, PHS Act section 2719A imposes, with respect to a group health plan, or group or individual health insurance coverage, a set of three requirements relating to the choice of health care professionals. When applicable, it is important that individuals enrolled in a plan or health insurance coverage know of their rights to (1) choose a primary care provider or a pediatrician when a plan or issuer requires participants or subscribers to designate a primary care physician; or (2) obtain obstetrical or gynecological care without prior authorization. Accordingly, these interim final regulations require such plans and issuers to provide a notice to

[123] While plans could prepare their own notice, the Departments assume that the notices will be prepared by service providers. The Departments have previously estimated that there are 630 health insurers (460 providing coverage in the group market, and 490 providing coverage in the individual market). These estimates are from NAIC 2007 financial statements data and the California Department of Managed Healthcare (2009), *at http://wpso.dmhc.ca.gov/hpsearch/viewall.aspx.* Because the hour and cost burden is shared between the Departments of Labor/Treasury and the Department of Health and Human Services, the burden to prepare the notices is calculated using half the number of insurers (315).

[124] U.S. Department of Labor, EBSA calculations using the March 2008 Current Population Survey Annual Social and Economic Supplement and the 2008 Medical Expenditure Panel Survey.

[125] This estimate is based on an average document size of one page, $.05 cents per page material and printing costs, and $.44 cent postage costs.

participants (in the individual market, primary subscriber) of these rights when applicable. Model language is provided in these interim final regulations. The notice must be provided whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage, or in the individual market, provides a primary subscriber with a policy, certificate, or contract of health insurance. The Affordable Care Act patient protection disclosure requirement is an ICR subject to the PRA.

In order to satisfy these interim final regulations' patient protection disclosure requirement, the Departments estimate that 339,000 ERISA-covered plans will need to notify an estimated 8.0 million policy holders of their plans' policy in regards to designating a primary care physician and for obstetrical or gynecological visits.[126] The following estimates are based on the assumption that 22 percent of group health plans will not have grandfathered health plan status in 2011. Because the interim final regulations provide model language for this purpose, the Departments estimate that five minutes of clerical time (with a labor rate of $26.14/hour) will be required to incorporate the required language into the plan document and ten minutes of a human resource professional's time (with a labor rate of $89.12/hour) will be required to review the modified language.[127] Therefore, the Departments estimate that plans will incur a one-time hour burden of 85,000 hours with an equivalent cost of $5.8 million to meet the disclosure requirement in the first year.

The Departments assume that only printing and material costs are associated with the disclosure requirement, because the interim final regulations provide model language that can be incorporated into existing plan documents, such as an SPD. The Departments estimate that the notice will require one-half of a page, five cents per page printing and material cost will be incurred, and 38 percent of the notices will be delivered electronically. This results in a cost burden of $124,000 ($0.05 per page*1/2 pages per notice * 8.0 million notices*0.62).

Plans that relinquish their grandfather status in subsequent years also will become subject to this notice requirement and incur a cost to prepare and distribute the notice in the year they relinquish their grandfather status. The Departments estimate a total hour burden of 62,000 hours in 2012 and 50,000 in 2013 for plans relinquishing their grandfather status in 2012 or 2013. There also will be an estimated total cost burden of $90,000 in 2012 and $73,000 in 2013.

The Departments note that persons are not required to respond to, and generally are not subject to any penalty for failing to comply with, an ICR unless the ICR has a valid OMB control number.

These paperwork burden estimates are summarized as follows:

Type of Review: New Collection.

Agencies: Employee Benefits Security Administration, Department of Labor; Internal Revenue Service, U.S. Department of Treasury.

Title: Disclosure Requirement for Patient Protections under the Affordable Care Act.

OMB Number: 1210–0142; 1545–2181.

Affected Public: Business or other for-profit; not-for-profit institutions.

Total Respondents: 262,000 (three year average).

Total Responses: 6,186,000 (three year average).

Frequency of Response: One time.

Estimated Total Annual Burden Hours: 33,000 (Employee Benefits Security Administration); 33,000 (Internal Revenue Service).

Estimated Total Annual Burden Cost: $48,000 (Employee Benefits Security Administration); $48,000 (Internal Revenue Service).

2. Department of Health and Human Services

As discussed above in the Department of Labor and Department of the Treasury PRA section, these interim final regulations contain an enrollment opportunity notice, rescissions notice, and patient protection disclosures requirement for issuers. These requirements are information collection requirements under the Paperwork Reduction Act. Each of these requirements is discussed in detail below.

a. ICR Regarding Affordable Care Act Enrollment Opportunity Notice Regarding Lifetime Limits

PHS Act section 2711 and these interim final regulations require health insurance issuers offering individual health insurance coverage to provide an individual whose coverage ended due to reaching a lifetime limit on the dollar value of all benefits with an opportunity to enroll (including notice of an opportunity to enroll) that continues for at least 30 days, regardless of whether the plan or coverage offers an open enrollment period and regardless of when any open enrollment period might otherwise occur. This enrollment opportunity must be presented not later than the first day of the first plan year (or, in the individual market, policy year) beginning on or after September 23, 2010 (which is the applicability date of PHS Act section 2711). Coverage must begin not later than the first day of the first plan year (or policy year in the individual market) beginning on or after September 23, 2010.[128]

The Department estimates that approximately 13,182 individuals qualify for this enrollment right, which as discussed more fully below, should be considered an upward bound. The estimate is based on the following methodology. The Department estimates that of the approximately 16.5 million individuals[129] covered by family policies in the individual market, 89 percent of such individuals have a policy with a lifetime limit.[130] The Department also estimates that out of the approximately 40.1 million individuals covered by public, non-Federal employer group health plans sponsored by State and local governments,[131] 63 percent of such

[126] The Departments' estimate of the number of ERISA-covered health plans was obtained from the 2008 Medical Expenditure Panel Survey's Insurance component. The estimate of the number of policy holders was obtained from the 2009 Current Population Survey. Information on HMO and POS plans and enrollment in such plans was obtained from the Kaiser/HRET Survey of Employer Sponsored Health Benefits, 2009. The methodology used to estimate the percentage of plans that will not be grandfathered in 2011 is addressed in the Departments' Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act that were issued on June 17, 2010 (75 FR 34538).

[127] EBSA estimates of labor rates include wages, other benefits, and overhead based on the National Occupational Employment Survey (May 2008, Bureau of Labor Statistics) and the Employment Cost Index June 2009, Bureau of Labor Statistics).

[128] The interim final regulations require any individual enrolling in group health plan coverage pursuant to this enrollment right must be treated as a special enrollee, as provided under HIPAA portability rules. Accordingly, the individual must be offered all the benefit packages available to similarly situated individuals who did not lose coverage due to reaching a lifetime limit or cessation of dependent status. The individual also cannot be required to pay more for coverage than similarly situated individuals who did not lose coverage due to reaching a lifetime limit.

[129] The Department's estimate is based on the 2009 March Current Population Survey (CPS).

[130] The Department's estimate for individual health plans is derived from America's Health Insurance Plans, *Individual Health Insurance 2009: A Comprehensive Survey of Premiums, Availability and Benefits,* (Oct. 2009) *at http://www.ahipresearch.org/pdfs/2009IndividualMarketSurveyFinalReport.pdf,* Table 10 and Table 17.

[131] The Department's estimate is based on the 2009 March Current Population Survey (CPS).

individuals are covered by plans with lifetime limits.[132]

While limited data are available regarding lifetime limits, the Department estimated that the average lifetime limit across all markets is about $4.7 million,[133] which means that an individual would exceed a lifetime limit by incurring at least $4.7 million in medical expenses during one year or across many years. Although the Department is unable to track spending across time to estimate the number of individuals that would reach the lifetime limit, the Department estimates that about 0.033 percent of individuals incur more than $1 million in medical spending in a year.[134] If these individuals incurred this amount every year, 13,000 individuals would incur expenses of at least the $4.7 million limit by the fifth year.

There are several reasons to suspect that these assumptions lead to an over-estimate. First, individuals who incur $1 million of medical expenses in a year would need to sustain this level every year for five years to exceed the $4.7 million limit. Second, an individual's lifetime limit is reset if he switches employers or, for employees who work for employers with multiple health insurance coverage options, switches to a different health insurance plan.

These interim final regulations require plans or insurers to notify individuals whose coverage ended due to reaching a lifetime limit on the dollar value of all benefits that they are now eligible to reenroll in the plan or policy. The Department assumes that the notice for all plans and policies (including self-insured plans that are administered by insurers) will be prepared by the estimated 630 health insurers operating in the United States.[135] On average, the Department expects that one-half hour of a legal professional's time, valued as $119, will be required to draft this notice, resulting in an hour burden of approximately 200 hours with an equivalent cost of $19,000.

The Department assumes that plans and insurers track information regarding individuals that have lost coverage due to reaching a lifetime limit (including contact information) in their administrative records. Based on the foregoing, the Department estimates that, on average, five minutes of a clerical staff member's time, valued at $26.14 per hour will be required to incorporate the specific information into the notice and mail the estimated 13,000 notices. This results in an estimated hour burden of approximately 1,100 hours with an equivalent cost of $29,000. Therefore, the total hour burden of this notice requirement is 1,300 hours with an equivalent cost of $48,000.

The associated cost burden of the rule results from material and mailing cost to distribute the estimated 13,000 notices. The Department estimates that the notice will be one-page in length, material and print costs will be five cents per page, and postage will be 44 cents per notice resulting in a per notice cost of 49 cents. This leads to a total estimated cost burden of approximately $6,500 to distribute the notices.

Type of Review: New collection.

Agency: Department of Health and Human Services.

Title: Patient Protection and Affordable Care Act Enrollment Opportunity Notice Relating to Lifetime Limits.

OMB Number: 0938–1094.

Affected Public: Business; State, Local, or Tribal Governments.

Respondents: 630.

Responses: 13,000.

Frequency of Response: One-time.

Estimated Total Annual Burden Hours: 1,300 hours.

Estimated Total Annual Burden Cost: $6,500.

b. ICR Regarding Affordable Care Act Notice Relating to Rescission

As discussed earlier in this preamble, PHS Act Section 2712 and these interim final regulations prohibit group health plans and health insurance issuers that offer group or individual health insurance coverage generally from rescinding coverage under the plan, policy, certificate, or contract of insurance from the individual covered under the plan or coverage unless the individual (or a person seeking coverage on behalf of the individual) performs an act, practice, or omission that constitutes fraud, or unless the individual makes an intentional misrepresentation of material fact, as prohibited by the terms of the plan or coverage. These interim final regulations provide that a group health plan or a health insurance issuer offering group health insurance coverage must provide at least 30 days advance notice to an individual before coverage may be rescinded.

This analysis assumes that rescissions only occur in the individual health insurance market, because rescissions in the group market are rare. The Department estimates that there are approximately 7.1 million individual policy holders in the individual market during a year. A report on rescissions finds that 0.15 percent of policies were rescinded during the 2004 to 2008 time period.[136] Based on these numbers, the Department estimates that approximately 10,700 policies are rescinded during a year, which would result in 10,700 notices being sent to affected policyholders. The Department estimates that 15 minutes of legal profession time at $119 per hour would be required by the estimated 490 insurers in the individual market to prepare the notice and one minute per notice of clerical professional time at $26 per hour would be required to distribute the notice. This results in an hour burden of approximately 300 hours with an equivalent cost of approximately $19,200. The Department estimates that the cost burden associated with distributing the notices will be approximately $5,200.[137]

These paperwork burden estimates are summarized as follows:

Type of Review: New collection.

Agency: Department of Health and Human Services.

Title: Required Notice of Rescission of Coverage under the Patient Protection and Affordable Care Act Disclosures.

OMB Number: 0938–1094.

Affected Public: For Profit Business.

Respondents: 490.

Responses: 10,700.

Frequency of Response: Occasionally.

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[132] The Departments' estimate for large and small employer health plans is derived from The Kaiser Family Foundation and Health Research & Educational Trust, *Employer Health Benefits: 2009 Annual Survey* (Sept. 2009), at *http://ehbs.kff.org/pdf/2009/7936.pdf,* Exhibit 13.12.

[133] The Department's estimate is based on America's Health Insurance Plans, *Individual Health Insurance 2009: A Comprehensive Survey of Premiums, Availability and Benefits,* (Oct. 2009) *at http://www.ahipresearch.org/pdfs/2009IndividualMarketSurveyFinalReport.pdf,* Table 17; and America's Health Insurance Plans, *Individual Health Insurance 2008: Small Group Health Insurance,* Table 22.

[134] The Departments' estimate is based on adjusted insurer claims and MEPS–HC expenditures.

[135] While plans could prepare their own notice, the Departments assume that the notices will be prepared by service providers. The Departments have previously estimated that there are 630 health insurers (460 providing coverage in the group market, and 490 providing coverage in the individual market). These estimates are from NAIC 2007 financial statements data and the California Department of Managed Healthcare (2009), *at http://wpso.dmhc.ca.gov/hpsearch/viewall.aspx.* Because the hour and cost burden is shared among the Departments of Labor/Treasury and the Department of Health and Human Services, the burden to prepare the notices is calculated using half the number of insurers (315).

[136] NAIC Report "Rescission Data Call of the NAIC Regulatory Framework (B) Task Force" December 17, 2009. *http://www.naic.org/documents/committees_b_regulatory_framework_rescission_;data_call_report.pdf.*

[137] This estimate is based on an average document size of one page, $.05 cents per page material and printing costs, and $.44 cent postage costs.

Estimated Total Annual Burden Hours: 300 hours.

Estimated Total Annual Burden Cost: $5,200.

c. ICR Relating to Affordable Care Act Patient Protections Disclosure Requirement

As discussed above in the Department of Labor and Department of Treasury PRA section, these interim final regulations contains a disclosure requirement for non-grandfathered health plans or policies requiring the designation of a primary care physician or usually requiring a referral from a primary care physician before receiving care from a specialist. These requirements are information collection requirements under the PRA.

In order to satisfy the interim final regulations' patient protection disclosure requirement, the Department estimates that 14,000 State and local governmental plans will need to notify approximately 2.6 million policy holders of their plans' policy in regards to designating a primary care physician and for obstetrical or gynecological visits. An estimated 490 insurers providing coverage in the individual market will need to notify an estimated 55,000 policy holders of their policy in regards to designating a primary care physician and for obstetrical or gynecological visits. These estimates are based on the assumption that 22 percent of group plans and 40 percent of individual policies will not have grandfathered health plan status in 2011.[138]

Because the interim final regulations provide model language for this purpose, the Department estimates that five minutes of clerical time (with a labor rate of $26.14/hour) will be required to incorporate the required language into the plan document and ten minutes of a human resource professional's time (with a labor rate of $89.12/hour) will be required to review the modified language.[139] Therefore, the Department estimates that plans and insurers will incur a one-time hour burden of 3,500 hours with an equivalent cost of $239,000 to meet the disclosure requirement.

The Department assumes that only printing and material costs are associated with the disclosure requirement, because the interim final regulations provide model language that can be incorporated into existing plan documents, such as an SPD. The Department estimates that the notice will require one-half of a page, five cents per page printing and material cost will be incurred, and 38 percent of the notices will be delivered electronically. This results in a cost burden of $42,000 ($0.05 per page * 1/2 pages per notice * 1.7 million notices * 0.62).

Plans that relinquish their grandfather status in subsequent years will also become subject to this notice requirement and incur a cost to prepare and distribute the notice in the year they relinquish their grandfather status. Policy holders of non-grandfathered policies in the individual market will also have to receive this notice. The Department estimates a total hour burden of 2,500 hours in 2012 and 2,000 in 2013 for plans relinquishing their grandfather status in such years. There will, also be an estimated total cost burden of $30,000 in 2012 and $24,000 in 2013.

The Department notes that persons are not required to respond to, and generally are not subject to any penalty for failing to comply with, an ICR unless the ICR has a valid OMB control number.

These paperwork burden estimates are summarized as follows:

Type of Review: New collection.

Agency: Department of Health and Human Services.

Title: Disclosure Requirements for Patient Protection under the Affordable Care Act.

OMB Number: 0938–1094.

Affected Public: Business; State, Local, or Tribal Governments.

Respondents: 10,600.

Responses: 2,067,000.

Frequency of Response: One-time.

Estimated Total Annual Burden Hours: 2,700 hours.

Estimated Total Annual Burden Cost: $32,000.

If you comment on any of these information collection requirements, please do either of the following:

1. Submit your comments electronically as specified in the **ADDRESSES** section of this proposed rule; or

2. Submit your comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: CMS Desk Officer, OCIIO–9994–IFC; Fax: (202) 395–6974; or E-mail: *OIRA_submission@omb.eop.gov.*

G. Congressional Review Act

These interim final regulations are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and have been transmitted to Congress and the Comptroller General for review.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare several analytic statements before proposing any rules that may result in annual expenditures of $100 million (as adjusted for inflation) by State, local and tribal governments or the private sector. These interim final regulations are not subject to the Unfunded Mandates Reform Act because they are being issued as interim final regulations. However, consistent with the policy embodied in the Unfunded Mandates Reform Act, the regulation has been designed to be the least burdensome alternative for State, local and tribal governments, and the private sector, while achieving the objectives of the Affordable Care Act.

I. Federalism Statement—Department of Labor and Department of Health and Human Services

Executive Order 13132 outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have "substantial direct effects" on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies promulgating regulations that have these federalism implications must consult with State and local officials, and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to the regulation.

In the Departments' view, these interim final regulations have federalism implications, because they have direct effects on the States, the relationship between the national government and States, or on the distribution of power and

[138] The Department's estimate of the number of State and local governmental health plans was obtained from the 2007 Census of Governments. The estimate of the number of policy holders in the individual market were obtained from the 2009 Current Population Survey. Information on HMO and POS plans and enrollment in such plans was obtained from the Kaiser/HRET Survey of Employer Sponsored Health Benefits, 2009. The methodology used to estimate the percentage of plans that will not be grandfathered in 2011 was discussed in Departments' Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act that were issued on June 15, 2010: 75 FR 34538 (June 17, 2010).

[139] EBSA estimates of labor rates include wages, other benefits, and overhead based on the National Occupational Employment Survey (May 2008, Bureau of Labor Statistics) and the Employment Cost Index June 2009, Bureau of Labor Statistics).

responsibilities among various levels of government. However, in the Departments' view, the federalism implications of these interim final regulations are substantially mitigated because, with respect to health insurance issuers, the Departments expect that the majority of States will enact laws or take other appropriate action resulting in their meeting or exceeding the Federal standards.

In general, through section 514, ERISA supersedes State laws to the extent that they relate to any covered employee benefit plan, and preserves State laws that regulate insurance, banking, or securities. While ERISA prohibits States from regulating a plan as an insurance or investment company or bank, the preemption provisions of section 731 of ERISA and section 2724 of the PHS Act (implemented in 29 CFR 2590.731(a) and 45 CFR 146.143(a)) apply so that the HIPAA requirements (including those of the Affordable Care Act) are not to be "construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement" of a Federal standard. The conference report accompanying HIPAA indicates that this is intended to be the "narrowest" preemption of State laws. (*See* House Conf. Rep. No. 104–736, at 205, reprinted in 1996 U.S. Code Cong. & Admin. News 2018.) States may continue to apply State law requirements except to the extent that such requirements prevent the application of the Affordable Care Act requirements that are the subject of this rulemaking. State insurance laws that are more stringent than the Federal requirements are unlikely to "prevent the application of" the Affordable Care Act, and be preempted. Accordingly, States have significant latitude to impose requirements on health insurance issuers that are more restrictive than the Federal law.

In compliance with the requirement of Executive Order 13132 that agencies examine closely any policies that may have federalism implications or limit the policy making discretion of the States, the Departments have engaged in efforts to consult with and work cooperatively with affected State and local officials, including attending conferences of the National Association of Insurance Commissioners and consulting with State insurance officials on an individual basis. It is expected that the Departments will act in a similar fashion in enforcing the Affordable Care Act requirements. Throughout the process of developing these interim final regulations, to the extent feasible within the specific preemption provisions of HIPAA as it applies to the Affordable Care Act, the Departments have attempted to balance the States' interests in regulating health insurance issuers, and Congress' intent to provide uniform minimum protections to consumers in every State. By doing so, it is the Departments' view that they have complied with the requirements of Executive Order 13132.

Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, and by the signatures affixed to these interim final regulations, the Departments certify that the Employee Benefits Security Administration and the Centers for Medicare & Medicaid Services have complied with the requirements of Executive Order 13132 for the attached regulations in a meaningful and timely manner.

V. Statutory Authority

The Department of the Treasury temporary regulations are adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor interim final regulations are adopted pursuant to the authority contained in 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Public Law 111–148, 124 Stat. 119, as amended by Public Law 111–152, 124 Stat. 1029; Secretary of Labor's Order 6–2009, 74 FR 21524 (May 7, 2009).

The Department of Health and Human Services interim final regulations are adopted pursuant to the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Parts 144, 146, and 147

Health care, Health insurance, Reporting and recordkeeping requirements, and State regulation of health insurance.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Approved: June 18, 2010.

Michael F. Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

Signed this 18th day of June 2010.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: June 18, 2010.

Jay Angoff,

Director, Office of Consumer Information and Insurance Oversight.

Dated: June 18, 2010.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

Department of the Treasury

Internal Revenue Service

26 CFR Chapter 1

■ Accordingly, 26 CFR parts 54 and 602 are amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 is amended by adding entries for §§ 54.9815–2704T, 54.9815–2711T, 54.9815–2712T, and 54.9815–2719AT in numerical order to read in part as follows:

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

Section 54.9815–2704T also issued under 26 U.S.C. 9833.

Section 54.9815–2711T also issued under 26 U.S.C. 9833.

Section 54.9815–2712T also issued under 26 U.S.C. 9833. * * *

Section 54.9815–2719AT also issued under 26 U.S.C. 9833. * * *

■ **Par. 2.** Section 54.9801–2 is amended by revising the definitions of *group health plan* and *preexisting condition exclusion to* read as follows:

§ 54.9801–2 Definitions.

* * * * *

Group health plan or *plan* means a *group health plan* within the meaning of § 54.9831–1(a).

* * * * *

Preexisting condition exclusion means a limitation or exclusion of benefits (including a denial of coverage) based on the fact that the condition was

present before the effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan or group or individual health insurance coverage (or other coverage provided to federally eligible individuals pursuant to 45 CFR part 148), whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day. A preexisting condition exclusion includes any limitation or exclusion of benefits (including a denial of coverage) applicable to an individual as a result of information relating to an individual's health status before the individual's effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan, or group or individual health insurance coverage (or other coverage provided to Federally eligible individuals pursuant to 45 CFR part 148), such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period.

■ **Par. 3.** Section 54.9801–3 is amended by revising paragraph (a)(1)(i) to read as follows:

§ 54.9801–3 Limitations on preexisting condition exclusion period.

(a) * * *

(1) * * *

(i) A *preexisting condition exclusion* means a *preexisting condition exclusion* within the meaning set forth in § 54.9801–2.

* * * * *

■ **Par. 4.** Section 54.9815–2704T is added to read as follows:

§ 54.9815–2704T Prohibition of preexisting condition exclusions (temporary).

(a) *No preexisting condition exclusions*—(1) *In general.* A group health plan, or a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion (as defined in § 54.9801–2).

(2) *Examples.* The rules of this paragraph (a) are illustrated by the following examples (for additional examples illustrating the definition of a preexisting condition exclusion, see § 54.9801–3(a)(1)(ii)):

Example 1. (i) *Facts.* A group health plan provides benefits solely through an insurance policy offered by Issuer P. At the expiration of the policy, the plan switches coverage to a policy offered by Issuer N. N's policy excludes benefits for oral surgery required as a result of a traumatic injury if the injury occurred before the effective date of coverage under the policy.

(ii) *Conclusion.* In this *Example 1,* the exclusion of benefits for oral surgery required as a result of a traumatic injury if the injury occurred before the effective date of coverage is a preexisting condition exclusion because it operates to exclude benefits for a condition based on the fact that the condition was present before the effective date of coverage under the policy.

Example 2. (i) *Facts.* Individual C applies for individual health insurance coverage with Issuer M. M denies C's application for coverage because a pre-enrollment physical revealed that C has type 2 diabetes.

(ii) *Conclusion. See Example 2* in 45 CFR 147.108(a)(2) for a conclusion that M's denial of C's application for coverage is a preexisting condition exclusion because a denial of an application for coverage based on the fact that a condition was present before the date of denial is an exclusion of benefits based on a preexisting condition.

(b) *Effective/applicability date*—(1) *General applicability date.* Except as provided in paragraph (b)(2) of this section, the rules of this section apply for plan years beginning on or after January 1, 2014.

(2) *Early applicability date for children.* The rules of this section apply with respect to enrollees, including applicants for enrollment, who are under 19 years of age for plan years beginning on or after September 23, 2010.

(3) *Applicability to grandfathered health plans.* See § 54.9815–1251T for determining the application of this section to grandfathered health plans (providing that a grandfathered health plan that is a group health plan or group health insurance coverage must comply with the prohibition against preexisting condition exclusions).

(4) *Example.* The rules of this paragraph (b) are illustrated by the following example:

Example. (i) *Facts.* Individual F commences employment and enrolls F and F's 16-year-old child in the group health plan maintained by F's employer, with a first day of coverage of October 15, 2010. F's child had a significant break in coverage because of a lapse of more than 63 days without creditable coverage immediately prior to enrolling in the plan. F's child was treated for asthma within the six-month period prior to the enrollment date and the plan imposes a 12-month preexisting condition exclusion for coverage of asthma. The next plan year begins on January 1, 2011.

(ii) *Conclusion.* In this *Example,* the plan year beginning January 1, 2011 is the first plan year of the group health plan beginning on or after September 23, 2010. Thus, beginning on January 1, 2011, because the child is under 19 years of age, the plan cannot impose a preexisting condition exclusion with respect to the child's asthma regardless of the fact that the preexisting condition exclusion was imposed by the plan before the applicability date of this provision.

(c) *Expiration date.* This section expires on June 21, 2013.

■ **Par. 5.** Section 54.9815–2711T is added to read as follows:

§ 54.9815–2711T No lifetime or annual limits (temporary).

(a) *Prohibition*—(1) *Lifetime limits.* Except as provided in paragraph (b) of this section, a group health plan, or a health insurance issuer offering group health insurance coverage, may not establish any lifetime limit on the dollar amount of benefits for any individual.

(2) *Annual limits*—(i) *General rule.* Except as provided in paragraphs (a)(2)(ii), (b), and (d) of this section, a group health plan, or a health insurance issuer offering group health insurance coverage, may not establish any annual limit on the dollar amount of benefits for any individual.

(ii) *Exception for health flexible spending arrangements.* A health flexible spending arrangement (as defined in section 106(c)(2)) is not subject to the requirement in paragraph (a)(2)(i) of this section.

(b) *Construction*—(1) *Permissible limits on specific covered benefits.* The rules of this section do not prevent a group health plan, or a health insurance issuer offering group health insurance coverage, from placing annual or lifetime dollar limits with respect to any individual on specific covered benefits that are not essential health benefits to the extent that such limits are otherwise permitted under applicable Federal or State law. (The scope of essential health benefits is addressed in paragraph (c) of this section.)

(2) *Condition-based exclusions.* The rules of this section do not prevent a group health plan, or a health insurance issuer offering group health insurance coverage, from excluding all benefits for a condition. However, if any benefits are provided for a condition, then the requirements of this section apply. Other requirements of Federal or State law may require coverage of certain benefits.

(c) *Definition of essential health benefits.* The term "essential health benefits" means essential health benefits under section 1302(b) of the Patient Protection and Affordable Care Act and applicable regulations.

(d) *Restricted annual limits permissible prior to 2014*—(1) *In general.* With respect to plan years beginning prior to January 1, 2014, a group health plan, or a health insurance issuer offering group health insurance coverage, may establish, for any individual, an annual limit on the dollar amount of benefits that are essential health benefits, provided the limit is no less than the amounts in the following schedule:

(i) For a plan year beginning on or after September 23, 2010, but before September 23, 2011, $750,000.

(ii) For a plan year beginning on or after September 23, 2011, but before September 23, 2012, $1,250,000.

(iii) For plan years beginning on or after September 23, 2012, but before January 1, 2014, $2,000,000.

(2) *Only essential health benefits taken into account.* In determining whether an individual has received benefits that meet or exceed the applicable amount described in paragraph (d)(1) of this section, a plan or issuer must take into account only essential health benefits.

(3) *Waiver authority of the Secretary of Health and Human Services.* For plan years beginning before January 1, 2014, the Secretary of Health and Human Services may establish a program under which the requirements of paragraph (d)(1) of this section relating to annual limits may be waived (for such period as is specified by the Secretary of Health and Human Services) for a group health plan or health insurance coverage that has an annual dollar limit on benefits below the restricted annual limits provided under paragraph (d)(1) of this section if compliance with paragraph (d)(1) of this section would result in a significant decrease in access to benefits under the plan or health insurance coverage or would significantly increase premiums for the plan or health insurance coverage.

(e) *Transitional rules for individuals whose coverage or benefits ended by reason of reaching a lifetime limit*—(1) *In general.* The relief provided in the transitional rules of this paragraph (e) applies with respect to any individual—

(i) Whose coverage or benefits under a group health plan or group health insurance coverage ended by reason of reaching a lifetime limit on the dollar value of all benefits for any individual (which, under this section, is no longer permissible); and

(ii) Who becomes eligible (or is required to become eligible) for benefits not subject to a lifetime limit on the dollar value of all benefits under the group health plan or group health insurance coverage on the first day of the first plan year beginning on or after September 23, 2010, by reason of the application of this section.

(2) *Notice and enrollment opportunity requirements*—(i) If an individual described in paragraph (e)(1) of this section is eligible for benefits (or is required to become eligible for benefits) under the group health plan—or group health insurance coverage—described in paragraph (e)(1) of this section, the plan and the issuer are required to give the individual written notice that the lifetime limit on the dollar value of all benefits no longer applies and that the individual, if covered, is once again eligible for benefits under the plan. Additionally, if the individual is not enrolled in the plan or health insurance coverage, or if an enrolled individual is eligible for but not enrolled in any benefit package under the plan or health insurance coverage, then the plan and issuer must also give such an individual an opportunity to enroll that continues for at least 30 days (including written notice of the opportunity to enroll). The notices and enrollment opportunity required under this paragraph (e)(2)(i) must be provided beginning not later than the first day of the first plan year beginning on or after September 23, 2010.

(ii) The notices required under paragraph (e)(2)(i) of this section may be provided to an employee on behalf of the employee's dependent. In addition, the notices may be included with other enrollment materials that a plan distributes to employees, provided the statement is prominent. For either notice, if a notice satisfying the requirements of this paragraph (e)(2) is provided to an individual, the obligation to provide the notice with respect to that individual is satisfied for both the plan and the issuer.

(3) *Effective date of coverage.* In the case of an individual who enrolls under paragraph (e)(2) of this section, coverage must take effect not later than the first day of the first plan year beginning on or after September 23, 2010.

(4) *Treatment of enrollees in a group health plan.* Any individual enrolling in a group health plan pursuant to paragraph (e)(2) of this section must be treated as if the individual were a special enrollee, as provided under the rules of § 54.9801–6(d). Accordingly, the individual (and, if the individual would not be a participant once enrolled in the plan, the participant through whom the individual is otherwise eligible for coverage under the plan) must be offered all the benefit packages available to similarly situated individuals who did not lose coverage by reason of reaching a lifetime limit on the dollar value of all benefits. For this purpose, any difference in benefits or cost-sharing requirements constitutes a different benefit package. The individual also cannot be required to pay more for coverage than similarly situated individuals who did not lose coverage by reason of reaching a lifetime limit on the dollar value of all benefits.

(5) *Examples.* The rules of this paragraph (e) are illustrated by the following examples:

Example 1. (i) *Facts.* Employer Y maintains a group health plan with a calendar year plan year. The plan has a single benefit package. For plan years beginning before September 23, 2010, the plan has a lifetime limit on the dollar value of all benefits. Individual B, an employee of Y, was enrolled in Y's group health plan at the beginning of the 2008 plan year. On June 10, 2008, B incurred a claim for benefits that exceeded the lifetime limit under Y's plan and ceased to be enrolled in the plan. B is still eligible for coverage under Y's group health plan. On or before January 1, 2011, Y's group health plan gives B written notice informing B that the lifetime limit on the dollar value of all benefits no longer applies, that individuals whose coverage ended by reason of reaching a lifetime limit under the plan are eligible to enroll in the plan, and that individuals can request such enrollment through February 1, 2011 with enrollment effective retroactively to January 1, 2011.

(ii) *Conclusion.* In this *Example 1,* the plan has complied with the requirements of this paragraph (e) by providing a timely written notice and enrollment opportunity to B that lasts at least 30 days.

Example 2. (i) *Facts.* Employer Z maintains a group health plan with a plan year beginning October 1 and ending September 30. Prior to October 1, 2010, the group health plan has a lifetime limit on the dollar value of all benefits. Individual D, an employee of Z, and Individual E, D's child, were enrolled in family coverage under Z's group health plan for the plan year beginning on October 1, 2008. On May 1, 2009, E incurred a claim for benefits that exceeded the lifetime limit under Z's plan. D dropped family coverage but remains an employee of Z and is still eligible for coverage under Z's group health plan.

(ii) *Conclusion.* In this *Example 2,* not later than October 1, 2010, the plan must provide D and E an opportunity to enroll (including written notice of an opportunity to enroll) that continues for at least 30 days, with enrollment effective not later than October 1, 2010.

Example 3. (i) *Facts.* Same facts as *Example 2,* except that Z's plan had two benefit packages (a low-cost and a high-cost option). Instead of dropping coverage, D switched to the low-cost benefit package option.

(ii) *Conclusion.* In this *Example 3,* not later than October 1, 2010, the plan must provide D and E an opportunity to enroll in any benefit package available to similarly situated individuals who enroll when first eligible. The plan would have to provide D and E the opportunity to enroll in any benefit package available to similarly situated individuals who enroll when first eligible, even if D had not switched to the low-cost benefit package option.

Example 4. (i) *Facts.* Employer Q maintains a group health plan with a plan year beginning October 1 and ending September 30. For the plan year beginning on October 1, 2009, Q has an annual limit on the dollar value of all benefits of $500,000.

(ii) *Conclusion.* In this *Example 4,* Q must raise the annual limit on the dollar value of essential health benefits to at least $750,000

for the plan year beginning October 1, 2010. For the plan year beginning October 1, 2011, Q must raise the annual limit to at least $1.25 million. For the plan year beginning October 1, 2012, Q must raise the annual limit to at least $2 million. Q may also impose a restricted annual limit of $2 million for the plan year beginning October 1, 2013. After the conclusion of that plan year, Q cannot impose an overall annual limit.

Example 5. (i) *Facts.* Same facts as *Example 4,* except that the annual limit for the plan year beginning on October 1, 2009 is $1 million and Q lowers the annual limit for the plan year beginning October 1, 2010 to $750,000.

(ii) *Conclusion.* In this *Example 5,* Q complies with the requirements of this paragraph (e). However, Q's choice to lower its annual limit means that under § 54.9815–1251T(g)(1)(vi)(C), the group health plan will cease to be a grandfathered health plan and will be generally subject to all of the provisions of PHS Act sections 2701 through 2719A.

(f) *Effective/applicability date.* The provisions of this section apply for plan years beginning on or after September 23, 2010. *See* § 54.9815–1251T for determining the application of this section to grandfathered health plans (providing that the prohibitions on lifetime and annual limits apply to all grandfathered health plans that are group health plans and group health insurance coverage, including the special rules regarding restricted annual limits).

(g) *Expiration date.* This section expires on June 21, 2013.

■ **Par. 6.** Section 54.9815–2712T is added to read as follows:

§ 54.9815–2712T Rules regarding rescissions (temporary).

(a) *Prohibition on rescissions*—(1) A group health plan, or a health insurance issuer offering group health insurance coverage, must not rescind coverage under the plan, or under the policy, certificate, or contract of insurance, with respect to an individual (including a group to which the individual belongs or family coverage in which the individual is included) once the individual is covered under the plan or coverage, unless the individual (or a person seeking coverage on behalf of the individual) performs an act, practice, or omission that constitutes fraud, or unless the individual makes an intentional misrepresentation of material fact, as prohibited by the terms of the plan or coverage. A group health plan, or a health insurance issuer offering group health insurance coverage, must provide at least 30 days advance written notice to each participant who would be affected before coverage may be rescinded under this paragraph (a)(1), regardless of whether the coverage is insured or self-insured, or whether the rescission applies to an entire group or only to an individual within the group. (The rules of this paragraph (a)(1) apply regardless of any contestability period that may otherwise apply.)

(2) For purposes of this section, a rescission is a cancellation or discontinuance of coverage that has retroactive effect. For example, a cancellation that treats a policy as void from the time of the individual's or group's enrollment is a rescission. As another example, a cancellation that voids benefits paid up to a year before the cancellation is also a rescission for this purpose. A cancellation or discontinuance of coverage is not a rescission if—

(i) The cancellation or discontinuance of coverage has only a prospective effect; or

(ii) The cancellation or discontinuance of coverage is effective retroactively to the extent it is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage.

(3) The rules of this paragraph (a) are illustrated by the following examples:

Example 1. (i) *Facts.* Individual A seeks enrollment in an insured group health plan. The plan terms permit rescission of coverage with respect to an individual if the individual engages in fraud or makes an intentional misrepresentation of a material fact. The plan requires A to complete a questionnaire regarding A's prior medical history, which affects setting the group rate by the health insurance issuer. The questionnaire complies with the other requirements of this part. The questionnaire includes the following question: "Is there anything else relevant to your health that we should know?" A inadvertently fails to list that A visited a psychologist on two occasions, six years previously. A is later diagnosed with breast cancer and seeks benefits under the plan. On or around the same time, the issuer receives information about A's visits to the psychologist, which was not disclosed in the questionnaire.

(ii) *Conclusion.* In this *Example 1,* the plan cannot rescind A's coverage because A's failure to disclose the visits to the psychologist was inadvertent. Therefore, it was not fraudulent or an intentional misrepresentation of material fact.

Example 2. (i) *Facts.* An employer sponsors a group health plan that provides coverage for employees who work at least 30 hours per week. Individual B has coverage under the plan as a full-time employee. The employer reassigns B to a part-time position. Under the terms of the plan, B is no longer eligible for coverage. The plan mistakenly continues to provide health coverage, collecting premiums from B and paying claims submitted by B. After a routine audit, the plan discovers that B no longer works at least 30 hours per week. The plan rescinds B's coverage effective as of the date that B changed from a full-time employee to a part-time employee.

(ii) *Conclusion.* In this *Example 2,* the plan cannot rescind B's coverage because there was no fraud or an intentional misrepresentation of material fact. The plan may cancel coverage for B prospectively, subject to other applicable Federal and State laws.

(b) *Compliance with other requirements.* Other requirements of Federal or State law may apply in connection with a rescission of coverage.

(c) *Effective/applicability date.* The provisions of this section apply for plan years beginning on or after September 23, 2010. See § 54.9815–1251T for determining the application of this section to grandfathered health plans (providing that the rules regarding rescissions and advance notice apply to all grandfathered health plans).

(d) *Expiration date.* This section expires on June 21, 2013.

■ **Par. 7.** Section 54.9815–2719AT is added to read as follows:

§ 54.9815–2719AT Patient protections (temporary).

(a) *Choice of health care professional*—(1) *Designation of primary care provider*—(i) *In general.* If a group health plan, or a health insurance issuer offering group health insurance coverage, requires or provides for designation by a participant or beneficiary of a participating primary care provider, then the plan or issuer must permit each participant or beneficiary to designate any participating primary care provider who is available to accept the participant or beneficiary. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant of the terms of the plan or health insurance coverage regarding designation of a primary care provider.

(ii) *Example.* The rules of this paragraph (a)(1) are illustrated by the following example:

Example. (i) *Facts.* A group health plan requires individuals covered under the plan to designate a primary care provider. The plan permits each individual to designate any primary care provider participating in the plan's network who is available to accept the individual as the individual's primary care provider. If an individual has not designated a primary care provider, the plan designates one until one has been designated by the individual. The plan provides a notice that satisfies the requirements of paragraph (a)(4) of this section regarding the ability to designate a primary care provider.

(ii) *Conclusion.* In this *Example,* the plan has satisfied the requirements of paragraph (a) of this section.

(2) *Designation of pediatrician as primary care provider*—(i) *In general.* If a group health plan, or a health insurance issuer offering group health insurance coverage, requires or provides for the designation of a participating primary care provider for a child by a participant or beneficiary, the plan or issuer must permit the participant or beneficiary to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if the provider participates in the network of the plan or issuer and is available to accept the child. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant of the terms of the plan or health insurance coverage regarding designation of a pediatrician as the child's primary care provider.

(ii) *Construction.* Nothing in paragraph (a)(2)(i) of this section is to be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

(iii) *Examples.* The rules of this paragraph (a)(2) are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan's HMO designates for each participant a physician who specializes in internal medicine to serve as the primary care provider for the participant and any beneficiaries. Participant A requests that Pediatrician B be designated as the primary care provider for A's child. B is a participating provider in the HMO's network.

(ii) *Conclusion.* In this *Example 1,* the HMO must permit A's designation of B as the primary care provider for A's child in order to comply with the requirements of this paragraph (a)(2).

Example 2. (i) *Facts.* Same facts as *Example 1,* except that A takes A's child to B for treatment of the child's severe shellfish allergies. B wishes to refer A's child to an allergist for treatment. The HMO, however, does not provide coverage for treatment of food allergies, nor does it have an allergist participating in its network, and it therefore refuses to authorize the referral.

(ii) *Conclusion.* In this *Example 2,* the HMO has not violated the requirements of this paragraph (a)(2) because the exclusion of treatment for food allergies is in accordance with the terms of A's coverage.

(3) *Patient access to obstetrical and gynecological care*—(i) *General rights*—(A) *Direct access.* A group health plan, or a health insurance issuer offering group health insurance coverage, described in paragraph (a)(3)(ii) of this section may not require authorization or referral by the plan, issuer, or any person (including a primary care provider) in the case of a female participant or beneficiary who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant that the plan may not require authorization or referral for obstetrical or gynecological care by a participating health care professional who specializes in obstetrics or gynecology. The plan or issuer may require such a professional to agree to otherwise adhere to the plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer. For purposes of this paragraph (a)(3), a health care professional who specializes in obstetrics or gynecology is any individual (including a person other than a physician) who is authorized under applicable State law to provide obstetrical or gynecological care.

(B) *Obstetrical and gynecological care.* A group health plan or health insurance issuer described in paragraph (a)(3)(ii) of this section must treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (a)(3)(i)(A) of this section, by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(ii) *Application of paragraph.* A group health plan, or a health insurance issuer offering group health insurance coverage, is described in this paragraph (a)(3) if the plan or issuer—

(A) Provides coverage for obstetrical or gynecological care; and

(B) Requires the designation by a participant or beneficiary of a participating primary care provider.

(iii) *Construction.* Nothing in paragraph (a)(3)(i) of this section is to be construed to—

(A) Waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(B) Preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

(iv) *Examples.* The rules of this paragraph (a)(3) are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan requires each participant to designate a physician to serve as the primary care provider for the participant and the participant's family. Participant A, a female, requests a gynecological exam with Physician B, an in-network physician specializing in gynecological care. The group health plan requires prior authorization from A's designated primary care provider for the gynecological exam.

(ii) *Conclusion.* In this *Example 1,* the group health plan has violated the requirements of this paragraph (a)(3) because the plan requires prior authorization from A's primary care provider prior to obtaining gynecological services.

Example 2. (i) *Facts.* Same facts as *Example 1* except that A seeks gynecological services from C, an out-of-network provider.

(ii) *Conclusion.* In this *Example 2,* the group health plan has not violated the requirements of this paragraph (a)(3) by requiring prior authorization because C is not a participating health care provider.

Example 3. (i) *Facts.* Same facts as *Example 1* except that the group health plan only requires B to inform A's designated primary care physician of treatment decisions.

(ii) *Conclusion.* In this *Example 3,* the group health plan has not violated the requirements of this paragraph (a)(3) because A has direct access to B without prior authorization. The fact that the group health plan requires notification of treatment decisions to the designated primary care physician does not violate this paragraph (a)(3).

Example 4. (i) *Facts.* A group health plan requires each participant to designate a physician to serve as the primary care provider for the participant and the participant's family. The group health plan requires prior authorization before providing benefits for uterine fibroid embolization.

(ii) *Conclusion.* In this *Example 4,* the plan requirement for prior authorization before providing benefits for uterine fibroid embolization does not violate the requirements of this paragraph (a)(3) because, though the prior authorization requirement applies to obstetrical services, it does not restrict access to any providers specializing in obstetrics or gynecology.

(4) *Notice of right to designate a primary care provider*—(i) *In general.* If a group health plan or health insurance issuer requires the designation by a participant or beneficiary of a primary care provider, the plan or issuer must provide a notice informing each participant of the terms of the plan or health insurance coverage regarding designation of a primary care provider and of the rights—

(A) Under paragraph (a)(1)(i) of this section, that any participating primary care provider who is available to accept

the participant or beneficiary can be designated;

(B) Under paragraph (a)(2)(i) of this section, with respect to a child, that any participating physician who specializes in pediatrics can be designated as the primary care provider; and

(C) Under paragraph (a)(3)(i) of this section, that the plan may not require authorization or referral for obstetrical or gynecological care by a participating health care professional who specializes in obstetrics or gynecology.

(ii) *Timing.* The notice described in paragraph (a)(4)(i) of this section must be included whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage.

(iii) *Model language.* The following model language can be used to satisfy the notice requirement described in paragraph (a)(4)(i) of this section:

(A) For plans and issuers that require or allow for the designation of primary care providers by participants or beneficiaries, insert:

[Name of group health plan or health insurance issuer] generally [requires/allows] the designation of a primary care provider. You have the right to designate any primary care provider who participates in our network and who is available to accept you or your family members. [If the plan or health insurance coverage designates a primary care provider automatically, insert: Until you make this designation, [name of group health plan or health insurance issuer] designates one for you.] For information on how to select a primary care provider, and for a list of the participating primary care providers, contact the [plan administrator or issuer] at [insert contact information].

(B) For plans and issuers that require or allow for the designation of a primary care provider for a child, add:

For children, you may designate a pediatrician as the primary care provider.

(C) For plans and issuers that provide coverage for obstetric or gynecological care and require the designation by a participant or beneficiary of a primary care provider, add:

You do not need prior authorization from [name of group health plan or issuer] or from any other person (including a primary care provider) in order to obtain access to obstetrical or gynecological care from a health care professional in our network who specializes in obstetrics or gynecology. The health care professional, however, may be required to comply with certain procedures, including obtaining prior authorization for certain services, following a pre-approved treatment plan, or procedures for making referrals. For a list of participating health care professionals who specialize in obstetrics or gynecology, contact the [plan administrator or issuer] at [insert contact information].

(b) *Coverage of emergency services*—(1) *Scope.* If a group health plan, or a health insurance issuer offering group health insurance coverage, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer must cover emergency services (as defined in paragraph (b)(4)(ii) of this section) consistent with the rules of this paragraph (b).

(2) *General rules.* A plan or issuer subject to the requirements of this paragraph (b) must provide coverage for emergency services in the following manner—

(i) Without the need for any prior authorization determination, even if the emergency services are provided on an out-of-network basis;

(ii) Without regard to whether the health care provider furnishing the emergency services is a participating network provider with respect to the services;

(iii) If the emergency services are provided out of network, without imposing any administrative requirement or limitation on coverage that is more restrictive than the requirements or limitations that apply to emergency services received from in-network providers;

(iv) If the emergency services are provided out of network, by complying with the cost-sharing requirements of paragraph (b)(3) of this section; and

(v) Without regard to any other term or condition of the coverage, other than—

(A) The exclusion of or coordination of benefits;

(B) An affiliation or waiting period permitted under part 7 of ERISA, part A of title XXVII of the PHS Act, or chapter 100 of the Internal Revenue Code; or

(C) Applicable cost sharing.

(3) *Cost-sharing requirements*—(i) *Copayments and coinsurance.* Any cost-sharing requirement expressed as a copayment amount or coinsurance rate imposed with respect to a participant or beneficiary for out-of-network emergency services cannot exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if the services were provided in-network. However, a participant or beneficiary may be required to pay, in addition to the in-network cost sharing, the excess of the amount the out-of-network provider charges over the amount the plan or issuer is required to pay under this paragraph (b)(3)(i). A group health plan or health insurance issuer complies with the requirements of this paragraph (b)(3) if it provides benefits with respect to an emergency service in an amount equal to the greatest of the three amounts specified in paragraphs (b)(3)(i)(A), (b)(3)(i)(B), and (b)(3)(i)(C) of this section (which are adjusted for in-network cost-sharing requirements).

(A) The amount negotiated with in-network providers for the emergency service furnished, excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary. If there is more than one amount negotiated with in-network providers for the emergency service, the amount described under this paragraph (b)(3)(i)(A) is the median of these amounts, excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary. In determining the median described in the preceding sentence, the amount negotiated with each in-network provider is treated as a separate amount (even if the same amount is paid to more than one provider). If there is no per-service amount negotiated with in-network providers (such as under a capitation or other similar payment arrangement), the amount under this paragraph (b)(3)(i)(A) is disregarded.

(B) The amount for the emergency service calculated using the same method the plan generally uses to determine payments for out-of-network services (such as the usual, customary, and reasonable amount), excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary. The amount in this paragraph (b)(3)(i)(B) is determined without reduction for out-of-network cost sharing that generally applies under the plan or health insurance coverage with respect to out-of-network services. Thus, for example, if a plan generally pays 70 percent of the usual, customary, and reasonable amount for out-of-network services, the amount in this paragraph (b)(3)(i)(B) for an emergency service is the total (that is, 100 percent) of the usual, customary, and reasonable amount for the service, not reduced by the 30 percent coinsurance that would generally apply to out-of-network services (but reduced by the in-network copayment or coinsurance that the individual would be responsible for if the emergency service had been provided in-network).

(C) The amount that would be paid under Medicare (part A or part B of title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*) for the emergency service, excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary.

(ii) *Other cost sharing.* Any cost-sharing requirement other than a

copayment or coinsurance requirement (such as a deductible or out-of-pocket maximum) may be imposed with respect to emergency services provided out of network if the cost-sharing requirement generally applies to out-of-network benefits. A deductible may be imposed with respect to out-of-network emergency services only as part of a deductible that generally applies to out-of-network benefits. If an out-of-pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must apply to out-of-network emergency services.

(iii) *Examples.* The rules of this paragraph (b)(3) are illustrated by the following examples. In all of these examples, the group health plan covers benefits with respect to emergency services.

Example 1. (i) *Facts.* A group health plan imposes a 25% coinsurance responsibility on individuals who are furnished emergency services, whether provided in network or out of network. If a covered individual notifies the plan within two business days after the day an individual receives treatment in an emergency department, the plan reduces the coinsurance rate to 15%.

(ii) *Conclusion.* In this *Example 1,* the requirement to notify the plan in order to receive a reduction in the coinsurance rate does not violate the requirement that the plan cover emergency services without the need for any prior authorization determination. This is the result even if the plan required that it be notified before or at the time of receiving services at the emergency department in order to receive a reduction in the coinsurance rate.

Example 2. (i) *Facts.* A group health plan imposes a $60 copayment on emergency services without preauthorization, whether provided in-network or out-of-network. If emergency services are preauthorized, the plan waives the copayment, even if it later determines the medical condition was not an emergency medical condition.

(ii) *Conclusion.* In this *Example 2,* by requiring an individual to pay more for emergency services if the individual does not obtain prior authorization, the plan violates the requirement that the plan cover emergency services without the need for any prior authorization determination. (By contrast, if, to have the copayment waived, the plan merely required that it be notified rather than a prior authorization, then the plan would not violate the requirement that the plan cover emergency services without the need for any prior authorization determination.)

Example 3. (i) *Facts.* A group health plan covers individuals who receive emergency services with respect to an emergency medical condition from an out-of-network provider. The plan has agreements with in-network providers with respect to a certain emergency service. Each provider has agreed to provide the service for a certain amount. Among all the providers for the service: One has agreed to accept $85, two have agreed to accept $100, two have agreed to accept $110, three have agreed to accept $120, and one has agreed to accept $150. Under the agreement, the plan agrees to pay the providers 80% of the agreed amount, with the individual receiving the service responsible for the remaining 20%.

(ii) *Conclusion.* In this *Example 3,* the values taken into account in determining the median are $85, $100, $100, $110, $110, $120, $120, $120, and $150. Therefore, the median amount among those agreed to for the emergency service is $110, and the amount under paragraph (b)(3)(i)(A) of this section is 80% of $110 ($88).

Example 4. (i) *Facts.* Same facts as *Example 3.* Subsequently, the plan adds another provider to its network, who has agreed to accept $150 for the emergency service.

(ii) *Conclusion.* In this *Example 4,* the median amount among those agreed to for the emergency service is $115. (Because there is no one middle amount, the median is the average of the two middle amounts, $110 and $120.) Accordingly, the amount under paragraph (b)(3)(i)(A) of this section is 80% of $115 ($92).

Example 5. (i) *Facts.* Same facts as *Example 4.* An individual covered by the plan receives the emergency service from an out-of-network provider, who charges $125 for the service. With respect to services provided by out-of-network providers generally, the plan reimburses covered individuals 50% of the reasonable amount charged by the provider for medical services. For this purpose, the reasonable amount for any service is based on information on charges by all providers collected by a third party, on a zip-code-by-zip-code basis, with the plan treating charges at a specified percentile as reasonable. For the emergency service received by the individual, the reasonable amount calculated using this method is $116. The amount that would be paid under Medicare for the emergency service, excluding any copayment or coinsurance for the service, is $80.

(ii) *Conclusion.* In this *Example 5,* the plan is responsible for paying $92.80, 80% of $116. The median amount among those agreed to for the emergency service is $115 and the amount the plan would pay is $92 (80% of $115); the amount calculated using the same method the plan uses to determine payments for out-of-network services—$116—excluding the in-network 20% coinsurance, is $92.80; and the Medicare payment is $80. Thus, the greatest amount is $92.80. The individual is responsible for the remaining $32.20 charged by the out-of-network provider.

Example 6. (i) *Facts.* Same facts as *Example 5.* The group health plan generally imposes a $250 deductible for in-network health care. With respect to all health care provided by out-of-network providers, the plan imposes a $500 deductible. (Covered in-network claims are credited against the deductible.) The individual has incurred and submitted $260 of covered claims prior to receiving the emergency service out of network.

(ii) *Conclusion.* In this *Example 6,* the plan is not responsible for paying anything with respect to the emergency service furnished by the out-of-network provider because the covered individual has not satisfied the higher deductible that applies generally to all health care provided out of network. However, the amount the individual is required to pay is credited against the deductible.

(4) *Definitions.* The definitions in this paragraph (b)(4) govern in applying the provisions of this paragraph (b).

(i) *Emergency medical condition.* The term *emergency medical condition* means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) so that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act (42 U.S.C. 1395dd(e)(1)(A)). (In that provision of the Social Security Act, clause (i) refers to placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; clause (ii) refers to serious impairment to bodily functions; and clause (iii) refers to serious dysfunction of any bodily organ or part.)

(ii) *Emergency services.* The term *emergency services* means, with respect to an emergency medical condition—

(A) A medical screening examination (as required under section 1867 of the Social Security Act, 42 U.S.C. 1395dd) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(B) Such further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the Social Security Act (42 U.S.C. 1395dd) to stabilize the patient.

(iii) *Stabilize.* The term *to stabilize,* with respect to an emergency medical condition (as defined in paragraph (b)(4)(i) of this section) has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(c) *Effective/applicability date.* The provisions of this section apply for plan years beginning on or after September 23, 2010. *See* § 54.9815–1251T for determining the application of this section to grandfathered health plans (providing that these rules regarding patient protections do not apply to grandfathered health plans).

(d) *Expiration date.* This section expires on June 21, 2013.

PART 602—[AMENDED]

■ **Par. 8.** The authority citation for part 602 continues to read in part as follows:

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

■ **Par. 9.** Section 602.101(b) is amended by adding the following entries 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.
* * * * *	
54.9815–2711T	1545–2179
54.9815–2712T	1545–2180
* * * * *	
54.9815–2719AT	1545–2181
* * * * *	

Department of Labor

Employee Benefits Security Administration

29 CFR Chapter XXV

■ For reasons stated in the preamble, EBSA amends 29 CFR part 2590 as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 1. The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Secretary of Labor's Order 6–2009, 74 FR 21524 (May 7, 2009).

Subpart B—Other Requirements

■ 2. Section 2590.701–2 is amended by revising the definition of *preexisting condition exclusion* to read as follows:

§ 2590.701–2 Definitions.

* * * * *

Preexisting condition exclusion means a limitation or exclusion of benefits (including a denial of coverage) based on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan or group or individual health insurance coverage (or other coverage provided to federally eligible individuals pursuant to 45 CFR part 148), whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day. A preexisting condition exclusion includes any limitation or exclusion of benefits (including a denial of coverage) applicable to an individual as a result of information relating to an individual's health status before the individual's effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan, or group or individual health insurance coverage (or other coverage provided to Federally eligible individuals pursuant to 45 CFR part 148), such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period.

* * * * *

■ 3. Section 2590.701–3 is amended by revising paragraph (a)(1)(i) to read as follows:

§ 2590.701–3 Limitations on preexisting condition exclusion period.

(a) * * *

(1) * * *

(i) A *preexisting condition exclusion* means a *preexisting condition exclusion* within the meaning set forth in § 2590.701–2 of this part.

* * * * *

■ 4. Section 2590.715–2704 is added to subpart C to read as follows:

§ 2590.715–2704 Prohibition of preexisting condition exclusions.

(a) *No preexisting condition exclusions*—(1) *In general.* A group health plan, or a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion (as defined in § 2590.701–2 of this part).

(2) *Examples.* The rules of this paragraph (a) are illustrated by the following examples (for additional examples illustrating the definition of a preexisting condition exclusion, *see* § 2590.701–3(a)(1)(ii) of this part):

Example 1. (i) *Facts.* A group health plan provides benefits solely through an insurance policy offered by Issuer *P.* At the expiration of the policy, the plan switches coverage to a policy offered by Issuer *N. N*'s policy excludes benefits for oral surgery required as a result of a traumatic injury if the injury occurred before the effective date of coverage under the policy.

(ii) *Conclusion.* In this *Example 1,* the exclusion of benefits for oral surgery required as a result of a traumatic injury if the injury occurred before the effective date of coverage is a preexisting condition exclusion because it operates to exclude benefits for a condition based on the fact that the condition was present before the effective date of coverage under the policy.

Example 2. (i) *Facts.* Individual *C* applies for individual health insurance coverage with Issuer *M. M* denies *C*'s application for coverage because a pre-enrollment physical revealed that *C* has type 2 diabetes.

(ii) *Conclusion. See Example 2* in 45 CFR 147.108(a)(2) for a conclusion that *M*'s denial of *C*'s application for coverage is a preexisting condition exclusion because a denial of an application for coverage based on the fact that a condition was present before the date of denial is an exclusion of benefits based on a preexisting condition.

(b) *Applicability*—(1) *General applicability date.* Except as provided in paragraph (b)(2) of this section, the rules of this section apply for plan years beginning on or after January 1, 2014.

(2) *Early applicability date for children.* The rules of this section apply with respect to enrollees, including applicants for enrollment, who are under 19 years of age for plan years beginning on or after September 23, 2010.

(3) *Applicability to grandfathered health plans. See* § 2590.715–1251 of this part for determining the application of this section to grandfathered health plans (providing that a grandfathered health plan that is a group health plan or group health insurance coverage must comply with the prohibition against preexisting condition exclusions).

(4) *Example.* The rules of this paragraph (b) are illustrated by the following example:

Example. (i) *Facts.* Individual *F* commences employment and enrolls *F* and *F*'s 16-year-old child in the group health plan maintained by *F*'s employer, with a first day of coverage of October 15, 2010. *F*'s child had a significant break in coverage because of a lapse of more than 63 days without creditable coverage immediately prior to enrolling in the plan. *F*'s child was treated for asthma within the six-month period prior to the enrollment date and the plan imposes a 12-month preexisting condition exclusion for coverage of asthma. The next plan year begins on January 1, 2011.

(ii) *Conclusion.* In this *Example,* the plan year beginning January 1, 2011 is the first plan year of the group health plan beginning on or after September 23, 2010. Thus, beginning on January 1, 2011, because the child is under 19 years of age, the plan cannot impose a preexisting condition exclusion with respect to the child's asthma regardless of the fact that the preexisting condition exclusion was imposed by the plan before the applicability date of this provision.

■ 5. Section 2590.715–2711 is added to subpart C to read as follows:

§ 2590.715–2711 No lifetime or annual limits.

(a) *Prohibition*—(1) *Lifetime limits.* Except as provided in paragraph (b) of

this section, a group health plan, or a health insurance issuer offering group health insurance coverage, may not establish any lifetime limit on the dollar amount of benefits for any individual.

(2) *Annual limits*—(i) *General rule.* Except as provided in paragraphs (a)(2)(ii), (b), and (d) of this section, a group health plan, or a health insurance issuer offering group health insurance coverage, may not establish any annual limit on the dollar amount of benefits for any individual.

(ii) *Exception for health flexible spending arrangements.* A health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code) is not subject to the requirement in paragraph (a)(2)(i) of this section.

(b) *Construction*—(1) *Permissible limits on specific covered benefits.* The rules of this section do not prevent a group health plan, or a health insurance issuer offering group health insurance coverage, from placing annual or lifetime dollar limits with respect to any individual on specific covered benefits that are not essential health benefits to the extent that such limits are otherwise permitted under applicable Federal or State law. (The scope of essential health benefits is addressed in paragraph (c) of this section).

(2) *Condition-based exclusions.* The rules of this section do not prevent a group health plan, or a health insurance issuer offering group health insurance coverage, from excluding all benefits for a condition. However, if any benefits are provided for a condition, then the requirements of this section apply. Other requirements of Federal or State law may require coverage of certain benefits.

(c) *Definition of essential health benefits.* The term "essential health benefits" means essential health benefits under section 1302(b) of the Patient Protection and Affordable Care Act and applicable regulations.

(d) *Restricted annual limits permissible prior to 2014*—(1) *In general.* With respect to plan years beginning prior to January 1, 2014, a group health plan, or a health insurance issuer offering group health insurance coverage, may establish, for any individual, an annual limit on the dollar amount of benefits that are essential health benefits, provided the limit is no less than the amounts in the following schedule:

(i) For a plan year beginning on or after September 23, 2010, but before September 23, 2011, $750,000.

(ii) For a plan year beginning on or after September 23, 2011, but before September 23, 2012, $1,250,000.

(iii) For plan years beginning on or after September 23, 2012, but before January 1, 2014, $2,000,000.

(2) *Only essential health benefits taken into account.* In determining whether an individual has received benefits that meet or exceed the applicable amount described in paragraph (d)(1) of this section, a plan or issuer must take into account only essential health benefits.

(3) *Waiver authority of the Secretary of Health and Human Services.* For plan years beginning before January 1, 2014, the Secretary of Health and Human Services may establish a program under which the requirements of paragraph (d)(1) of this section relating to annual limits may be waived (for such period as is specified by the Secretary of Health and Human Services) for a group health plan or health insurance coverage that has an annual dollar limit on benefits below the restricted annual limits provided under paragraph (d)(1) of this section if compliance with paragraph (d)(1) of this section would result in a significant decrease in access to benefits under the plan or health insurance coverage or would significantly increase premiums for the plan or health insurance coverage.

(e) *Transitional rules for individuals whose coverage or benefits ended by reason of reaching a lifetime limit*—(1) *In general.* The relief provided in the transitional rules of this paragraph (e) applies with respect to any individual—

(i) Whose coverage or benefits under a group health plan or group health insurance coverage ended by reason of reaching a lifetime limit on the dollar value of all benefits for any individual (which, under this section, is no longer permissible); and

(ii) Who becomes eligible (or is required to become eligible) for benefits not subject to a lifetime limit on the dollar value of all benefits under the group health plan or group health insurance coverage on the first day of the first plan year beginning on or after September 23, 2010, by reason of the application of this section.

(2) *Notice and enrollment opportunity requirements*–(i) If an individual described in paragraph (e)(1) of this section is eligible for benefits (or is required to become eligible for benefits) under the group health plan—or group health insurance coverage—described in paragraph (e)(1) of this section, the plan and the issuer are required to give the individual written notice that the lifetime limit on the dollar value of all benefits no longer applies and that the individual, if covered, is once again eligible for benefits under the plan. Additionally, if the individual is not enrolled in the plan or health insurance coverage, or if an enrolled individual is eligible for but not enrolled in any benefit package under the plan or health insurance coverage, then the plan and issuer must also give such an individual an opportunity to enroll that continues for at least 30 days (including written notice of the opportunity to enroll). The notices and enrollment opportunity required under this paragraph (e)(2)(i) must be provided beginning not later than the first day of the first plan year beginning on or after September 23, 2010.

(ii) The notices required under paragraph (e)(2)(i) of this section may be provided to an employee on behalf of the employee's dependent. In addition, the notices may be included with other enrollment materials that a plan distributes to employees, provided the statement is prominent. For either notice, if a notice satisfying the requirements of this paragraph (e)(2) is provided to an individual, the obligation to provide the notice with respect to that individual is satisfied for both the plan and the issuer.

(3) *Effective date of coverage.* In the case of an individual who enrolls under paragraph (e)(2) of this section, coverage must take effect not later than the first day of the first plan year beginning on or after September 23, 2010.

(4) *Treatment of enrollees in a group health plan.* Any individual enrolling in a group health plan pursuant to paragraph (e)(2) of this section must be treated as if the individual were a special enrollee, as provided under the rules of § 2590.701–6(d) of this part. Accordingly, the individual (and, if the individual would not be a participant once enrolled in the plan, the participant through whom the individual is otherwise eligible for coverage under the plan) must be offered all the benefit packages available to similarly situated individuals who did not lose coverage by reason of reaching a lifetime limit on the dollar value of all benefits. For this purpose, any difference in benefits or cost-sharing requirements constitutes a different benefit package. The individual also cannot be required to pay more for coverage than similarly situated individuals who did not lose coverage by reason of reaching a lifetime limit on the dollar value of all benefits.

(5) *Examples.* The rules of this paragraph (e) are illustrated by the following examples:

Example 1. (i) *Facts.* Employer *Y* maintains a group health plan with a calendar year plan year. The plan has a single benefit package. For plan years beginning before September 23, 2010, the plan has a lifetime limit on the

dollar value of all benefits. Individual *B,* an employee of *Y,* was enrolled in *Y*'s group health plan at the beginning of the 2008 plan year. On June 10, 2008, *B* incurred a claim for benefits that exceeded the lifetime limit under *Y*'s plan and ceased to be enrolled in the plan. *B* is still eligible for coverage under *Y*'s group health plan. On or before January 1, 2011, *Y*'s group health plan gives *B* written notice informing *B* that the lifetime limit on the dollar value of all benefits no longer applies, that individuals whose coverage ended by reason of reaching a lifetime limit under the plan are eligible to enroll in the plan, and that individuals can request such enrollment through February 1, 2011 with enrollment effective retroactively to January 1, 2011.

(ii) *Conclusion.* In this *Example 1,* the plan has complied with the requirements of this paragraph (e) by providing a timely written notice and enrollment opportunity to *B* that lasts at least 30 days.

Example 2. (i) *Facts.* Employer *Z* maintains a group health plan with a plan year beginning October 1 and ending September 30. Prior to October 1, 2010, the group health plan has a lifetime limit on the dollar value of all benefits. Individual *D,* an employee of *Z,* and Individual *E, D*'s child, were enrolled in family coverage under *Z*'s group health plan for the plan year beginning on October 1, 2008. On May 1, 2009, *E* incurred a claim for benefits that exceeded the lifetime limit under *Z*'s plan. *D* dropped family coverage but remains an employee of *Z* and is still eligible for coverage under *Z*'s group health plan.

(ii) *Conclusion.* In this *Example 2,* not later than October 1, 2010, the plan must provide *D* and *E* an opportunity to enroll (including written notice of an opportunity to enroll) that continues for at least 30 days, with enrollment effective not later than October 1, 2010.

Example 3. (i) *Facts.* Same facts as *Example 2,* except that *Z*'s plan had two benefit packages (a low-cost and a high-cost option). Instead of dropping coverage, *D* switched to the low-cost benefit package option.

(ii) *Conclusion.* In this *Example 3,* not later than October 1, 2010, the plan must provide *D* and *E* an opportunity to enroll in any benefit package available to similarly situated individuals who enroll when first eligible. The plan would have to provide *D* and *E* the opportunity to enroll in any benefit package available to similarly situated individuals who enroll when first eligible, even if *D* had not switched to the low-cost benefit package option.

Example 4. (i) *Facts.* Employer *Q* maintains a group health plan with a plan year beginning October 1 and ending September 30. For the plan year beginning on October 1, 2009, *Q* has an annual limit on the dollar value of all benefits of $500,000.

(ii) *Conclusion.* In this *Example 4, Q* must raise the annual limit on the dollar value of essential health benefits to at least $750,000 for the plan year beginning October 1, 2010. For the plan year beginning October 1, 2011, *Q* must raise the annual limit to at least $1.25 million. For the plan year beginning October 1, 2012, *Q* must raise the annual limit to at least $2 million. *Q* may also impose a restricted annual limit of $2 million for the plan year beginning October 1, 2013. After the conclusion of that plan year, *Q* cannot impose an overall annual limit.

Example 5. (i) *Facts.* Same facts as *Example 4,* except that the annual limit for the plan year beginning on October 1, 2009 is $1 million and *Q* lowers the annual limit for the plan year beginning October 1, 2010 to $750,000.

(ii) *Conclusion.* In this *Example 5, Q* complies with the requirements of this paragraph (e). However, *Q*'s choice to lower its annual limit means that under § 2590.715–1251(g)(1)(vi)(C), the group health plan will cease to be a grandfathered health plan and will be generally subject to all of the provisions of PHS Act sections 2701 through 2719A.

(f) *Applicability date.* The provisions of this section apply for plan years beginning on or after September 23, 2010. *See* § 2590.715–1251 of this Part for determining the application of this section to grandfathered health plans (providing that the prohibitions on lifetime and annual limits apply to all grandfathered health plans that are group health plans and group health insurance coverage, including the special rules regarding restricted annual limits).

■ 6. Section 2590.715–2712 is added to subpart C to read as follows:

§ 2590.715–2712 Rules regarding rescissions.

(a) *Prohibition on rescissions*—(1) A group health plan, or a health insurance issuer offering group health insurance coverage, must not rescind coverage under the plan, or under the policy, certificate, or contract of insurance, with respect to an individual (including a group to which the individual belongs or family coverage in which the individual is included) once the individual is covered under the plan or coverage, unless the individual (or a person seeking coverage on behalf of the individual) performs an act, practice, or omission that constitutes fraud, or unless the individual makes an intentional misrepresentation of material fact, as prohibited by the terms of the plan or coverage. A group health plan, or a health insurance issuer offering group health insurance coverage, must provide at least 30 days advance written notice to each participant who would be affected before coverage may be rescinded under this paragraph (a)(1), regardless of whether the coverage is insured or self-insured, or whether the rescission applies to an entire group or only to an individual within the group. (The rules of this paragraph (a)(1) apply regardless of any contestability period that may otherwise apply.)

(2) For purposes of this section, a rescission is a cancellation or discontinuance of coverage that has retroactive effect. For example, a cancellation that treats a policy as void from the time of the individual's or group's enrollment is a rescission. As another example, a cancellation that voids benefits paid up to a year before the cancellation is also a rescission for this purpose. A cancellation or discontinuance of coverage is not a rescission if –

(i) The cancellation or discontinuance of coverage has only a prospective effect; or

(ii) The cancellation or discontinuance of coverage is effective retroactively to the extent it is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage.

(3) The rules of this paragraph (a) are illustrated by the following examples:

Example 1. (i) *Facts.* Individual *A* seeks enrollment in an insured group health plan. The plan terms permit rescission of coverage with respect to an individual if the individual engages in fraud or makes an intentional misrepresentation of a material fact. The plan requires *A* to complete a questionnaire regarding *A*'s prior medical history, which affects setting the group rate by the health insurance issuer. The questionnaire complies with the other requirements of this part. The questionnaire includes the following question: "Is there anything else relevant to your health that we should know?" *A* inadvertently fails to list that *A* visited a psychologist on two occasions, six years previously. *A* is later diagnosed with breast cancer and seeks benefits under the plan. On or around the same time, the issuer receives information about *A*'s visits to the psychologist, which was not disclosed in the questionnaire.

(ii) *Conclusion.* In this *Example 1,* the plan cannot rescind *A*'s coverage because *A*'s failure to disclose the visits to the psychologist was inadvertent. Therefore, it was not fraudulent or an intentional misrepresentation of material fact.

Example 2. (i) *Facts.* An employer sponsors a group health plan that provides coverage for employees who work at least 30 hours per week. Individual *B* has coverage under the plan as a full-time employee. The employer reassigns *B* to a part-time position. Under the terms of the plan, *B* is no longer eligible for coverage. The plan mistakenly continues to provide health coverage, collecting premiums from *B* and paying claims submitted by *B.* After a routine audit, the plan discovers that *B* no longer works at least 30 hours per week. The plan rescinds *B*'s coverage effective as of the date that *B* changed from a full-time employee to a part-time employee.

(ii) *Conclusion.* In this *Example 2,* the plan cannot rescind *B*'s coverage because there was no fraud or an intentional misrepresentation of material fact. The plan may cancel coverage for *B* prospectively, subject to other applicable Federal and State laws.

(b) *Compliance with other requirements.* Other requirements of Federal or State law may apply in connection with a rescission of coverage.

(c) *Applicability date.* The provisions of this section apply for plan years beginning on or after September 23, 2010. *See* § 2590.715–1251 of this part for determining the application of this section to grandfathered health plans (providing that the rules regarding rescissions and advance notice apply to all grandfathered health plans).

■ 7. Section 2590.715–2719A is added to subpart C to read as follows:

§ 2590.715–2719A Patient protections.

(a) *Choice of health care professional*–(1) *Designation of primary care provider*—(i) *In general.* If a group health plan, or a health insurance issuer offering group health insurance coverage, requires or provides for designation by a participant or beneficiary of a participating primary care provider, then the plan or issuer must permit each participant or beneficiary to designate any participating primary care provider who is available to accept the participant or beneficiary. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant of the terms of the plan or health insurance coverage regarding designation of a primary care provider.

(ii) *Example.* The rules of this paragraph (a)(1) are illustrated by the following example:

Example. (i) *Facts.* A group health plan requires individuals covered under the plan to designate a primary care provider. The plan permits each individual to designate any primary care provider participating in the plan's network who is available to accept the individual as the individual's primary care provider. If an individual has not designated a primary care provider, the plan designates one until one has been designated by the individual. The plan provides a notice that satisfies the requirements of paragraph (a)(4) of this section regarding the ability to designate a primary care provider.

(ii) *Conclusion.* In this *Example,* the plan has satisfied the requirements of paragraph (a) of this section.

(2) *Designation of pediatrician as primary care provider*—(i) *In general.* If a group health plan, or a health insurance issuer offering group health insurance coverage, requires or provides for the designation of a participating primary care provider for a child by a participant or beneficiary, the plan or issuer must permit the participant or beneficiary to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if the provider participates in the network of the plan or issuer and is available to accept the child. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant of the terms of the plan or health insurance coverage regarding designation of a pediatrician as the child's primary care provider.

(ii) *Construction.* Nothing in paragraph (a)(2)(i) of this section is to be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

(iii) *Examples.* The rules of this paragraph (a)(2) are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan's HMO designates for each participant a physician who specializes in internal medicine to serve as the primary care provider for the participant and any beneficiaries. Participant *A* requests that Pediatrician *B* be designated as the primary care provider for *A*'s child. *B* is a participating provider in the HMO's network.

(ii) *Conclusion.* In this *Example 1,* the HMO must permit *A*'s designation of *B* as the primary care provider for *A*'s child in order to comply with the requirements of this paragraph (a)(2).

Example 2. (i) *Facts.* Same facts as *Example 1,* except that *A* takes *A*'s child to *B* for treatment of the child's severe shellfish allergies. *B* wishes to refer *A*'s child to an allergist for treatment. The HMO, however, does not provide coverage for treatment of food allergies, nor does it have an allergist participating in its network, and it therefore refuses to authorize the referral.

(ii) *Conclusion.* In this *Example 2,* the HMO has not violated the requirements of this paragraph (a)(2) because the exclusion of treatment for food allergies is in accordance with the terms of *A*'s coverage.

(3) *Patient access to obstetrical and gynecological care*—(i) *General rights*—(A) *Direct access.* A group health plan, or a health insurance issuer offering group health insurance coverage, described in paragraph (a)(3)(ii) of this section may not require authorization or referral by the plan, issuer, or any person (including a primary care provider) in the case of a female participant or beneficiary who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant that the plan may not require authorization or referral for obstetrical or gynecological care by a participating health care professional who specializes in obstetrics or gynecology. The plan or issuer may require such a professional to agree to otherwise adhere to the plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer. For purposes of this paragraph (a)(3), a health care professional who specializes in obstetrics or gynecology is any individual (including a person other than a physician) who is authorized under applicable State law to provide obstetrical or gynecological care.

(B) *Obstetrical and gynecological care.* A group health plan or health insurance issuer described in paragraph (a)(3)(ii) of this section must treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (a)(3)(i)(A) of this section, by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(ii) *Application of paragraph.* A group health plan, or a health insurance issuer offering group health insurance coverage, is described in this paragraph (a)(3) if the plan or issuer—

(A) Provides coverage for obstetrical or gynecological care; and

(B) Requires the designation by a participant or beneficiary of a participating primary care provider.

(iii) *Construction.* Nothing in paragraph (a)(3)(i) of this section is to be construed to—

(A) Waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(B) Preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

(iv) *Examples.* The rules of this paragraph (a)(3) are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan requires each participant to designate a physician to serve as the primary care provider for the participant and the participant's family. Participant *A,* a female, requests a gynecological exam with Physician *B,* an in-network physician specializing in gynecological care. The group health plan requires prior authorization from *A*'s designated primary care provider for the gynecological exam.

(ii) *Conclusion.* In this *Example 1,* the group health plan has violated the requirements of this paragraph (a)(3) because the plan requires prior authorization from *A's* primary care provider prior to obtaining gynecological services.

Example 2. (i) *Facts.* Same facts as *Example 1* except that *A* seeks gynecological services from *C,* an out-of-network provider.

(ii) *Conclusion.* In this *Example 2,* the group health plan has not violated the requirements of this paragraph (a)(3) by requiring prior authorization because *C* is not a participating health care provider.

Example 3. (i) *Facts.* Same facts as *Example 1* except that the group health plan only requires *B* to inform *A's* designated primary care physician of treatment decisions.

(ii) *Conclusion.* In this *Example 3,* the group health plan has not violated the requirements of this paragraph (a)(3) because *A* has direct access to *B* without prior authorization. The fact that the group health plan requires notification of treatment decisions to the designated primary care physician does not violate this paragraph (a)(3).

Example 4. (i) *Facts.* A group health plan requires each participant to designate a physician to serve as the primary care provider for the participant and the participant's family. The group health plan requires prior authorization before providing benefits for uterine fibroid embolization.

(ii) *Conclusion.* In this *Example 4,* the plan requirement for prior authorization before providing benefits for uterine fibroid embolization does not violate the requirements of this paragraph (a)(3) because, though the prior authorization requirement applies to obstetrical services, it does not restrict access to any providers specializing in obstetrics or gynecology.

(4) *Notice of right to designate a primary care provider*—(i) *In general.* If a group health plan or health insurance issuer requires the designation by a participant or beneficiary of a primary care provider, the plan or issuer must provide a notice informing each participant of the terms of the plan or health insurance coverage regarding designation of a primary care provider and of the rights—

(A) Under paragraph (a)(1)(i) of this section, that any participating primary care provider who is available to accept the participant or beneficiary can be designated;

(B) Under paragraph (a)(2)(i) of this section, with respect to a child, that any participating physician who specializes in pediatrics can be designated as the primary care provider; and

(C) Under paragraph (a)(3)(i) of this section, that the plan may not require authorization or referral for obstetrical or gynecological care by a participating health care professional who specializes in obstetrics or gynecology.

(ii) *Timing.* The notice described in paragraph (a)(4)(i) of this section must be included whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage.

(iii) *Model language.* The following model language can be used to satisfy the notice requirement described in paragraph (a)(4)(i) of this section:

(A) For plans and issuers that require or allow for the designation of primary care providers by participants or beneficiaries, insert:

[Name of group health plan or health insurance issuer] generally [requires/allows] the designation of a primary care provider. You have the right to designate any primary care provider who participates in our network and who is available to accept you or your family members. [If the plan or health insurance coverage designates a primary care provider automatically, insert: Until you make this designation, [name of group health plan or health insurance issuer] designates one for you.] For information on how to select a primary care provider, and for a list of the participating primary care providers, contact the [plan administrator or issuer] at [insert contact information].

(B) For plans and issuers that require or allow for the designation of a primary care provider for a child, add:

For children, you may designate a pediatrician as the primary care provider.

(C) For plans and issuers that provide coverage for obstetric or gynecological care and require the designation by a participant or beneficiary of a primary care provider, add:

You do not need prior authorization from [name of group health plan or issuer] or from any other person (including a primary care provider) in order to obtain access to obstetrical or gynecological care from a health care professional in our network who specializes in obstetrics or gynecology. The health care professional, however, may be required to comply with certain procedures, including obtaining prior authorization for certain services, following a pre-approved treatment plan, or procedures for making referrals. For a list of participating health care professionals who specialize in obstetrics or gynecology, contact the [plan administrator or issuer] at [insert contact information].

(b) *Coverage of emergency services*—(1) *Scope.* If a group health plan, or a health insurance issuer offering group health insurance coverage, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer must cover emergency services (as defined in paragraph (b)(4)(ii) of this section) consistent with the rules of this paragraph (b).

(2) *General rules.* A plan or issuer subject to the requirements of this paragraph (b) must provide coverage for emergency services in the following manner—

(i) Without the need for any prior authorization determination, even if the emergency services are provided on an out-of-network basis;

(ii) Without regard to whether the health care provider furnishing the emergency services is a participating network provider with respect to the services;

(iii) If the emergency services are provided out of network, without imposing any administrative requirement or limitation on coverage that is more restrictive than the requirements or limitations that apply to emergency services received from in-network providers;

(iv) If the emergency services are provided out of network, by complying with the cost-sharing requirements of paragraph (b)(3) of this section; and

(v) Without regard to any other term or condition of the coverage, other than—

(A) The exclusion of or coordination of benefits;

(B) An affiliation or waiting period permitted under part 7 of ERISA, part A of title XXVII of the PHS Act, or chapter 100 of the Internal Revenue Code; or

(C) Applicable cost sharing.

(3) *Cost-sharing requirements*—(i) *Copayments and coinsurance.* Any cost-sharing requirement expressed as a copayment amount or coinsurance rate imposed with respect to a participant or beneficiary for out-of-network emergency services cannot exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if the services were provided in-network. However, a participant or beneficiary may be required to pay, in addition to the in-network cost sharing, the excess of the amount the out-of-network provider charges over the amount the plan or issuer is required to pay under this paragraph (b)(3)(i). A group health plan or health insurance issuer complies with the requirements of this paragraph (b)(3) if it provides benefits with respect to an emergency service in an amount equal to the greatest of the three amounts specified in paragraphs (b)(3)(i)(A), (b)(3)(i)(B), and (b)(3)(i)(C) of this section (which are adjusted for in-network cost-sharing requirements).

(A) The amount negotiated with in-network providers for the emergency service furnished, excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary. If there is more than one amount negotiated with in-network providers for the emergency service, the amount described under this paragraph (b)(3)(i)(A) is the median of these

amounts, excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary. In determining the median described in the preceding sentence, the amount negotiated with each in-network provider is treated as a separate amount (even if the same amount is paid to more than one provider). If there is no per-service amount negotiated with in-network providers (such as under a capitation or other similar payment arrangement), the amount under this paragraph (b)(3)(i)(A) is disregarded.

(B) The amount for the emergency service calculated using the same method the plan generally uses to determine payments for out-of-network services (such as the usual, customary, and reasonable amount), excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary. The amount in this paragraph (b)(3)(i)(B) is determined without reduction for out-of-network cost sharing that generally applies under the plan or health insurance coverage with respect to out-of-network services. Thus, for example, if a plan generally pays 70 percent of the usual, customary, and reasonable amount for out-of-network services, the amount in this paragraph (b)(3)(i)(B) for an emergency service is the total (that is, 100 percent) of the usual, customary, and reasonable amount for the service, not reduced by the 30 percent coinsurance that would generally apply to out-of-network services (but reduced by the in-network copayment or coinsurance that the individual would be responsible for if the emergency service had been provided in-network).

(C) The amount that would be paid under Medicare (part A or part B of title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*) for the emergency service, excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary.

(ii) *Other cost sharing.* Any cost-sharing requirement other than a copayment or coinsurance requirement (such as a deductible or out-of-pocket maximum) may be imposed with respect to emergency services provided out of network if the cost-sharing requirement generally applies to out-of-network benefits. A deductible may be imposed with respect to out-of-network emergency services only as part of a deductible that generally applies to out-of-network benefits. If an out-of-pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must apply to out-of-network emergency services.

(iii) *Examples.* The rules of this paragraph (b)(3) are illustrated by the following examples. In all of these examples, the group health plan covers benefits with respect to emergency services.

Example 1. (i) *Facts.* A group health plan imposes a 25% coinsurance responsibility on individuals who are furnished emergency services, whether provided in network or out of network. If a covered individual notifies the plan within two business days after the day an individual receives treatment in an emergency department, the plan reduces the coinsurance rate to 15%.

(ii) *Conclusion.* In this *Example 1,* the requirement to notify the plan in order to receive a reduction in the coinsurance rate does not violate the requirement that the plan cover emergency services without the need for any prior authorization determination. This is the result even if the plan required that it be notified before or at the time of receiving services at the emergency department in order to receive a reduction in the coinsurance rate.

Example 2. (i) *Facts.* A group health plan imposes a $60 copayment on emergency services without preauthorization, whether provided in network or out of network. If emergency services are preauthorized, the plan waives the copayment, even if it later determines the medical condition was not an emergency medical condition.

(ii) *Conclusion.* In this *Example 2,* by requiring an individual to pay more for emergency services if the individual does not obtain prior authorization, the plan violates the requirement that the plan cover emergency services without the need for any prior authorization determination. (By contrast, if, to have the copayment waived, the plan merely required that it be notified rather than a prior authorization, then the plan would not violate the requirement that the plan cover emergency services without the need for any prior authorization determination.)

Example 3. (i) *Facts.* A group health plan covers individuals who receive emergency services with respect to an emergency medical condition from an out-of-network provider. The plan has agreements with in-network providers with respect to a certain emergency service. Each provider has agreed to provide the service for a certain amount. Among all the providers for the service: one has agreed to accept $85, two have agreed to accept $100, two have agreed to accept $110, three have agreed to accept $120, and one has agreed to accept $150. Under the agreement, the plan agrees to pay the providers 80% of the agreed amount, with the individual receiving the service responsible for the remaining 20%.

(ii) *Conclusion.* In this *Example 3,* the values taken into account in determining the median are $85, $100, $100, $110, $110, $120, $120, $120, and $150. Therefore, the median amount among those agreed to for the emergency service is $110, and the amount under paragraph (b)(3)(i)(A) of this section is 80% of $110 ($88).

Example 4. (i) *Facts.* Same facts as *Example 3.* Subsequently, the plan adds another provider to its network, who has agreed to accept $150 for the emergency service.

(ii) *Conclusion.* In this *Example 4,* the median amount among those agreed to for the emergency service is $115. (Because there is no one middle amount, the median is the average of the two middle amounts, $110 and $120.) Accordingly, the amount under paragraph (b)(3)(i)(A) of this section is 80% of $115 ($92).

Example 5. (i) *Facts.* Same facts as *Example 4.* An individual covered by the plan receives the emergency service from an out-of-network provider, who charges $125 for the service. With respect to services provided by out-of-network providers generally, the plan reimburses covered individuals 50% of the reasonable amount charged by the provider for medical services. For this purpose, the reasonable amount for any service is based on information on charges by all providers collected by a third party, on a zip code by zip code basis, with the plan treating charges at a specified percentile as reasonable. For the emergency service received by the individual, the reasonable amount calculated using this method is $116. The amount that would be paid under Medicare for the emergency service, excluding any copayment or coinsurance for the service, is $80.

(ii) *Conclusion.* In this *Example 5,* the plan is responsible for paying $92.80, 80% of $116. The median amount among those agreed to for the emergency service is $115 and the amount the plan would pay is $92 (80% of $115); the amount calculated using the same method the plan uses to determine payments for out-of-network services—$116—excluding the in-network 20% coinsurance, is $92.80; and the Medicare payment is $80. Thus, the greatest amount is $92.80. The individual is responsible for the remaining $32.20 charged by the out-of-network provider.

Example 6. (i) *Facts.* Same facts as *Example 5.* The group health plan generally imposes a $250 deductible for in-network health care. With respect to all health care provided by out-of-network providers, the plan imposes a $500 deductible. (Covered in-network claims are credited against the deductible.) The individual has incurred and submitted $260 of covered claims prior to receiving the emergency service out of network.

(ii) *Conclusion.* In this *Example 6,* the plan is not responsible for paying anything with respect to the emergency service furnished by the out-of-network provider because the covered individual has not satisfied the higher deductible that applies generally to all health care provided out of network. However, the amount the individual is required to pay is credited against the deductible.

(4) *Definitions.* The definitions in this paragraph (b)(4) govern in applying the provisions of this paragraph (b).

(i) *Emergency medical condition.* The term *emergency medical condition* means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) so that

a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act (42 U.S.C. 1395dd(e)(1)(A)). (In that provision of the Social Security Act, clause (i) refers to placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; clause (ii) refers to serious impairment to bodily functions; and clause (iii) refers to serious dysfunction of any bodily organ or part.)

(ii) *Emergency services.* The term *emergency services* means, with respect to an emergency medical condition—

(A) A medical screening examination (as required under section 1867 of the Social Security Act, 42 U.S.C. 1395dd) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(B) Such further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the Social Security Act (42 U.S.C. 1395dd) to stabilize the patient.

(iii) *Stabilize.* The term *to stabilize,* with respect to an emergency medical condition (as defined in paragraph (b)(4)(i) of this section) has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(c) *Applicability date.* The provisions of this section apply for plan years beginning on or after September 23, 2010. *See* § 2590.715–1251 of this part for determining the application of this section to grandfathered health plans (providing that these rules regarding patient protections do not apply to grandfathered health plans).

Department of Health and Human Services

Office of Consumer Information and Insurance Oversight

45 CFR Subtitle A

■ For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR parts 144 and 146, and part 147, added May 13, 2010, at 75 FR 27138, effective July 12, 2010, as follows:

PART 144—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE

■ 1. The authority citation for part 144 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act, 42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92.

■ 2. Section 144.103 is amended by revising the definition of *preexisting condition exclusion* to read as follows:

§ 144.103 Definitions.

* * * * *

Preexisting condition exclusion means a limitation or exclusion of benefits (including a denial of coverage) based on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan or group or individual health insurance coverage (or other coverage provided to Federally eligible individuals pursuant to 45 CFR part 148), whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day. A preexisting condition exclusion includes any limitation or exclusion of benefits (including a denial of coverage) applicable to an individual as a result of information relating to an individual's health status before the individual's effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan, or group or individual health insurance coverage (or other coverage provided to Federally eligible individuals pursuant to 45 CFR part 148), such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period.

* * * * *

Subpart B—Requirements Relating to Access and Renewability of Coverage, and Limitations on Preexisting Condition Exclusion Periods

■ 3. Section 146.111(a)(1)(i) is revised to read as follows:

§ 146.111 Limitations on preexisting condition exclusion period.

(a) * * *

(1) * * *

(i) A *preexisting condition exclusion* means a *preexisting condition exclusion* within the meaning set forth in § 144.103 of this part.

* * * * *

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 4. The authority citation for part 147 continues to read as follows:

Authority: 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 USC 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 5. Add § 147.108 to read as follows:

§ 147.108 Prohibition of preexisting condition exclusions.

(a) *No preexisting condition exclusions*—(1) *In general.* A group health plan, or a health insurance issuer offering group or individual health insurance coverage, may not impose any preexisting condition exclusion (as defined in § 144.103).

(2) *Examples.* The rules of this paragraph (a) are illustrated by the following examples (for additional examples illustrating the definition of a preexisting condition exclusion, *see* § 146.111(a)(1)(ii)):

Example 1. (i) *Facts.* A group health plan provides benefits solely through an insurance policy offered by Issuer *P.* At the expiration of the policy, the plan switches coverage to a policy offered by Issuer *N. N*'s policy excludes benefits for oral surgery required as a result of a traumatic injury if the injury occurred before the effective date of coverage under the policy.

(ii) *Conclusion.* In this *Example 1,* the exclusion of benefits for oral surgery required as a result of a traumatic injury if the injury occurred before the effective date of coverage is a preexisting condition exclusion because it operates to exclude benefits for a condition based on the fact that the condition was present before the effective date of coverage under the policy.

Example 2. (i) *Facts.* Individual *C* applies for individual health insurance coverage with Issuer *M. M* denies *C*'s application for coverage because a pre-enrollment physical revealed that *C* has type 2 diabetes.

(ii) *Conclusion.* In this *Example 2, M*'s denial of *C*'s application for coverage is a preexisting condition exclusion because a denial of an application for coverage based on the fact that a condition was present before the date of denial is an exclusion of benefits based on a preexisting condition.

(b) *Applicability*—(1) *General applicability date.* Except as provided in paragraph (b)(2) of this section, the rules of this section apply for plan years beginning on or after January 1, 2014; in the case of individual health insurance coverage, for policy years beginning, or applications denied, on or after January 1, 2014.

(2) *Early applicability date for children.* The rules of this section apply with respect to enrollees, including applicants for enrollment, who are

under 19 years of age for plan years beginning on or after September 23, 2010; in the case of individual health insurance coverage, for policy years beginning, or applications denied, on or after September 23, 2010.

(3) *Applicability to grandfathered health plans. See* § 147.140 of this part for determining the application of this section to grandfathered health plans (providing that a grandfathered health plan that is a group health plan or group health insurance coverage must comply with the prohibition against preexisting condition exclusions; however, a grandfathered health plan that is individual health insurance coverage is not required to comply with PHS Act section 2704).

(4) *Examples.* The rules of this paragraph (b) are illustrated by the following examples:

Example 1. (i) *Facts.* Individual *F* commences employment and enrolls *F* and *F*'s 16-year-old child in the group health plan maintained by *F*'s employer, with a first day of coverage of October 15, 2010. *F*'s child had a significant break in coverage because of a lapse of more than 63 days without creditable coverage immediately prior to enrolling in the plan. *F*'s child was treated for asthma within the six-month period prior to the enrollment date and the plan imposes a 12-month preexisting condition exclusion for coverage of asthma. The next plan year begins on January 1, 2011.

(ii) *Conclusion.* In this *Example 1,* the plan year beginning January 1, 2011, is the first plan year of the group health plan beginning on or after September 23, 2010. Thus, beginning on January 1, 2011, because the child is under 19 years of age, the plan cannot impose a preexisting condition exclusion with respect to the child's asthma regardless of the fact that the preexisting condition exclusion was imposed by the plan before the applicability date of this provision.

Example 2. (i) *Facts.* Individual *G* applies for a policy of family coverage in the individual market for *G, G*'s spouse, and *G*'s 13-year-old child. The issuer denies the application for coverage on March 1, 2011 because *G*'s 13-year-old child has autism.

(ii) *Conclusion.* In this *Example 2,* the issuer's denial of *G*'s application for a policy of family coverage in the individual market is a preexisting condition exclusion because the denial was based on the child's autism, which was present before the date of denial of coverage. Because the child is under 19 years of age and the March 1, 2011, denial of coverage is after the applicability date of this section, the issuer is prohibited from imposing a preexisting condition exclusion with respect to *G*'s 13-year-old child.

■ 6. Add § 147.126 to read as follows:

§ 147.126 No lifetime or annual limits.

(a) *Prohibition*—(1) *Lifetime limits.* Except as provided in paragraph (b) of this section, a group health plan, or a health insurance issuer offering group or individual health insurance coverage, may not establish any lifetime limit on the dollar amount of benefits for any individual.

(2) *Annual limits*—(i) *General rule.* Except as provided in paragraphs (a)(2)(ii), (b), and (d) of this section, a group health plan, or a health insurance issuer offering group or individual health insurance coverage, may not establish any annual limit on the dollar amount of benefits for any individual.

(ii) *Exception for health flexible spending arrangements.* A health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code) is not subject to the requirement in paragraph (a)(2)(i) of this section.

(b) *Construction*—(1) *Permissible limits on specific covered benefits.* The rules of this section do not prevent a group health plan, or a health insurance issuer offering group or individual health insurance coverage, from placing annual or lifetime dollar limits with respect to any individual on specific covered benefits that are not essential health benefits to the extent that such limits are otherwise permitted under applicable Federal or State law. (The scope of essential health benefits is addressed in paragraph (c) of this section).

(2) *Condition-based exclusions.* The rules of this section do not prevent a group health plan, or a health insurance issuer offering group or individual health insurance coverage, from excluding all benefits for a condition. However, if any benefits are provided for a condition, then the requirements of this section apply. Other requirements of Federal or State law may require coverage of certain benefits.

(c) *Definition of essential health benefits.* The term "essential health benefits" means essential health benefits under section 1302(b) of the Patient Protection and Affordable Care Act and applicable regulations.

(d) *Restricted annual limits permissible prior to 2014*—(1) *In general.* With respect to plan years (in the individual market, policy years) beginning prior to January 1, 2014, a group health plan, or a health insurance issuer offering group or individual health insurance coverage, may establish, for any individual, an annual limit on the dollar amount of benefits that are essential health benefits, provided the limit is no less than the amounts in the following schedule:

(i) For a plan year (in the individual market, policy year) beginning on or after September 23, 2010, but before September 23, 2011, $750,000.

(ii) For a plan year (in the individual market, policy year) beginning on or after September 23, 2011, but before September 23, 2012, $1,250,000.

(iii) For plan years (in the individual market, policy years) beginning on or after September 23, 2012, but before January 1, 2014, $2,000,000.

(2) *Only essential health benefits taken into account.* In determining whether an individual has received benefits that meet or exceed the applicable amount described in paragraph (d)(1) of this section, a plan or issuer must take into account only essential health benefits.

(3) *Waiver authority of the Secretary.* For plan years (in the individual market, policy years) beginning before January 1, 2014, the Secretary may establish a program under which the requirements of paragraph (d)(1) of this section relating to annual limits may be waived (for such period as is specified by the Secretary) for a group health plan or health insurance coverage that has an annual dollar limit on benefits below the restricted annual limits provided under paragraph (d)(1) of this section if compliance with paragraph (d)(1) of this section would result in a significant decrease in access to benefits under the plan or health insurance coverage or would significantly increase premiums for the plan or health insurance coverage.

(e) *Transitional rules for individuals whose coverage or benefits ended by reason of reaching a lifetime limit*—(1) *In general.* The relief provided in the transitional rules of this paragraph (e) applies with respect to any individual—

(i) Whose coverage or benefits under a group health plan or group or individual health insurance coverage ended by reason of reaching a lifetime limit on the dollar value of all benefits for any individual (which, under this section, is no longer permissible); and

(ii) Who becomes eligible (or is required to become eligible) for benefits not subject to a lifetime limit on the dollar value of all benefits under the group health plan or group or individual health insurance coverage on the first day of the first plan year (in the individual market, policy year) beginning on or after September 23, 2010, by reason of the application of this section.

(2) *Notice and enrollment opportunity requirements*—(i) If an individual described in paragraph (e)(1) of this section is eligible for benefits (or is required to become eligible for benefits) under the group health plan—or group or individual health insurance coverage—described in paragraph (e)(1) of this section, the plan and the issuer

are required to give the individual written notice that the lifetime limit on the dollar value of all benefits no longer applies and that the individual, if covered, is once again eligible for benefits under the plan. Additionally, if the individual is not enrolled in the plan or health insurance coverage, or if an enrolled individual is eligible for but not enrolled in any benefit package under the plan or health insurance coverage, then the plan and issuer must also give such an individual an opportunity to enroll that continues for at least 30 days (including written notice of the opportunity to enroll). The notices and enrollment opportunity required under this paragraph (e)(2)(i) must be provided beginning not later than the first day of the first plan year (in the individual market, policy year) beginning on or after September 23, 2010.

(ii) The notices required under paragraph (e)(2)(i) of this section may be provided to an employee on behalf of the employee's dependent (in the individual market, to the primary subscriber on behalf of the primary subscriber's dependent). In addition, for a group health plan or group health insurance coverage, the notices may be included with other enrollment materials that a plan distributes to employees, provided the statement is prominent. For either notice, with respect to a group health plan or group health insurance coverage, if a notice satisfying the requirements of this paragraph (e)(2) is provided to an individual, the obligation to provide the notice with respect to that individual is satisfied for both the plan and the issuer.

(3) *Effective date of coverage.* In the case of an individual who enrolls under paragraph (e)(2) of this section, coverage must take effect not later than the first day of the first plan year (in the individual market, policy year) beginning on or after September 23, 2010.

(4) *Treatment of enrollees in a group health plan.* Any individual enrolling in a group health plan pursuant to paragraph (e)(2) of this section must be treated as if the individual were a special enrollee, as provided under the rules of § 146.117(d). Accordingly, the individual (and, if the individual would not be a participant once enrolled in the plan, the participant through whom the individual is otherwise eligible for coverage under the plan) must be offered all the benefit packages available to similarly situated individuals who did not lose coverage by reason of reaching a lifetime limit on the dollar value of all benefits. For this purpose, any difference in benefits or cost-sharing requirements constitutes a different benefit package. The individual also cannot be required to pay more for coverage than similarly situated individuals who did not lose coverage by reason of reaching a lifetime limit on the dollar value of all benefits.

(5) *Examples.* The rules of this paragraph (e) are illustrated by the following examples:

Example 1. (i) *Facts.* Employer *Y* maintains a group health plan with a calendar year plan year. The plan has a single benefit package. For plan years beginning before September 23, 2010, the plan has a lifetime limit on the dollar value of all benefits. Individual *B,* an employee of *Y,* was enrolled in *Y*'s group health plan at the beginning of the 2008 plan year. On June 10, 2008, *B* incurred a claim for benefits that exceeded the lifetime limit under *Y*'s plan and ceased to be enrolled in the plan. *B* is still eligible for coverage under *Y*'s group health plan. On or before January 1, 2011, *Y*'s group health plan gives *B* written notice informing *B* that the lifetime limit on the dollar value of all benefits no longer applies, that individuals whose coverage ended by reason of reaching a lifetime limit under the plan are eligible to enroll in the plan, and that individuals can request such enrollment through February 1, 2011 with enrollment effective retroactively to January 1, 2011.

(ii) *Conclusion.* In this *Example 1,* the plan has complied with the requirements of this paragraph (e) by providing a timely written notice and enrollment opportunity to *B* that lasts at least 30 days.

Example 2. (i) *Facts.* Employer *Z* maintains a group health plan with a plan year beginning October 1 and ending September 30. Prior to October 1, 2010, the group health plan has a lifetime limit on the dollar value of all benefits. Individual *D,* an employee of *Z,* and Individual *E, D*'s child, were enrolled in family coverage under *Z*'s group health plan for the plan year beginning on October 1, 2008. On May 1, 2009, *E* incurred a claim for benefits that exceeded the lifetime limit under *Z*'s plan. *D* dropped family coverage but remains an employee of *Z* and is still eligible for coverage under *Z*'s group health plan.

(ii) *Conclusion.* In this *Example 2,* not later than October 1, 2010, the plan must provide *D* and *E* an opportunity to enroll (including written notice of an opportunity to enroll) that continues for at least 30 days, with enrollment effective not later than October 1, 2010.

Example 3. (i) *Facts.* Same facts as *Example 2,* except that *Z*'s plan had two benefit packages (a low-cost and a high-cost option). Instead of dropping coverage, *D* switched to the low-cost benefit package option.

(ii) *Conclusion.* In this *Example 3,* not later than October 1, 2010, the plan must provide *D* and *E* an opportunity to enroll in any benefit package available to similarly situated individuals who enroll when first eligible. The plan would have to provide *D* and *E* the opportunity to enroll in any benefit package available to similarly situated individuals who enroll when first eligible, even if *D* had not switched to the low-cost benefit package option.

Example 4. (i) *Facts.* Employer *Q* maintains a group health plan with a plan year beginning October 1 and ending September 30. For the plan year beginning on October 1, 2009, *Q* has an annual limit on the dollar value of all benefits of $500,000.

(ii) *Conclusion.* In this *Example 4, Q* must raise the annual limit on the dollar value of essential health benefits to at least $750,000 for the plan year beginning October 1, 2010. For the plan year beginning October 1, 2011, *Q* must raise the annual limit to at least $1.25 million. For the plan year beginning October 1, 2012, *Q* must raise the annual limit to at least $2 million. *Q* may also impose a restricted annual limit of $2 million for the plan year beginning October 1, 2013. After the conclusion of that plan year, *Q* cannot impose an overall annual limit.

Example 5. (i) *Facts.* Same facts as *Example 4,* except that the annual limit for the plan year beginning on October 1, 2009, is $1 million and *Q* lowers the annual limit for the plan year beginning October 1, 2010 to $750,000.

(ii) *Conclusion.* In this *Example 5, Q* complies with the requirements of this paragraph (e). However, *Q*'s choice to lower its annual limit means that under § 147.140(g)(1)(vi)(C), the group health plan will cease to be a grandfathered health plan and will be generally subject to all of the provisions of PHS Act sections 2701 through 2719A.

Example 6. (i) *Facts.* For a policy year that began on October 1, 2009, Individual *T* has individual health insurance coverage with a lifetime limit on the dollar value of all benefits of $1 million. For the policy year beginning October 1, 2010, the issuer of *T*'s health insurance coverage eliminates the lifetime limit and replaces it with an annual limit of $1 million dollars. In the policy year beginning October 1, 2011, the issuer of *T*'s health insurance coverage maintains the annual limit of $1 million dollars.

(ii) *Conclusion.* In this *Example 6,* the issuer's replacement of a lifetime limit with an equal dollar annual limit allows it to maintain status as a grandfathered health policy under § 147.140(g)(1)(vi)(B). Since grandfathered health plans that are individual health insurance coverage are not subject to the requirements of this section relating to annual limits, the issuer does not have to comply with this paragraph (e).

(f) *Applicability date.* The provisions of this section apply for plan years (in the individual market, for policy years) beginning on or after September 23, 2010. *See* § 147.140 of this part for determining the application of this section to grandfathered health plans (providing that the prohibitions on lifetime and annual limits apply to all grandfathered health plans that are group health plans and group health insurance coverage, including the special rules regarding restricted annual limits, and the prohibition on lifetime limits apply to individual health

insurance coverage that is a grandfathered health plan but the rules on annual limits do not apply to individual health insurance coverage that is a grandfathered health plan).

■ 7. Add § 147.128 to read as follows:

§ 147.128 Rules regarding rescissions.

(a) *Prohibition on rescissions*—(1) A group health plan, or a health insurance issuer offering group or individual health insurance coverage, must not rescind coverage under the plan, or under the policy, certificate, or contract of insurance, with respect to an individual (including a group to which the individual belongs or family coverage in which the individual is included) once the individual is covered under the plan or coverage, unless the individual (or a person seeking coverage on behalf of the individual) performs an act, practice, or omission that constitutes fraud, or unless the individual makes an intentional misrepresentation of material fact, as prohibited by the terms of the plan or coverage. A group health plan, or a health insurance issuer offering group or individual health insurance coverage, must provide at least 30 days advance written notice to each participant (in the individual market, primary subscriber) who would be affected before coverage may be rescinded under this paragraph (a)(1), regardless of, in the case of group coverage, whether the coverage is insured or self-insured, or whether the rescission applies to an entire group or only to an individual within the group. (The rules of this paragraph (a)(1) apply regardless of any contestability period that may otherwise apply.)

(2) For purposes of this section, a rescission is a cancellation or discontinuance of coverage that has retroactive effect. For example, a cancellation that treats a policy as void from the time of the individual's or group's enrollment is a rescission. As another example, a cancellation that voids benefits paid up to a year before the cancellation is also a rescission for this purpose. A cancellation or discontinuance of coverage is not a rescission if—

(i) The cancellation or discontinuance of coverage has only a prospective effect; or

(ii) The cancellation or discontinuance of coverage is effective retroactively to the extent it is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage.

(3) The rules of this paragraph (a) are illustrated by the following examples:

Example 1. (i) *Facts.* Individual *A* seeks enrollment in an insured group health plan. The plan terms permit rescission of coverage with respect to an individual if the individual engages in fraud or makes an intentional misrepresentation of a material fact. The plan requires *A* to complete a questionnaire regarding *A*'s prior medical history, which affects setting the group rate by the health insurance issuer. The questionnaire complies with the other requirements of this part and part 146. The questionnaire includes the following question: "Is there anything else relevant to your health that we should know?" *A* inadvertently fails to list that *A* visited a psychologist on two occasions, six years previously. *A* is later diagnosed with breast cancer and seeks benefits under the plan. On or around the same time, the issuer receives information about *A*'s visits to the psychologist, which was not disclosed in the questionnaire.

(ii) *Conclusion.* In this *Example 1,* the plan cannot rescind *A*'s coverage because *A*'s failure to disclose the visits to the psychologist was inadvertent. Therefore, it was not fraudulent or an intentional misrepresentation of material fact.

Example 2. (i) *Facts.* An employer sponsors a group health plan that provides coverage for employees who work at least 30 hours per week. Individual *B* has coverage under the plan as a full-time employee. The employer reassigns *B* to a part-time position. Under the terms of the plan, *B* is no longer eligible for coverage. The plan mistakenly continues to provide health coverage, collecting premiums from *B* and paying claims submitted by *B.* After a routine audit, the plan discovers that *B* no longer works at least 30 hours per week. The plan rescinds *B*'s coverage effective as of the date that *B* changed from a full-time employee to a part-time employee.

(ii) *Conclusion.* In this *Example 2,* the plan cannot rescind *B*'s coverage because there was no fraud or an intentional misrepresentation of material fact. The plan may cancel coverage for *B* prospectively, subject to other applicable Federal and State laws.

(b) *Compliance with other requirements.* Other requirements of Federal or State law may apply in connection with a rescission of coverage.

(c) *Applicability date.* The provisions of this section apply for plan years (in the individual market, for policy years) beginning on or after September 23, 2010. *See* § 147.140 of this part for determining the application of this section to grandfathered health plans (providing that the rules regarding rescissions and advance notice apply to all grandfathered health plans).

■ 8. Add § 147.138 to read as follows:

§ 147.138 Patient protections.

(a) *Choice of health care professional*—(1) *Designation of primary care provider*—(i) *In general.* If a group health plan, or a health insurance issuer offering group or individual health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer must permit each participant, beneficiary, or enrollee to designate any participating primary care provider who is available to accept the participant, beneficiary, or enrollee. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant (in the individual market, primary subscriber) of the terms of the plan or health insurance coverage regarding designation of a primary care provider.

(ii) *Example.* The rules of this paragraph (a)(1) are illustrated by the following example:

Example. (i) *Facts.* A group health plan requires individuals covered under the plan to designate a primary care provider. The plan permits each individual to designate any primary care provider participating in the plan's network who is available to accept the individual as the individual's primary care provider. If an individual has not designated a primary care provider, the plan designates one until one has been designated by the individual. The plan provides a notice that satisfies the requirements of paragraph (a)(4) of this section regarding the ability to designate a primary care provider.

(ii) *Conclusion.* In this *Example,* the plan has satisfied the requirements of paragraph (a) of this section.

(2) *Designation of pediatrician as primary care provider*—(i) *In general.* If a group health plan, or a health insurance issuer offering group or individual health insurance coverage, requires or provides for the designation of a participating primary care provider for a child by a participant, beneficiary, or enrollee, the plan or issuer must permit the participant, beneficiary, or enrollee to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if the provider participates in the network of the plan or issuer and is available to accept the child. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant (in the individual market, primary subscriber) of the terms of the plan or health insurance coverage regarding designation of a pediatrician as the child's primary care provider.

(ii) *Construction.* Nothing in paragraph (a)(2)(i) of this section is to be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

(iii) *Examples.* The rules of this paragraph (a)(2) are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan's HMO designates for each participant a physician who specializes in internal medicine to serve as the primary care provider for the participant and any beneficiaries. Participant *A* requests that Pediatrician *B* be designated as the primary care provider for *A's* child. *B* is a participating provider in the HMO's network.

(ii) *Conclusion.* In this *Example 1,* the HMO must permit *A's* designation of *B* as the primary care provider for *A's* child in order to comply with the requirements of this paragraph (a)(2).

Example 2. (i) *Facts.* Same facts as *Example 1,* except that *A* takes *A's* child to *B* for treatment of the child's severe shellfish allergies. *B* wishes to refer *A's* child to an allergist for treatment. The HMO, however, does not provide coverage for treatment of food allergies, nor does it have an allergist participating in its network, and it therefore refuses to authorize the referral.

(ii) *Conclusion.* In this *Example 2,* the HMO has not violated the requirements of this paragraph (a)(2) because the exclusion of treatment for food allergies is in accordance with the terms of *A's* coverage.

(3) *Patient access to obstetrical and gynecological care*—(i) *General rights*—(A) *Direct access.* A group health plan, or a health insurance issuer offering group or individual health insurance coverage, described in paragraph (a)(3)(ii) of this section may not require authorization or referral by the plan, issuer, or any person (including a primary care provider) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology. In such a case, the plan or issuer must comply with the rules of paragraph (a)(4) of this section by informing each participant (in the individual market, primary subscriber) that the plan may not require authorization or referral for obstetrical or gynecological care by a participating health care professional who specializes in obstetrics or gynecology. The plan or issuer may require such a professional to agree to otherwise adhere to the plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer. For purposes of this paragraph (a)(3), a health care professional who specializes in obstetrics or gynecology is any individual (including a person other than a physician) who is authorized under applicable State law to provide obstetrical or gynecological care.

(B) *Obstetrical and gynecological care.* A group health plan or health insurance issuer described in paragraph (a)(3)(ii) of this section must treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (a)(3)(i)(A) of this section, by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(ii) *Application of paragraph.* A group health plan, or a health insurance issuer offering group or individual health insurance coverage, is described in this paragraph (a)(3) if the plan or issuer—

(A) Provides coverage for obstetrical or gynecological care; and

(B) Requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(iii) *Construction.* Nothing in paragraph (a)(3)(i) of this section is to be construed to—

(A) Waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(B) Preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

(iv) *Examples.* The rules of this paragraph (a)(3) are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan requires each participant to designate a physician to serve as the primary care provider for the participant and the participant's family. Participant *A,* a female, requests a gynecological exam with Physician *B,* an in-network physician specializing in gynecological care. The group health plan requires prior authorization from *A's* designated primary care provider for the gynecological exam.

(ii) *Conclusion.* In this *Example 1,* the group health plan has violated the requirements of this paragraph (a)(3) because the plan requires prior authorization from *A's* primary care provider prior to obtaining gynecological services.

Example 2. (i) *Facts.* Same facts as *Example 1* except that *A* seeks gynecological services from *C,* an out-of-network provider.

(ii) *Conclusion.* In this *Example 2,* the group health plan has not violated the requirements of this paragraph (a)(3) by requiring prior authorization because *C* is not a participating health care provider.

Example 3. (i) *Facts.* Same facts as *Example 1* except that the group health plan only requires *B* to inform *A's* designated primary care physician of treatment decisions.

(ii) *Conclusion.* In this *Example 3,* the group health plan has not violated the requirements of this paragraph (a)(3) because *A* has direct access to *B* without prior authorization. The fact that the group health plan requires notification of treatment decisions to the designated primary care physician does not violate this paragraph (a)(3).

Example 4. (i) *Facts.* A group health plan requires each participant to designate a physician to serve as the primary care provider for the participant and the participant's family. The group health plan requires prior authorization before providing benefits for uterine fibroid embolization.

(ii) *Conclusion.* In this *Example 4,* the plan requirement for prior authorization before providing benefits for uterine fibroid embolization does not violate the requirements of this paragraph (a)(3) because, though the prior authorization requirement applies to obstetrical services, it does not restrict access to any providers specializing in obstetrics or gynecology.

(4) *Notice of right to designate a primary care provider*—(i) *In general.* If a group health plan or health insurance issuer requires the designation by a participant, beneficiary, or enrollee of a primary care provider, the plan or issuer must provide a notice informing each participant (in the individual market, primary subscriber) of the terms of the plan or health insurance coverage regarding designation of a primary care provider and of the rights—

(A) Under paragraph (a)(1)(i) of this section, that any participating primary care provider who is available to accept the participant, beneficiary, or enrollee can be designated;

(B) Under paragraph (a)(2)(i) of this section, with respect to a child, that any participating physician who specializes in pediatrics can be designated as the primary care provider; and

(C) Under paragraph (a)(3)(i) of this section, that the plan may not require authorization or referral for obstetrical or gynecological care by a participating health care professional who specializes in obstetrics or gynecology.

(ii) *Timing.* In the case of a group health plan or group health insurance coverage, the notice described in paragraph (a)(4)(i) of this section must be included whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage. In the case of individual health insurance coverage, the notice described in paragraph (a)(4)(i) of this section must be included whenever the issuer provides a primary subscriber with a policy, certificate, or contract of health insurance.

(iii) *Model language.* The following model language can be used to satisfy

the notice requirement described in paragraph (a)(4)(i) of this section:

(A) For plans and issuers that require or allow for the designation of primary care providers by participants, beneficiaries, or enrollees, insert:

[Name of group health plan or health insurance issuer] generally [requires/allows] the designation of a primary care provider. You have the right to designate any primary care provider who participates in our network and who is available to accept you or your family members. [If the plan or health insurance coverage designates a primary care provider automatically, insert: Until you make this designation, [name of group health plan or health insurance issuer] designates one for you.] For information on how to select a primary care provider, and for a list of the participating primary care providers, contact the [plan administrator or issuer] at [insert contact information].

(B) For plans and issuers that require or allow for the designation of a primary care provider for a child, add:

For children, you may designate a pediatrician as the primary care provider.

(C) For plans and issuers that provide coverage for obstetric or gynecological care and require the designation by a participant, beneficiary, or enrollee of a primary care provider, add:

You do not need prior authorization from [name of group health plan or issuer] or from any other person (including a primary care provider) in order to obtain access to obstetrical or gynecological care from a health care professional in our network who specializes in obstetrics or gynecology. The health care professional, however, may be required to comply with certain procedures, including obtaining prior authorization for certain services, following a pre-approved treatment plan, or procedures for making referrals. For a list of participating health care professionals who specialize in obstetrics or gynecology, contact the [plan administrator or issuer] at [insert contact information].

(b) *Coverage of emergency services*—(1) *Scope.* If a group health plan, or a health insurance issuer offering group or individual health insurance coverage, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer must cover emergency services (as defined in paragraph (b)(4)(ii) of this section) consistent with the rules of this paragraph (b).

(2) *General rules.* A plan or issuer subject to the requirements of this paragraph (b) must provide coverage for emergency services in the following manner—

(i) Without the need for any prior authorization determination, even if the emergency services are provided on an out-of-network basis;

(ii) Without regard to whether the health care provider furnishing the emergency services is a participating network provider with respect to the services;

(iii) If the emergency services are provided out of network, without imposing any administrative requirement or limitation on coverage that is more restrictive than the requirements or limitations that apply to emergency services received from in-network providers;

(iv) If the emergency services are provided out of network, by complying with the cost-sharing requirements of paragraph (b)(3) of this section; and

(v) Without regard to any other term or condition of the coverage, other than—

(A) The exclusion of or coordination of benefits;

(B) An affiliation or waiting period permitted under part 7 of ERISA, part A of title XXVII of the PHS Act, or chapter 100 of the Internal Revenue Code; or

(C) Applicable cost sharing.

(3) *Cost-sharing requirements*—(i) *Copayments and coinsurance.* Any cost-sharing requirement expressed as a copayment amount or coinsurance rate imposed with respect to a participant, beneficiary, or enrollee for out-of-network emergency services cannot exceed the cost-sharing requirement imposed with respect to a participant, beneficiary, or enrollee if the services were provided in-network. However, a participant, beneficiary, or enrollee may be required to pay, in addition to the in-network cost-sharing, the excess of the amount the out-of-network provider charges over the amount the plan or issuer is required to pay under this paragraph (b)(3)(i). A group health plan or health insurance issuer complies with the requirements of this paragraph (b)(3) if it provides benefits with respect to an emergency service in an amount equal to the greatest of the three amounts specified in paragraphs (b)(3)(i)(A), (b)(3)(i)(B), and (b)(3)(i)(C) of this section (which are adjusted for in-network cost-sharing requirements).

(A) The amount negotiated with in-network providers for the emergency service furnished, excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee. If there is more than one amount negotiated with in-network providers for the emergency service, the amount described under this paragraph (b)(3)(i)(A) is the median of these amounts, excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee. In determining the median described in the preceding sentence, the amount negotiated with each in-network provider is treated as a separate amount (even if the same amount is paid to more than one provider). If there is no per-service amount negotiated with in-network providers (such as under a capitation or other similar payment arrangement), the amount under this paragraph (b)(3)(i)(A) is disregarded.

(B) The amount for the emergency service calculated using the same method the plan generally uses to determine payments for out-of-network services (such as the usual, customary, and reasonable amount), excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee. The amount in this paragraph (b)(3)(i)(B) is determined without reduction for out-of-network cost sharing that generally applies under the plan or health insurance coverage with respect to out-of-network services. Thus, for example, if a plan generally pays 70 percent of the usual, customary, and reasonable amount for out-of-network services, the amount in this paragraph (b)(3)(i)(B) for an emergency service is the total (that is, 100 percent) of the usual, customary, and reasonable amount for the service, not reduced by the 30 percent coinsurance that would generally apply to out-of-network services (but reduced by the in-network copayment or coinsurance that the individual would be responsible for if the emergency service had been provided in-network).

(C) The amount that would be paid under Medicare (part A or part B of title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*) for the emergency service, excluding any in-network copayment or coinsurance imposed with respect to the participant, beneficiary, or enrollee.

(ii) *Other cost sharing.* Any cost-sharing requirement other than a copayment or coinsurance requirement (such as a deductible or out-of-pocket maximum) may be imposed with respect to emergency services provided out of network if the cost-sharing requirement generally applies to out-of-network benefits. A deductible may be imposed with respect to out-of-network emergency services only as part of a deductible that generally applies to out-of-network benefits. If an out-of-pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must apply to out-of-network emergency services.

(iii) *Examples.* The rules of this paragraph (b)(3) are illustrated by the following examples. In all of these examples, the group health plan covers

benefits with respect to emergency services.

Example 1. (i) *Facts.* A group health plan imposes a 25% coinsurance responsibility on individuals who are furnished emergency services, whether provided in network or out of network. If a covered individual notifies the plan within two business days after the day an individual receives treatment in an emergency department, the plan reduces the coinsurance rate to 15%.

(ii) *Conclusion.* In this *Example 1,* the requirement to notify the plan in order to receive a reduction in the coinsurance rate does not violate the requirement that the plan cover emergency services without the need for any prior authorization determination. This is the result even if the plan required that it be notified before or at the time of receiving services at the emergency department in order to receive a reduction in the coinsurance rate.

Example 2. (i) *Facts.* A group health plan imposes a $60 copayment on emergency services without preauthorization, whether provided in network or out of network. If emergency services are preauthorized, the plan waives the copayment, even if it later determines the medical condition was not an emergency medical condition.

(ii) *Conclusion.* In this *Example 2,* by requiring an individual to pay more for emergency services if the individual does not obtain prior authorization, the plan violates the requirement that the plan cover emergency services without the need for any prior authorization determination. (By contrast, if, to have the copayment waived, the plan merely required that it be notified rather than a prior authorization, then the plan would not violate the requirement that the plan cover emergency services without the need for any prior authorization determination.)

Example 3. (i) *Facts.* A group health plan covers individuals who receive emergency services with respect to an emergency medical condition from an out-of-network provider. The plan has agreements with in-network providers with respect to a certain emergency service. Each provider has agreed to provide the service for a certain amount. Among all the providers for the service: one has agreed to accept $85, two have agreed to accept $100, two have agreed to accept $110, three have agreed to accept $120, and one has agreed to accept $150. Under the agreement, the plan agrees to pay the providers 80% of the agreed amount, with the individual receiving the service responsible for the remaining 20%.

(ii) *Conclusion.* In this *Example 3,* the values taken into account in determining the median are $85, $100, $100, $110, $110, $120, $120, $120, and $150. Therefore, the median amount among those agreed to for the emergency service is $110, and the amount under paragraph (b)(3)(i)(A) of this section is 80% of $110 ($88).

Example 4. (i) *Facts.* Same facts as *Example 3.* Subsequently, the plan adds another provider to its network, who has agreed to accept $150 for the emergency service.

(ii) *Conclusion.* In this *Example 4,* the median amount among those agreed to for the emergency service is $115. (Because there is no one middle amount, the median is the average of the two middle amounts, $110 and $120.) Accordingly, the amount under paragraph (b)(3)(i)(A) of this section is 80% of $115 ($92).

Example 5. (i) *Facts.* Same facts as *Example 4.* An individual covered by the plan receives the emergency service from an out-of-network provider, who charges $125 for the service. With respect to services provided by out-of-network providers generally, the plan reimburses covered individuals 50% of the reasonable amount charged by the provider for medical services. For this purpose, the reasonable amount for any service is based on information on charges by all providers collected by a third party, on a zip code by zip code basis, with the plan treating charges at a specified percentile as reasonable. For the emergency service received by the individual, the reasonable amount calculated using this method is $116. The amount that would be paid under Medicare for the emergency service, excluding any copayment or coinsurance for the service, is $80.

(ii) *Conclusion.* In this *Example 5,* the plan is responsible for paying $92.80, 80% of $116. The median amount among those agreed to for the emergency service is $115 and the amount the plan would pay is $92 (80% of $115); the amount calculated using the same method the plan uses to determine payments for out-of-network services—$116—excluding the in-network 20% coinsurance, is $92.80; and the Medicare payment is $80. Thus, the greatest amount is $92.80. The individual is responsible for the remaining $32.20 charged by the out-of-network provider.

Example 6. (i) *Facts.* Same facts as *Example 5.* The group health plan generally imposes a $250 deductible for in-network health care. With respect to all health care provided by out-of-network providers, the plan imposes a $500 deductible. (Covered in-network claims are credited against the deductible.) The individual has incurred and submitted $260 of covered claims prior to receiving the emergency service out of network.

(ii) *Conclusion.* In this *Example 6,* the plan is not responsible for paying anything with respect to the emergency service furnished by the out-of-network provider because the covered individual has not satisfied the higher deductible that applies generally to all health care provided out of network. However, the amount the individual is required to pay is credited against the deductible.

(4) *Definitions.* The definitions in this paragraph (b)(4) govern in applying the provisions of this paragraph (b).

(i) *Emergency medical condition.* The term *emergency medical condition* means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) so that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act (42 U.S.C. 1395dd(e)(1)(A)). (In that provision of the Social Security Act, clause (i) refers to placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; clause (ii) refers to serious impairment to bodily functions; and clause (iii) refers to serious dysfunction of any bodily organ or part.)

(ii) *Emergency services.* The term *emergency services* means, with respect to an emergency medical condition—

(A) A medical screening examination (as required under section 1867 of the Social Security Act, 42 U.S.C. 1395dd) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(B) Such further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the Social Security Act (42 U.S.C. 1395dd) to stabilize the patient.

(iii) *Stabilize.* The term *to stabilize,* with respect to an emergency medical condition (as defined in paragraph (b)(4)(i) of this section) has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(c) *Applicability date.* The provisions of this section apply for plan years (in the individual market, policy years) beginning on or after September 23, 2010. *See* § 147.140 of this part for determining the application of this section to grandfathered health plans (providing that these rules regarding patient protections do not apply to grandfathered health plans).

[FR Doc. 2010–15278 Filed 6–22–10; 11:15 am]

BILLING CODE 4830–01–P, 4510–29–P, 4120–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–120399–10]

RIN 1545–BJ57

Requirements for Group Health Plans and Health Insurance Issuers Under the Patient Protection and Affordable Care Act Relating to Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: Elsewhere in this issue of the **Federal Register**, the Treasury Department and the IRS are issuing temporary regulations under the Patient Protection and Affordable Care Act (the Affordable Care Act) relating to preexisting condition exclusions, lifetime and annual limits, rescissions, and patient protections. Those temporary regulations are being issued at the same time that the Employee Benefits Security Administration of the U.S. Department of Labor and the Office of Consumer Information and Insurance Oversight of the U.S. Department of Health and Human Services are issuing substantially similar interim final regulations under the Employee Retirement Income Security Act of 1974 and the Public Health Service Act. The temporary regulations provide guidance to employers, group health plans, and health insurance issuers providing group health insurance coverage. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by September 27, 2010.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–120399–10), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR (REG–120399–10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–120399–10).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Karen Levin at 202–622–6080; concerning submissions of comments, Oluwafunmilayo Taylor at 202–622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have 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)). 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 27, 2010. Comments are specifically requested concerning:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;
- The accuracy of the estimated burdens associated with the proposed collection of information (*see* the preamble to the temporary regulations published elsewhere in this issue of the **Federal Register**);
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the proposed collection of information, including 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 services to provide information.

The collections of information are in § 54.9815–2711T(e)(2), § 54.9815–2712T(a)(1), and § 54.9815–2719AT(a)(4) (see the temporary regulations published elsewhere in this issue of the **Federal Register**). The temporary regulations require that group health plans and group health insurance issuers: (1) Notify individuals otherwise eligible for coverage who have previously reached a lifetime limit that the lifetime limit no longer applies and of the right to enroll in the coverage; (2) notify any individual whose coverage the plan or issuer intends to rescind 30 days in advance of the rescission; and (3) for plans or health insurance coverage that require or provide for covered individuals to designate a primary care provider, notify individuals of their rights regarding such designation under section 2719A of the Public Health Service Act (which is incorporated by reference into section 9815 of the Code) and of the right to obtain obstetrical and gynecological services without a referral. The likely respondents are business or other for-profit institutions, and nonprofit institutions. Responses to these collections of information are mandatory.

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

The temporary regulations published elsewhere in this issue of the **Federal Register** add §§ 54.9815–2704T, 54.9815–2711T, 54.9815–2712T, and 54.9815–2719AT to the Miscellaneous Excise Tax Regulations. The proposed and temporary regulations are being published as part of a joint rulemaking with the Department of Labor and the Department of Health and Human Services (the joint rulemaking). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains those temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this proposed regulation. It is hereby certified that the collections of information contained in this notice of proposed rulemaking will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Section 54.9815–2711T(e) of the temporary regulations requires both group health insurance issuers and group health plans to notify individuals otherwise eligible for coverage who have previously reached a lifetime limit that the lifetime limit no longer applies and of the right to enroll in the coverage. Under the temporary regulations, if a health insurance issuer satisfies this notice obligation, it is satisfied not just for the issuer but also for the group health plan. For group health plans maintained by small entities, it is anticipated that the health insurance issuer will satisfy this notice obligation for both the plan and the issuer in almost all cases. For this reason, this information collection requirement will not impose a significant impact on a substantial number of small entities.

Section 54.9815–2712T(a)(1) of the temporary regulations requires group health plans and group health insurance issuers to provide 30 days advance notice to any individual whose coverage would be affected before the plan or issuer can rescind the coverage. If a health insurance issuer satisfies this notice obligation, it is satisfied not just for the issuer but also for the group health plan. For group health plans maintained by small entities, it is anticipated that the health insurance issuer will satisfy this notice obligation for both the plan and the issuer in almost all cases. For this reason, this information collection requirement will not impose a significant impact on a substantial number of small entities.

Under § 54.9815–2719AT(a)(4) of the temporary regulations, a group health plan or health insurance coverage that requires or provides for covered individuals to designate a primary care provider must notify individuals covered under the plan of their rights to choose any primary care provider in the plan's network who is available to accept the individual, to designate a pediatrician in the network for a child, and to obtain obstetrical and gynecological services without a referral. If a health insurance issuer satisfies this notice obligation, it is satisfied not just for the issuer but also for the group health plan. For group health plans maintained by small entities, it is anticipated that the health insurance issuer will satisfy this notice obligation for both the plan and the issuer in almost all cases. For this reason, this information collection requirement will not impose a significant impact on a substantial number of small entities.

For further information and for analyses relating to the joint rulemaking, see the preamble to the joint rulemaking. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are specifically requested on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Karen Levin, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), IRS. The proposed regulations, as well as the temporary regulations, have been developed in coordination with personnel from the U.S. Department of Labor and the U.S. Department of Health and Human Services.

List of Subjects in 26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

PART 54—PENSION EXCISE TAXES

Paragraph 1. The authority citation for part 54 is amended by adding entries in numerical order to read as follows:

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

Section 54.9815–2704 also issued under 26 U.S.C. 9833.

Section 54.9815–2711 also issued under 26 U.S.C. 9833.

Section 54.9815–2712 also issued under 26 U.S.C. 9833. * * *

Section 54.9815–2719A also issued under 26 U.S.C. 9833. * * *

Par. 2. Section 54.9815–2704 is added to read as follows:

§ 54.9815–2704 Prohibition of preexisting condition exclusions.

[The text of proposed § 54.9815–2704 is the same as the text of § 54.9815–2704T published elsewhere in this issue of the **Federal Register**].

Par.3. Section 54.9815–2711 is added to read as follows:

§ 54.9815–2711 No lifetime or annual limits.

[The text of proposed § 54.9815–2711 is the same as the text of § 54.9815–2711T published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 54.9815–2712 is added to read as follows:

§ 54.9815–2712 Rules regarding rescissions.

[The text of proposed § 54.9815–2712 is the same as the text of § 54.9815–2712T published elsewhere in this issue of the **Federal Register**].

Par. 5. Section 54.9815–2719A is added to read as follows:

§ 54.9815–2719A Patient protections.

[The text of proposed § 54.9815–2719A is the same as the text of § 54.9815–2719AT published elsewhere in this issue of the **Federal Register**].

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2010–15277 Filed 6–22–10; 11:15 am]

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Federal Register

Monday,
June 28, 2010

Part IV

Office of Management and Budget

2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas; Notice

OFFICE OF MANAGEMENT AND BUDGET

2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Executive Office of the President.

ACTION: Notice of decision.

SUMMARY: This Notice announces OMB's adoption of 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas. The 2010 standards replace and supersede the 2000 Standards for Defining Metropolitan and Micropolitan Statistical Areas. In arriving at its decision, OMB accepted the recommendations of the interagency Metropolitan and Micropolitan Statistical Area Standards Review Committee (the Review Committee) as published in the February 12, 2009 **Federal Register**.

The **SUPPLEMENTARY INFORMATION** in this Notice provides background information on the standards (Section A), a brief synopsis of the public comments OMB received in response to the February 12, 2009 **Federal Register** notice (Section B), and OMB's decisions on the recommendations of the Review Committee (Section C). The 2010 standards appear at the end of this Notice (Section D).

The adoption of the 2010 standards will not affect the availability of Federal data for geographic areas such as States, counties, county subdivisions, and municipalities. For the near term, the U.S. Census Bureau will tabulate and publish data from the 2010 Census for all metropolitan, micropolitan, and combined statistical areas in existence at the time of the census.

DATES: *Effective Date:* This Notice is effective immediately. OMB plans to announce delineations of areas based on the 2010 standards and 2010 Census data in 2013. Federal agencies should begin to use the new area delineations to tabulate and publish statistics when the delineations are announced.

ADDRESSES: Please send correspondence about OMB's decision to Katherine K. Wallman, Chief Statistician, Office of Management and Budget, Room 10201, New Executive Office Building, Washington, DC 20503, telephone number (202) 395–3093, fax number (202) 395–7245, or E-mail *2010MetroAreas@omb.eop.gov* with the subject 2010 MetroAreas.

Electronic Availability: This notice is available on the Internet from the OMB Web site at *http://www.whitehouse.gov/omb/fedreg_default/.*

FOR FURTHER INFORMATION CONTACT: Suzann Evinger, Office of Management and Budget, telephone number (202) 395–3093, fax number 202–395–7245.

SUPPLEMENTARY INFORMATION:

Outline of Notice

A. Background and Review Process
B. Summary of Comments Received in Response to the February 12, 2009 Federal Register Notice
C. OMB's Decisions Regarding Recommendations From the Metropolitan and Micropolitan Statistical Area Standards Review Committee Concerning Changes to the Standards for Defining Metropolitan and Micropolitan Statistical Areas
D. 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas and Key Terms

A. Background and Review Process

1. Background

The metropolitan and micropolitan statistical area program, under various names, has provided standard statistical area delineations for approximately 60 years. In the 1940s, it became clear that the value of metropolitan data produced by Federal agencies would be greatly enhanced if agencies used a single set of geographic delineations for the Nation's largest centers of population and activity. OMB's predecessor, the Bureau of the Budget, led the effort to develop what were then called "standard metropolitan areas" in time for their use in 1950 census publications. Since then, comparable data products for metropolitan areas have been available.

The general concept of a metropolitan statistical area is that of an area containing a large population nucleus and adjacent communities that have a high degree of integration with that nucleus. The concept of a micropolitan statistical area closely parallels that of the metropolitan statistical area, but a micropolitan statistical area features a smaller nucleus. The purpose of these statistical areas is unchanged from when metropolitan areas were first delineated: The classification provides a nationally consistent set of delineations for collecting, tabulating, and publishing Federal statistics for geographic areas.

OMB establishes and maintains these areas solely for statistical purposes. *In reviewing and revising these areas, OMB does not take into account or attempt to anticipate any public or private sector nonstatistical uses that may be made of the delineations. These areas are not designed to serve as a general-purpose geographic framework applicable for nonstatistical activities or for use in program funding formulas.*

Furthermore, the Metropolitan and Micropolitan Statistical Area Standards do not produce an urban-rural classification, and confusion of these concepts can lead to difficulties in program implementation. Counties included in Metropolitan and Micropolitan Statistical Areas and many other counties may contain both urban and rural territory and population. For instance, programs that seek to strengthen rural economies by focusing solely on counties located outside metropolitan statistical areas could ignore a predominantly rural county that is included in a metropolitan statistical area because a high percentage of the county's residents commute to urban centers for work. OMB urges agencies, organizations, and policy makers to review carefully the goals of nonstatistical programs and policies to ensure that appropriate geographic entities are used to determine eligibility for the allocation of Federal funds.

2. Review Process

From the beginning of the program, OMB (or its predecessor) has reviewed the metropolitan (and now micropolitan) statistical area standards and, if warranted, revised them in the years preceding their application to new decennial census data. During the 1990s, OMB conducted a comprehensive review of the 1990 standards, leading to the development of the core based statistical areas (CBSAs) (metropolitan and micropolitan statistical areas) and combined statistical areas as contained in the 2000 standards (available at: *http://www.whitehouse.gov/omb/fedreg/metroareas122700.pdf*). Periodic review of the standards is necessary to ensure their continued usefulness and relevance. The current review of the metropolitan and micropolitan statistical area standards is the sixth such review.

In 2008, OMB charged the Metropolitan and Micropolitan Statistical Area Standards Review Committee with examining the 2000 metropolitan and micropolitan statistical area standards and providing to OMB recommendations for revising the standards that would be issued no later than December 2010. Agencies represented on the Review Committee included the Census Bureau (Chair), Bureau of Economic Analysis, Bureau of Labor Statistics, Bureau of Transportation Statistics, Economic Research Service/U.S. Department of Agriculture, National Center for Health

Statistics, and *ex officio,* OMB. The Census Bureau provided research support to the committee.

During the five years between the 2000 standards' implementation in 2003 and the commencement of the Review Committee's deliberations in 2008, OMB received very few inquiries from the public questioning the conceptual framework of the 2000 standards and the resulting area delineations. Therefore, the Review Committee concluded early in its deliberations that the 2000 standards worked well and were generally accepted. Thus, the Review Committee determined that it would not be necessary or appropriate to seek wide-ranging public comment on all aspects of the 2000 standards, particularly since a multiyear conceptual review, with several rounds of public comment, had been conducted prior to their adoption. Instead, the Review Committee decided to limit its review, and subsequent recommendations, to a small set of issues associated with the implementation of the 2000 standards.

OMB published the Review Committee's recommendations for revisions to the 2000 standards in a February 12, 2009 **Federal Register** notice entitled "Recommendations From the Metropolitan and Micropolitan Statistical Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the 2000 Standards for Defining Metropolitan and Micropolitan Statistical Areas" (74 FR 7172–7177).

B. Summary of Comments Received in Response to the February 12, 2009 Federal Register Notice

The February 12, 2009 **Federal Register** notice requested comment on the Review Committee's recommendations to OMB concerning revisions to the 2000 Standards for Defining Metropolitan and Micropolitan Statistical Areas, namely its recommendations concerning (1) the qualification and titling of combined statistical areas; (2) the updating of metropolitan and micropolitan statistical areas; and (3) the replacement of the word "definition" with the word "delineation." To help ensure the clarity of the 2010 recommended standards, OMB also requested comments on the wording of the standards.

OMB received 40 comment letters in response to the February 12, 2009 notice.

Five commenters remarked on aspects of the Review Committee's recommendations for eliminating local opinion from the qualification of combined statistical areas and establishing a minimum employment interchange measure of 15 for the automatic qualification of combined statistical areas. Two commenters supported the elimination of local opinion in combined statistical area qualification, with one of the two expressing concern about setting the minimum employment interchange measure threshold at 15. Two other commenters expressed concern about both the potential consequences of eliminating local opinion and setting the automatic threshold at 15. One commenter supported setting the employment interchange measure at 15 for combining areas.

Two commenters remarked on the proposed combined statistical area titling criteria. One commenter supported the committee's recommendation, while the other commenter wondered if eliminating local opinion would end potentially positive means of allowing individual areas to express their opinions.

Five commenters remarked on aspects of the Review Committee's recommendations concerning the update of metropolitan and micropolitan statistical areas, including (1) the limiting of yearly updates as well as (2) the planned update in 2018. All five commenters who offered views on limiting yearly updates agreed with the Review Committee, as did all four who offered views on the planned update in 2018.

Three commenters remarked on the Review Committee's recommendation to replace the term "definition" with "delineation": Two agreed, while one was indifferent. One of the three commenters wondered if it would take a long period for the new term to gain general acceptance.

OMB has reviewed these comments, giving them careful consideration. In some cases, however, we have concluded that we could not adopt the suggestions made by commenters, particularly with respect to the qualification and titling of combined statistical areas, without undermining efforts to achieve a consistent, national approach designed to enhance the value of data produced by Federal agencies.

In addition to the recommendations on which OMB requested comment, individuals also offered comments—not requested by OMB—on other aspects of the standards and the program. As indicated in the February 12, 2009, **Federal Register** notice, the 2000 standards were the result of an extensive and comprehensive review. In conducting the recent review, the Review Committee concluded that the 2000 standards have worked well during the past decade, and recommended only some modest specific changes on which OMB sought public comments. The comments summarized below relate to aspects of the statistical area standards that were not open for public comment.

One commenter suggested alternative means of titling metropolitan statistical areas with more than one county: (1) Titling based on the county seat of each county in the metropolitan statistical area; or (2) listing the most populous urban centers of each county. Another commenter suggested that titling a merged metropolitan statistical area be based on the names of the areas being merged. Two commenters asked OMB to consider shorter titles for areas.

One commenter suggested that the central county criteria be modified so that section 2(b) is used in a much more limited fashion, only applying that criterion to those potential metropolitan and micropolitan statistical areas that would otherwise not contain a central county.

One commenter suggested an alternative method of qualifying outlying counties that measures commuting to the central counties and does not require adjacency to the balance of the area. One commenter questioned the sole reliance on commuting for outlying county criteria, while two other commenters suggested that the outlying county criteria should be modified to follow the outlying county criteria in the 1990 OMB standards, rather than the 2000 OMB standards. One commenter suggested the use of the employment interchange measure, as well as a measure of "outleakage" of consumer spending, to qualify counties to a county that contains a principal city.

Thirteen commenters expressed concern about the current delineations of the Greensboro-High Point, Winston-Salem, and Burlington, North Carolina metropolitan statistical areas, and suggested that OMB find ways to merge or otherwise bring together the three individual areas—and in the case of a few commenters, additional territory—into a single metropolitan statistical area.

Four commenters expressed concerns about the current delineations of selected CBSAs in Michigan. All four commenters suggested a reconfiguration of the Grand Rapids area, with two of the four also questioning the delineation of selected other areas in the State.

One commenter suggested that the term "metropolitan statistical area" only apply to those areas that do not belong to combined statistical areas. This commenter further suggested that

components of combined statistical areas should be designated using some other category name.

One commenter suggested that OMB consider separate coding sequences for metropolitan statistical areas and for micropolitan statistical areas, and that OMB consider using headings such as "Metropolitan CBSAs" and "Micropolitan CBSAs." Also, one commenter asked OMB to consider maintaining the same statistical area codes for areas delineated in the update scheduled for 2018 as will have been established in the review scheduled for 2013, including cases where titles have changed but where boundaries have not changed. Furthermore, the commenter also suggested that OMB consider an interagency process to investigate the feasibility of creating classifications of territory within metropolitan statistical areas.

Some out-of-scope comments focused on the use of the statistical areas, including the presentation of data. One commenter asked OMB to consider researching the uses of statistical areas. The commenter also asked OMB to mandate that data provided for metropolitan and micropolitan statistical areas be displayed with data for the combined statistical area associated with those metropolitan or micropolitan statistical area components, and that data displayed at the metropolitan division level be displayed with data for the metropolitan statistical area of which the metropolitan division is a component. In addition, five commenters requested that OMB consider elimination of the prohibition against commingling in ranking combined statistical areas, on the one hand, and metropolitan statistical areas that do not belong to combined statistical areas, on the other hand.

One commenter asked for the inclusion of local opinion in the metropolitan and micropolitan statistical area qualification process, and another requested using local opinion in metropolitan division qualification. Another commenter more generally advocated some use of local opinion in the standards.

Sixteen commenters offered suggestions on an unidentified Federal program that appears to be unrelated to the metropolitan and micropolitan statistical areas program.

We have reviewed the out-of-scope comments and concluded that we could not accept suggestions that would alter the underlying concepts and framework of the 2000 standards, adhering instead to a more focused update. However, OMB, in consultation with the Census Bureau and the Review Committee, may give further consideration to the out-of-scope comments relating to the presentation of data when it updates the guidance on uses of the areas in its statistical areas bulletin.

C. OMB's Decisions Regarding Recommendations From the Metropolitan and Micropolitan Statistical Area Standards Review Committee Concerning Changes to the Standards for Defining Metropolitan and Micropolitan Statistical Areas

This section of the Notice provides information on the decisions OMB has made on the Review Committee's recommendations. In arriving at these decisions, we considered the public comment on the Review Committee's recommendations published in the **Federal Register** on February 12, 2009. OMB also benefited from the deliberations of the Review Committee as well as the research support provided by Census Bureau staff. We have relied upon and very much appreciate the technical and subject-matter expertise, insight, and dedication of the Review Committee members and the Census Bureau staff.

OMB presents below its decisions on the Review Committee's specific recommendations:

1. Recommendations Concerning Combined Statistical Areas

OMB accepts the Review Committee's recommendation to eliminate the use of local opinion in the qualification of combinations with employment interchange measures between 15 and 25. Adjacent core based statistical areas (CBSAs) should automatically qualify for combination if they possess an employment interchange measure of 15 or higher. OMB also accepts the recommendation to eliminate the use of local opinion in combined statistical area titling; each combined statistical area should be titled using the names of the two principal cities with the largest populations in the combined statistical area, as well as the name of the third-largest principal city, if present.

The 2000 standards provided for combined statistical areas to recognize ties between contiguous metropolitan and/or micropolitan statistical areas that are less intense than those captured by mergers, but still significant. (Mergers occur when adjacent CBSAs become a single CBSA because the central county or counties (as a group) of one CBSA qualify as outlying to the central county or counties (as a group) of the other CBSA.) These combinations were based on the employment interchange measure between two CBSAs, defined as the sum of the percentage of commuting from the smaller area to the larger area and the percentage of employment in the smaller area accounted for by workers residing in the larger area.

In reviewing the 2000 standards, OMB agrees with the Review Committee that combined statistical areas can serve as an important geographic tool for the Federal statistical data community. Under the current system—in which adjacent metropolitan and/or micropolitan statistical areas combine automatically if they have an employment interchange measure of 25 or more, while areas with an interchange measure of less than 25 but at least 15 qualify with the support of local opinion—the universe of combined statistical areas is heterogeneous and incomplete. This calls into question the comparability of the areas. Applying only statistical rules when delineating areas—the means by which the other statistical areas delineated by OMB currently qualify—minimizes ambiguity and maximizes the replicability, transparency, and integrity of the process. OMB agrees with the committee on applying only statistical rules, automatically combining all areas with the minimum employment interchange measure of 15.

Under the 2000 standards, local opinion also was used for determining titles for combined statistical areas. OMB agrees with the committee that just as the qualification of combined statistical areas should be based on the application of statistical rules, so too should combined statistical area titling. OMB agrees with the committee's recommendation for the elimination of local opinion from combined statistical area titling and instead titling combined statistical areas in essentially the same manner as their component metropolitan and or micropolitan statistical areas: The title of a combined statistical area should be based on the names of the two principal cities with the largest populations in the combination, as well as the name of the third-largest principal city, if present. To avoid a source of potential confusion, however, OMB also agrees with the committee's recommendation for dropping the name of the third-most-populous principal city from the title of a combined statistical area if the combined statistical area title duplicates that of one of its component CBSAs.

2. Recommendations Concerning Postcensal Updates

OMB accepts the Review Committee's recommendation that OMB: (1) Limit its yearly updates after the initial delineation based on the 2010 standards

to the identification of new metropolitan and micropolitan statistical areas (and reflect certain changes to principal cities such as names and legal status) and (2) conduct a broader update in 2018 based on those aspects of delineation that can be performed using Census Bureau Population Estimates Program total population estimates as well as the 2011–2015 American Community Survey 5-year commuting and employment estimates.

For some purposes, frequent updates of the areas are desirable, but for other purposes stability of the inventory of areas has advantages.

OMB notes that the committee examined the criteria for statistical area updates in the 2000 standards as well as the application of those criteria. Annual postcensal updates of statistical areas since 2003 have been extensive and have included: (1) Qualification of new micropolitan statistical areas; (2) qualification of new metropolitan statistical areas; (3) qualification of new and expanded combined statistical areas, (4) qualification of new principal cities; (5) deletion of principal cities; and (6) changes in the titles of metropolitan statistical areas, micropolitan statistical areas, and metropolitan divisions, based on the addition and/or deletion of principal cities as well as changes in the relative population size rankings of principal cities.[1]

OMB agrees with the Review Committee's observation that aspects of yearly updates can present potential difficulties to producers and users of metropolitan and micropolitan statistical area data, including the potentially considerable workload that yearly postcensal update titling and coding changes can pose for maintaining large databases. OMB supports a more limited yearly update, identifying only new metropolitan and micropolitan statistical areas.[2] (The identification of a new metropolitan or micropolitan statistical area can lead to the creation of a new combined statistical area or the expansion of an existing combined statistical area.) OMB would continue to reflect changes to principal cities based on changes in their names and legal status. For example, if a principal city disincorporates or changes its name, that would be reflected in the yearly update of the inventory of principal cities, CBSA titles, and codes.

OMB agrees with the Review Committee's recommendation for a more comprehensive update of metropolitan and micropolitan and related statistical areas in 2018 based on those parts of delineation that can be updated using Census Bureau Population Estimates Program total population estimates and the 2011–2015 American Community Survey 5-year commuting and employment estimates. The urbanized areas and urban clusters used in the 2018 update will be those delineated with 2010 Census data, plus any urban areas delineated later through special censuses. The central counties of CBSAs identified on the basis of a 2010 Census population count, or on the basis of population estimates or a special census count in the case of postcensally delineated areas, would constitute the central counties for purposes of this set of area delineations.

3. Recommendation Concerning the Use of the Word "Definition"

OMB accepts the Review Committee's recommendation that OMB replace the word "definition" with the word "delineation" in the proposed 2010 standards.

During much of the history of the metropolitan and micropolitan statistical area program, the term "definition" has been used to refer to the boundaries or geographic makeup of an area (*e.g.,* the definition of the Altoona, PA Metropolitan Statistical Area). While the program's use of the term has been careful and consistent, it is not intuitive for those first encountering the program.

OMB agrees with the committee that the program's use of the term "definition" occasionally has caused misunderstandings and accepts the committee's recommendation to replace "definition" with "delineation" to reference the geographic boundaries of the statistical areas.

D. 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas and Key Terms

The Office of Management and Budget will use these standards to delineate Core Based Statistical Areas (CBSAs) beginning in 2013.

A CBSA is a geographic entity associated with at least one core of 10,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. The standards designate and delineate two categories of CBSAs: Metropolitan Statistical Areas and Micropolitan Statistical Areas.

The purpose of the Metropolitan and Micropolitan Statistical Area standards is to provide nationally consistent delineations for collecting, tabulating, and publishing Federal statistics for a set of geographic areas. The Office of Management and Budget establishes and maintains these areas solely for statistical purposes.

Metropolitan and Micropolitan Statistical Areas are not designed as a general-purpose geographic framework for nonstatistical activities or for use in program funding formulas. The CBSA classification is not an urban-rural classification; Metropolitan and Micropolitan Statistical Areas and many counties outside CBSAs contain both urban and rural populations.

CBSAs consist of counties and equivalent entities throughout the United States and Puerto Rico. In view of the importance of cities and towns in New England, a set of geographic areas similar in concept to the county-based CBSAs also will be delineated for that region using cities and towns. These New England City and Town Areas (NECTAs) are intended for use with statistical data, whenever feasible and appropriate, for New England. Data providers and users desiring areas delineated using a nationally consistent geographic building block should use the county-based CBSAs in New England.

The following criteria apply to both the nationwide county-based CBSAs and to NECTAs, with the exceptions of Sections 7 and 9 in which separate criteria are applied when identifying and titling divisions within NECTAs that contain at least one core of 2.5 million or more population. Wherever the word "county" or "counties" appears in the following criteria (except in Sections 7 and 9), the words "city and town" or "cities and towns" should be substituted, as appropriate, when delineating NECTAs. Commuting and employment estimates are derived from the Census Bureau's American Community Survey.

Section 1. Population Size Requirements for Qualification of Core Based Statistical Areas

Each CBSA must have a Census Bureau delineated urbanized area of at least 50,000 population or a Census Bureau delineated urban cluster of at least 10,000 population. (Urbanized

[1] The 2000 standards also included criteria for updating areas in 2008 based on American Community Survey 5-year commuting and employment estimates. Given a subsequent change in the American Community Survey production and release schedule, that 2008 update could not be implemented.

[2] A metropolitan statistical area that qualifies under the yearly update due to a special census or population estimate will not contain an urbanized area as delineated by the Census Bureau, unless that special census generates a new urbanized area. Also, the Census Bureau's Population Estimates Program produces and disseminates the official total population estimates of cities that are used in the update process.

areas and urban clusters are collectively referred to as "urban areas.")

Section 2. Central Counties

The central county or counties of a CBSA are those counties that:

(a) Have at least 50 percent of their population in urban areas of at least 10,000 population; or

(b) Have within their boundaries a population of at least 5,000 located in a single urban area of at least 10,000 population.

A central county is associated with the urbanized area or urban cluster that accounts for the largest portion of the county's population. The central counties associated with a particular urbanized area or urban cluster are grouped to form a single cluster of central counties for purposes of measuring commuting to and from potentially qualifying outlying counties.

Section 3. Outlying Counties

A county qualifies as an outlying county of a CBSA if it meets the following commuting requirements:

(a) At least 25 percent of the workers living in the county work in the central county or counties of the CBSA; or

(b) At least 25 percent of the employment in the county is accounted for by workers who reside in the central county or counties of the CBSA.

A county may be included in only one CBSA. If a county qualifies as a central county of one CBSA and as outlying in another, it falls within the CBSA in which it is a central county. A county that qualifies as outlying to multiple CBSAs falls within the CBSA with which it has the strongest commuting tie, as measured by either 3(a) or 3(b) above. The counties included in a CBSA must be contiguous; if a county is not contiguous with other counties in the CBSA, it will not fall within the CBSA.

Section 4. Merging of Adjacent Core Based Statistical Areas

Two adjacent CBSAs will merge to form one CBSA if the central county or counties (as a group) of one CBSA qualify as outlying to the central county or counties (as a group) of the other CBSA using the measures and thresholds stated in 3(a) and 3(b) above.

Section 5. Identification of Principal Cities

The Principal City (or Cities) of a CBSA will include:

(a) The largest incorporated place with a 2010 Census population of at least 10,000 in the CBSA or, if no incorporated place of at least 10,000 population is present in the CBSA, the largest incorporated place or census designated place in the CBSA; and

(b) Any additional incorporated place or census designated place with a 2010 Census population of at least 250,000 or in which 100,000 or more persons work; and

(c) Any additional incorporated place or census designated place with a 2010 Census population of at least 50,000, but less than 250,000, and in which the number of workers working in the place meets or exceeds the number of workers living in the place; and

(d) Any additional incorporated place or census designated place with a 2010 Census population of at least 10,000, but less than 50,000, and at least one-third the population size of the largest place, and in which the number of workers working in the place meets or exceeds the number of workers living in the place.

Section 6. Categories and Terminology

A CBSA is categorized based on the population of the largest urban area (urbanized area or urban cluster) within the CBSA. Categories of CBSAs are: Metropolitan Statistical Areas, based on urbanized areas of 50,000 or more population, and Micropolitan Statistical Areas, based on urban clusters of at least 10,000 population but less than 50,000 population. Counties that do not fall within CBSAs will represent "Outside Core Based Statistical Areas."

A NECTA is categorized in a manner similar to a CBSA and is referred to as a Metropolitan NECTA or a Micropolitan NECTA.

Section 7. Divisions of Metropolitan Statistical Areas and New England City and Town Areas

(a) A Metropolitan Statistical Area containing a single urbanized area with a population of at least 2.5 million may be subdivided to form smaller groupings of counties referred to as Metropolitan Divisions. A county qualifies as a "main county" of a Metropolitan Division if 65 percent or more of workers living in the county also work within the county and the ratio of the number of workers working in the county to the number of workers living in the county is at least .75. A county qualifies as a "secondary county" if 50 percent or more, but less than 65 percent, of workers living in the county also work within the county and the ratio of the number of workers working in the county to the number of workers living in the county is at least 75.

A main county automatically serves as the basis for a Metropolitan Division. For a secondary county to qualify as the basis for forming a Metropolitan Division, it must join with either a contiguous secondary county or a contiguous main county with which it has the highest employment interchange measure of 15 or more. After all main counties and secondary counties are identified and grouped (if appropriate), each additional county that already has qualified for inclusion in the Metropolitan Statistical Area falls within the Metropolitan Division associated with the main/secondary county or counties with which the county at issue has the highest employment interchange measure. Counties in a Metropolitan Division must be contiguous.

(b) A NECTA containing a single urbanized area with a population of at least 2.5 million may be subdivided to form smaller groupings of cities and towns referred to as NECTA Divisions. A city or town will be a "main city or town" of a NECTA Division if it has a population of 50,000 or more and its highest rate of out-commuting to any other city or town is less than 20 percent.

After all main cities and towns have been identified, each remaining city and town in the NECTA will fall within the NECTA Division associated with the city or town with which the one at issue has the highest employment interchange measure. Each NECTA Division must contain a total population of 100,000 or more. Cities and towns first assigned to areas with populations less than 100,000 will be assigned to the qualifying NECTA Division associated with the city or town with which the one at issue has the highest employment interchange measure. Cities and towns within a NECTA Division must be contiguous.

Section 8. Combining Adjacent Core Based Statistical Areas

(a) Any two adjacent CBSAs will form a Combined Statistical Area if the employment interchange measure between the two areas is at least 15.

(b) The CBSAs thus combined will also continue to be recognized as individual CBSAs within the Combined Statistical Area.

Section 9. Titles of Core Based Statistical Areas, Metropolitan Divisions, New England City and Town Divisions, and Combined Statistical Areas

(a) The title of a CBSA or NECTA will include the name of its Principal City with the largest 2010 Census population. If there are multiple Principal Cities, the names of the second-largest and (if present) third-largest Principal Cities will appear in the title in order of descending population size. If the Principal City

with the largest 2010 Census population is a census designated place, the name of the largest incorporated place of at least 10,000 population that also is a Principal City will appear first in the title followed by the name of the census designated place. If the Principal City with the largest 2010 Census population is a census designated place, and there is no incorporated place of at least 10,000 population that also is a Principal City, the name of that census designated place Principal City will appear first in the title.

(b) The title of a Metropolitan Division will include the name of the Principal City with the largest 2010 Census population located in the Metropolitan Division. If there are multiple Principal Cities, the names of the second-largest and (if present) third-largest Principal Cities will appear in the title in order of descending population size. If there are no Principal Cities located in the Metropolitan Division, the title of the Metropolitan Division will use the names of up to three counties in order of descending 2010 Census population size.

(c) The title of a NECTA Division will include the name of the Principal City with the largest 2010 Census population located in the NECTA Division. If there are multiple Principal Cities, the names of the second-largest and (if present) third-largest Principal Cities will appear in the title in order of descending population size. If there are no Principal Cities located in the NECTA Division, the title of the NECTA Division will use the names of up to three cities or towns in descending 2010 Census population size.

(d) The title of a Combined Statistical Area will include the names of the two largest Principal Cities in the combination and the name of the third-largest Principal City, if present. If the Combined Statistical Area title duplicates that of one of its component CBSAs, the name of the third-most-populous Principal City will be dropped from the title of the Combined Statistical Area.

(e) Titles also will include the names of any State in which the area is located.

Section 10. Updating Schedule

(a) The Office of Management and Budget will delineate CBSAs in 2013 based on 2010 Census data and 2006–2010 American Community Survey 5-year estimates.

(b) In subsequent years, the Office of Management and Budget will designate a new Metropolitan Statistical Area if:

(1) A city that is outside any existing CBSA has a Census Bureau special census count of 10,000 to 49,999 population, or a population estimate of 10,000 to 49,999 for two consecutive years from the Census Bureau's Population Estimates Program, or

(2) A Census Bureau special census results in the delineation of an urban cluster of 10,000 to 49,999 population that is outside of any existing CBSA.

(c) Also in subsequent years, the Office of Management and Budget will designate a new Metropolitan Statistical Area if:

(1) A city that is outside any existing Metropolitan Statistical Area has a Census Bureau special census count of 50,000 or more population, or a population estimate of 50,000 or more for two consecutive years from the Census Bureau's Population Estimates Program, or

(2) A Census Bureau special census results in the delineation of a new urbanized area of 50,000 population or more that is outside of any existing Metropolitan Statistical Area.

(d) Outlying counties of CBSAs that qualify after the first delineation (in 2013) will qualify, according to the criteria in Section 3 above, on the basis of American Community Survey 5-year commuting estimates.

(e) The Office of Management and Budget will review the delineations of all existing CBSAs and related statistical areas in 2018 using 2011–2015 5-year commuting and employment estimates from the Census Bureau's American Community Survey. The urbanized areas and urban clusters used in these delineations will be those based on 2010 Census data or subsequent special censuses for which urban areas are created. The central counties of CBSAs identified on the basis of a 2010 Census population count, or on the basis of population estimates from the Census Bureau's Population Estimates Program or a special census count in the case of postcensally delineated areas, will constitute the central counties for purposes of the these area delineations. New CBSAs will be designated in 2018 on the basis of Census Bureau special census counts or population estimates as described above in Sections 10(b) and 10(c); outlying county qualification will be based on 5-year commuting estimates from the American Community Survey.

(f) Other aspects of the Metropolitan and Metropolitan Statistical Area and related statistical area delineations are not subject to change between decennial censuses.

Section 11. Definitions of Key Terms

Census designated place—A statistical geographic entity that is analogous to an incorporated place, delineated for the decennial census, consisting of a locally recognized, unincorporated concentration of population that is identified by name.

Central county—The county or counties of a Core Based Statistical Area containing a substantial portion of an urbanized area or urban cluster or both, and to and from which commuting is measured to determine qualification of outlying counties.

Combined Statistical Area—A geographic entity consisting of two or more adjacent Core Based Statistical Areas with employment interchange measures of at least 15.

Core—A densely settled concentration of population, comprising either an urbanized area (of 50,000 or more population) or an urban cluster (of 10,000 to 49,999 population) delineated by the Census Bureau, around which a Core Based Statistical Area is delineated.

Core Based Statistical Area (CBSA)—A statistical geographic entity consisting of the county or counties associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties containing the core. Metropolitan and Micropolitan Statistical Areas are the two categories of Core Based Statistical Areas.

Delineation—The establishment of the boundary of a statistical area, or the boundary that results.

Employment interchange measure—A measure of ties between two adjacent entities. The employment interchange measure is the sum of the percentage of workers living in the smaller entity who work in the larger entity and the percentage of employment in the smaller entity that is accounted for by workers who reside in the larger entity.

Geographic building block—The geographic unit, such as a county, that constitutes the basic geographic component of a statistical area.

Main city or town—A city or town that acts as an employment center within a New England City and Town Area that has a core with a population of at least 2.5 million. A main city or town serves as the basis for delineating a New England City and Town Area Division.

Main county—A county that acts as an employment center within a Core Based Statistical Area that has a core with a population of at least 2.5 million. A main county serves as the basis for delineating a Metropolitan Division.

Metropolitan Division—A county or group of counties within a Core Based Statistical Area that contains an

urbanized area with a population of at least 2.5 million. A Metropolitan Division consists of one or more main/secondary counties that represent an employment center or centers, plus adjacent counties associated with the main/secondary county or counties through commuting ties.

Metropolitan Statistical Area—A Core Based Statistical Area associated with at least one urbanized area that has a population of at least 50,000. The Metropolitan Statistical Area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting.

Micropolitan Statistical Area—A Core Based Statistical Area associated with at least one urban cluster that has a population of at least 10,000, but less than 50,000. The Micropolitan Statistical Area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting.

New England City and Town Area (NECTA)—A statistical geographic entity that is delineated using cities and towns as building blocks and that is conceptually similar to the Core Based Statistical Areas in New England (which are delineated using counties as building blocks).

New England City and Town Area (NECTA) Division—A city or town or group of cities and towns within a NECTA that contains an urbanized area with a population of at least 2.5 million. A NECTA Division consists of a main city or town that represents an employment center, plus adjacent cities and towns associated with the main city or town, or with other cities and towns that are in turn associated with the main city or town, through commuting ties.

Outlying county—A county that qualifies for inclusion in a Core Based Statistical Area on the basis of commuting ties with the Core Based Statistical Area's central county or counties.

Outside Core Based Statistical Areas—Counties that do not qualify for inclusion in a Core Based Statistical Area.

Principal City—The largest city of a Core Based Statistical Area, plus additional cities that meet specified statistical criteria.

Secondary county—A county that acts as an employment center in combination with a main county or another secondary county within a Core Based Statistical Area that has a core with a population of at least 2.5 million. A secondary county may serve as the basis for delineating a Metropolitan Division, but only when combined with a main county or another secondary county.

Urban area—The term used by the Census Bureau to refer collectively to urbanized areas and urban clusters.

Urban cluster—A statistical geographic entity delineated by the Census Bureau, consisting of densely settled census tracts and blocks and adjacent densely settled territory that together contain at least 2,500 people. For purposes of delineating Core Based Statistical Areas, only those urban clusters of 10,000 more population are considered.

Urbanized area—A statistical geographic entity delineated by the Census Bureau, consisting of densely settled census tracts and blocks and adjacent densely settled territory that together contain at least 50,000 people.

Cass R. Sunstein,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2010–15605 Filed 6–25–10; 8:45 am]

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June 28, 2010

Part V

National Archives and Records Administration

Information Security Oversight Office

32 CFR Parts 2001 and 2003
Classified National Security Information; Final Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

32 CFR Parts 2001 and 2003

[FDMS Docket ISOO–10–0001]

RIN 3095–AB63

Classified National Security Information

AGENCY: Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA).

ACTION: Implementing directive; final rule.

SUMMARY: The Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA), is publishing this Directive as a final rule and pursuant to Executive Order 13526 (hereafter the Order), relating to classified national security information. The Executive order prescribes a uniform system for classifying, safeguarding, and declassifying national security information. It also establishes a monitoring system to enhance its effectiveness. This Directive sets forth guidance to agencies on original and derivative classification, downgrading, declassification, and safeguarding of classified national security information.

DATES: *Effective Date:* June 25, 2010.

FOR FURTHER INFORMATION CONTACT: William J. Bosanko, Director, Information Security Oversight Office, at 202–357–5250.

SUPPLEMENTARY INFORMATION: This final rule is issued pursuant to the provisions of 5.1(a) and (b) of Executive Order 13526, issued December 29, 2009, and published January 5, 2010 (75 FR 707), and amends 32 CFR part 2001 published on September 22, 2003 (68 FR 55168). The purpose of this Directive is to assist in implementing the Order; users of the Directive shall refer concurrently to that Order for guidance. As of November 17, 1995, ISOO became a part of the National Archives. The Archivist of the United States (the Archivist) delegated the implementation and monitoring functions of this program to the Director of ISOO. The drafting, coordination, and issuance of this Directive fulfills one of the responsibilities of the implementation delegated to the Director of ISOO.

This rule is being issued as a final rule without prior notice of proposed rulemaking as allowed by the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A) for rules of agency procedure and interpretation. The interpretive guidance contained in this rule will assist agencies in implementing Executive Order 13526, which was issued on December 29, 2009. NARA has also determined that delaying the effective date for 30 days is unnecessary as this rule updates the existing Directive implementing Executive Order 12958, as amended. Moreover, since Executive Order 13526 becomes effective on June 27, 2010, Federal agencies will benefit immediately by having up-to-date ISOO guidance, and any delay in the effective date would hinder agency procedure and be contrary to the public interest.

Regulatory Impact

This rule is not a significant regulatory action for the purposes of Executive Order 12866. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies.

List of Subjects in 32 CFR Parts 2001 and 2003

Archives and records, Authority delegations (Government agencies), Classified information, Executive orders, Freedom of Information, Information, Intelligence, National defense, National security information, Presidential documents, Security information, Security measures, Standard Forms.

■ For the reasons set forth in the preamble, the Information Security Oversight Office, NARA, is amending 32 CFR Chapter XX as follows:

■ 1. Title 32 of the Code of Federal Regulations, part 2001, is revised to read as follows:

PART 2001—CLASSIFIED NATIONAL SECURITY INFORMATION

Subpart A—Scope of Part

Sec.

2001.1 Purpose and scope.

Subpart B—Classification

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2001.11 Original classification authority.
2001.12 Duration of classification.
2001.13 Classification prohibitions and limitations.
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2001.15 Classification guides.
2001.16 Fundamental classification guidance review.

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2001.21 Original classification.
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2001.23 Classification marking in the electronic environment.
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2001.34 Referrals.
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2001.37 Assistance to the Department of State.

Subpart E—Safeguarding

2001.40 General.
2001.41 Responsibilities of holders.
2001.42 Standards for security equipment.
2001.43 Storage.
2001.44 Reciprocity of use and inspection of facilities.
2001.45 Information controls.
2001.46 Transmission.
2001.47 Destruction.
2001.48 Loss, possible compromise, or unauthorized disclosure.
2001.49 Special access programs.
2001.50 Telecommunications, automated information systems, and network security.
2001.51 Technical security.
2001.52 Emergency authority.
2001.53 Open storage areas.
2001.54 Foreign government information.
2001.55 Foreign disclosure of classified information.

Subpart F—Self-Inspections

2001.60 General.

Subpart G—Security Education and Training

2001.70 General.
2001.71 Coverage.

Subpart H—Standard Forms

2001.80 Prescribed standard forms.

Subpart I—Reporting and Definitions

2001.90 Agency annual reporting requirements.
2001.91 Other agency reporting requirements.
2001.92 Definitions.

Authority: Sections 5.1(a) and (b), E.O. 13526, (75 FR 707, January 5, 2010).

Subpart A—Scope of Part

§ 2001.1 Purpose and scope.

(a) This part is issued under Executive Order. (E.O.) 13526, *Classified National Security Information* (the Order). Section 5 of the Order provides that the Director of the Information Security Oversight Office (ISOO) shall develop and issue such directives as are necessary to implement the Order.

(b) The Order provides that these directives are binding on agencies. Section 6.1(a) of the Order defines "agency" to mean any "Executive agency" as defined in 5 U.S.C. 105; any "Military department" as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into the possession of classified information.

(c) For the convenience of the user, the following table provides references between the sections contained in this part and the relevant sections of the Order.

CFR section	Related section of E.O. 13526
2001.10 Classification standards	1.1, 1.4
2001.11 Original classification authority	1.3
2001.12 Duration of classification	1.5
2001.13 Classification prohibitions and limitations	1.7
2001.14 Classification challenges	1.8
2001.15 Classification guides	2.2
2001.16 Fundamental classification guidance review	1.9
2001.20 General	1.6
2001.21 Original classification	1.6(a)
2001.22 Derivative classification	2.1
2001.23 Classification marking in the electronic environment	1.6
2001.24 Additional requirements	1.6
2001.25 Declassification markings	1.5, 1.6, 3.3
2001.26 Automatic declassification exemption markings	3.3
2001.30 Automatic declassification	3.3, 3.7
2001.31 Systematic declassification review	3.4
2001.32 Declassification guides	3.3, 3.7
2001.33 Mandatory review for declassification	3.5, 3.6
2001.34 Referrals	3.3, 3.6, 3.7
2001.35 Discretionary declassification	3.1
2001.36 Classified information in the custody of private organizations or individuals	none
2001.37 Assistance to the Department of State	none
2001.40 General	4.1
2001.41 Responsibilities of holders	4.1
2001.42 Standards for security equipment	4.1
2001.43 Storage	4.1
2001.44 Reciprocity of use and inspection of facilities	4.1
2001.45 Information controls	4.1, 4.2
2001.46 Transmission	4.1, 4.2
2001.47 Destruction	4.1, 4.2
2001.48 Loss, possible compromise, or unauthorized disclosure	4.1, 4.2
2001.49 Special access programs	4.3
2001.50 Telecommunications, automated information systems, and network security	4.1, 4.2
2001.51 Technical security	4.1
2001.52 Emergency authority	4.2
2001.53 Open storage areas	4.1
2001.54 Foreign government information	4.1
2001.55 Foreign disclosure of classified information	4.1(i)(2)
2001.60 Self-Inspections, General	5.4
2001.70 Security Education and Training, General	5.4
2001.71 Coverage	1.3(d), 2.1(d), 3.7(b), 4.1(b), 5.4(d)(3)
2001.80 Prescribed standard forms	5.2(b)(7)
2001.90 Agency annual reporting requirements	1.3(c), 5.2(b)(4), 5.4(d)(4), 5.4(d)(8)
2001.91 Other agency reporting requirements	1.3(d), 1.7(c)(3), 1.9(d), 2.1(d), 5.5
2001.92 Definitions	6.1

Subpart B—Classification

§ 2001.10 Classification standards.

Identifying or describing damage to the national security. Section 1.1(a) of the Order specifies the conditions that must be met when making classification decisions. Section 1.4 specifies that information shall not be considered for classification unless its unauthorized disclosure could reasonably be expected to cause identifiable or describable damage to the national security. There is no requirement, at the time of the decision, for the original classification authority to prepare a written description of such damage. However, the original classification authority must be able to support the decision in writing, including identifying or describing the damage, should the classification decision become the subject of a challenge or access demand pursuant to the Order or law.

§ 2001.11 Original classification authority.

(a) *General.* Agencies shall establish a training program for original classifiers in accordance with subpart G of this part.

(b) *Requests for original classification authority.* Agencies not possessing such authority shall forward requests to the Director of ISOO. The agency head must make the request and shall provide a specific justification of the need for this authority. The Director of ISOO shall forward the request, along with the Director's recommendation, to the President through the National Security Advisor within 30 days. Agencies wishing to increase their assigned level of original classification authority shall forward requests in accordance with the procedures of this paragraph.

(c) *Reporting delegations of original classification authority.* All delegations of original classification authority shall be reported to the Director of ISOO. This can be accomplished by an initial submission followed by updates on a frequency determined by the senior agency official, but at least annually.

§ 2001.12 Duration of classification.

(a) *Determining duration of classification for information originally classified under the Order*—(1) *Establishing duration of classification.* Except for information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction, an original classification authority shall follow the sequence listed in paragraphs (a)(1)(i), (ii), and (iii) of this section when determining the duration of classification for information originally classified under this Order.

(i) The original classification authority shall attempt to determine a date or event that is less than 10 years from the date of original classification and which coincides with the lapse of the information's national security sensitivity, and shall assign such date or event as the declassification instruction.

(ii) If unable to determine a date or event of less than 10 years, the original classification authority shall ordinarily assign a declassification date that is 10 years from the date of the original classification decision.

(iii) If unable to determine a date or event of 10 years, the original classification authority shall assign a declassification date not to exceed 25 years from the date of the original classification decision.

(2) *Duration of classification of special categories of information.* The only exceptions to the sequence in paragraph (a)(1) of this section are as follows:

(i) If an original classification authority is classifying information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source, the duration shall be up to 75 years and shall be designated with the following marking, "50X1–HUM;" or

(ii) If an original classification authority is classifying information that should clearly and demonstrably be expected to reveal key design concepts of weapons of mass destruction, the duration shall be up to 75 years and shall be designated with the following marking, "50X2–WMD."

(b) *Extending duration of classification for information classified under the Order.* Extensions of classification are not automatic. If an original classification authority with jurisdiction over the information does not extend the classification of information assigned a date or event for declassification, the information is automatically declassified upon the occurrence of the date or event.

(1) If the date or event assigned by the original classification authority has not passed, an original classification authority with jurisdiction over the information may extend the classification duration of such information for a period not to exceed 25 years from the date of origin of the record.

(2) If the date or event assigned by the original classification authority has passed, an original classification authority with jurisdiction over the information may reclassify the information in accordance with the Order and this Directive only if it meets the standards for classification under sections 1.1 and 1.5 of the Order as well as section 3.3 of the Order, if appropriate.

(3) In all cases, when extending the duration of classification, the original classification authority must:

(i) Be an original classification authority with jurisdiction over the information;

(ii) Ensure that the information continues to meet the standards for classification under the Order; and

(iii) Make reasonable attempts to notify all known holders of the information.

(c) *Duration of information classified under prior orders*—(1) *Specific date or event.* Unless declassified earlier, information marked with a specific date or event for declassification under a prior order is automatically declassified upon that date or event. If the specific date or event has not passed, an original classification authority with jurisdiction over the information may extend the duration in accordance with the requirements of paragraph (b) of this section. If the date or event assigned by the original classification authority has passed, an original classification authority with jurisdiction over the information may only reclassify information in accordance with the standards and procedures under the Order and this Directive. If the information is contained in records determined to be permanently valuable, and the prescribed date or event will take place more than 25 years from the date of origin of the document, the declassification of the information will instead be subject to section 3.3 of the Order.

(2) *Indefinite duration of classification.* For information marked with X1, X2, X3, X4, X5, X6, X7, or X8; "Originating Agency's Determination Required" or its acronym "OADR," "Manual Review" or its acronym "MR;" "DCI Only;" "DNI Only;" and any other marking indicating an indefinite duration of classification under a prior order; or in those cases where a document is missing a required declassification instruction or the instruction is not complete:

(i) A declassification authority, as defined in section 3.1(b) of the Order, may declassify it;

(ii) An original classification authority with jurisdiction over the information may re-mark the information to establish a duration of classification of no more than 25 years from the date of origin of the document, consistent with the requirements for information originally classified under the Order, as provided in paragraph (a) of this section; or

(iii) Unless declassified earlier, such information contained in records determined to be permanently valuable shall remain classified for 25 years from the date of its origin, at which time it will be subject to section 3.3 of the Order.

(3) *Release of imagery acquired by space-based intelligence reconnaissance systems.* The duration of classification of imagery as defined in E.O. 12951, *Release of Imagery Acquired by Space-Based Intelligence Reconnaissance Systems,* that is otherwise marked with an indefinite duration, such as "DCI Only" or "DNI Only," shall be established by the Director of National Intelligence in accordance with E.O. 12951 and consistent with E.O. 13526. Any such information shall be remarked in accordance with instructions prescribed by the Director of National Intelligence.

§ 2001.13 Classification prohibitions and limitations.

(a) *Declassification without proper authority.* Classified information that has been declassified without proper authority, as determined by an original classification authority with jurisdiction over the information, remains classified and administrative action shall be taken to restore markings and controls, as appropriate. All such determinations shall be reported to the senior agency official who shall promptly provide a written report to the Director of ISOO.

(1) If the information at issue is in records in the physical and legal custody of the National Archives and Records Administration (NARA) and has been made available to the public, the original classification authority with jurisdiction over the information shall, as part of determining whether the restoration of markings and controls is appropriate, consider whether the removal of the information from public purview will significantly mitigate the

harm to national security or otherwise draw undue attention to the information at issue. Written notification, classified when appropriate under the Order, shall be made to the Archivist, which shall include a description of the record(s) at issue, the elements of information that are classified, the duration of classification, and the specific authority for continued classification. If the information at issue is more than 25 years of age and the Archivist does not agree with the decision, the information shall nonetheless be temporarily withdrawn from public access and shall be referred to the Director of ISOO for resolution in collaboration with affected parties.

(b) *Reclassification after declassification and release to the public under proper authority.* In making the decision to reclassify information that has been declassified and released to the public under proper authority, the agency head must approve, in writing, a determination on a document-by-document basis that the reclassification is required to prevent significant and demonstrable damage to the national security. As part of making such a determination, the following shall apply:

(1) The information must be reasonably recoverable without bringing undue attention to the information which means that:

(i) Most individual recipients or holders are known and can be contacted and all instances of the information to be reclassified will not be more widely disseminated;

(ii) If the information has been made available to the public via a means such as Government archives or reading room, consideration is given to length of time the record has been available to the public, the extent to which the record has been accessed for research, and the extent to which the record and/or classified information at issue has been copied, referenced, or publicized; and

(iii) If the information has been made available to the public via electronic means such as the internet, consideration is given as to the number of times the information was accessed, the form of access, and whether the information at issue has been copied, referenced, or publicized.

(2) If the reclassification concerns a record in the physical custody of NARA and has been available for public use, reclassification requires notification to the Archivist and approval by the Director of ISOO.

(3) Any recipients or holders of the reclassified information who have current security clearances shall be appropriately briefed about their continuing legal obligations and responsibilities to protect this information from unauthorized disclosure. The recipients or holders who do not have security clearances shall, to the extent practicable, be appropriately briefed about the reclassification of the information that they have had access to, their obligation not to disclose the information, and be requested to sign an acknowledgement of this briefing.

(4) The reclassified information must be appropriately marked in accordance with section 2001.24(l) and safeguarded. The markings should include the authority for and the date of the reclassification action.

(5) Once the reclassification action has occurred, it must be reported to the National Security Advisor and to the Director of ISOO by the agency head or senior agency official within 30 days. The notification must include details concerning paragraphs (b)(1) and (3) of this section.

(c) *Classification by compilation.* A determination that information is classified through the compilation of unclassified information is a derivative classification action based upon existing original classification guidance. If the compilation of unclassified information reveals a new aspect of information that meets the criteria for classification, it shall be referred to an original classification authority with jurisdiction over the information to make an original classification decision.

§ 2001.14 Classification challenges.

(a) *Challenging classification.* Authorized holders, including authorized holders outside the classifying agency, who want to challenge the classification status of information shall present such challenges to an original classification authority with jurisdiction over the information. An authorized holder is any individual who has been granted access to specific classified information in accordance with the provisions of the Order to include the special conditions set forth in section 4.1(h) of the Order. A formal challenge under this provision must be in writing, but need not be any more specific than to question why information is or is not classified, or is classified at a certain level.

(b) *Agency procedures.* (1) Because the Order encourages authorized holders to challenge classification as a means for promoting proper and thoughtful classification actions, agencies shall ensure that no retribution is taken against any authorized holders bringing such a challenge in good faith.

(2) Agencies shall establish a system for processing, tracking and recording formal classification challenges made by authorized holders. Agencies shall consider classification challenges separately from Freedom of Information Act or other access requests, and shall not process such challenges in turn with pending access requests.

(3) The agency shall provide an initial written response to a challenge within 60 days. If the agency is unable to respond to the challenge within 60 days, the agency must acknowledge the challenge in writing, and provide a date by which the agency will respond. The acknowledgment must include a statement that if no agency response is received within 120 days, the challenger has the right to forward the challenge to the Interagency Security Classification Appeals Panel (Panel) for a decision. The challenger may also forward the challenge to the Panel if an agency has not responded to an internal appeal within 90 days of the agency's receipt of the appeal. Agency responses to those challenges it denies shall include the challenger's appeal rights to the Panel.

(4) Whenever an agency receives a classification challenge to information that has been the subject of a challenge within the past two years, or that is the subject of pending litigation, the agency is not required to process the challenge beyond informing the challenger of this fact and of the challenger's appeal rights, if any.

(c) *Additional considerations.* (1) Challengers and agencies shall attempt to keep all challenges, appeals and responses unclassified. However, classified information contained in a challenge, an agency response, or an appeal shall be handled and protected in accordance with the Order and this Directive. Information being challenged for classification shall remain classified unless and until a final decision is made to declassify it.

(2) The classification challenge provision is not intended to prevent an authorized holder from informally questioning the classification status of particular information. Such informal inquiries should be encouraged as a means of holding down the number of formal challenges and to ensure the integrity of the classification process.

§ 2001.15 Classification guides.

(a) *Preparation of classification guides.* Originators of classification guides are encouraged to consult users of guides for input when developing or updating guides. When possible, originators of classification guides are encouraged to communicate within their agencies and with other agencies

that are developing guidelines for similar activities to ensure the consistency and uniformity of classification decisions. Each agency shall maintain a list of its classification guides in use.

(b) *General content of classification guides.* Classification guides shall, at a minimum:

(1) Identify the subject matter of the classification guide;

(2) Identify the original classification authority by name and position, or personal identifier;

(3) Identify an agency point-of-contact or points-of-contact for questions regarding the classification guide;

(4) Provide the date of issuance or last review;

(5) State precisely the elements of information to be protected;

(6) State which classification level applies to each element of information, and, when useful, specify the elements of information that are unclassified;

(7) State, when applicable, special handling caveats;

(8) State a concise reason for classification which, at a minimum, cites the applicable classification category or categories in section 1.4 of the Order; and

(9) Prescribe a specific date or event for declassification, the marking "50X1–HUM" or "50X2–WMD" as appropriate, or one or more of the exemption codes listed in 2001.26(a)(2), provided that:

(i) The exemption has been approved by the Panel under section 3.3(j) of the Order;

(ii) The Panel is notified of the intent to take such actions for specific information in advance of approval and the information remains in active use; and

(iii) The exemption code is accompanied with a declassification date or event that has been approved by the Panel.

(c) *Dissemination of classification guides.* Classification guides shall be disseminated as necessary to ensure the proper and uniform derivative classification of information.

(d) *Reviewing and updating classification guides.* (1) Agencies shall incorporate original classification decisions into classification guides as soon as practicable.

(2) Originators of classification guides are encouraged to consult the users of guides and other subject matter experts when reviewing or updating guides. Also, users of classification guides are encouraged to notify the originator of the guide when they acquire information that suggests the need for change in the instructions contained in the guide.

§ 2001.16 Fundamental classification guidance review.

(a) *Performance of fundamental classification guidance reviews.* An initial fundamental classification guidance review shall be completed by every agency with original classification authority and which authors security classification guides no later than June 27, 2012. Agencies shall conduct fundamental classification guidance reviews on a periodic basis thereafter. The frequency of the reviews shall be determined by each agency considering factors such as the number of classification guides and the volume and type of information they cover. However, a review shall be conducted at least once every five years.

(b) *Coverage of reviews.* At a minimum, the fundamental classification guidance review shall focus on:

(1) Evaluation of content.

(i) Determining if the guidance conforms to current operational and technical circumstances; and

(ii) Determining if the guidance meets the standards for classification under section 1.4 of the Order and an assessment of likely damage under section 1.2 of the Order; and

(2) Evaluation of use:

(i) Determining if the dissemination and availability of the guidance is appropriate, timely, and effective; and

(ii) An examination of recent classification decisions that focuses on ensuring that classification decisions reflect the intent of the guidance as to what is classified, the appropriate level, the duration, and associated markings.

(c) *Participation in reviews.* The agency head or senior agency official shall direct the conduct of a fundamental classification guidance review and shall ensure the appropriate agency subject matter experts participate to obtain the broadest possible range of perspectives. To the extent practicable, input should also be obtained from external subject matter experts and external users of the reviewing agency's classification guidance and decisions.

(d) *Reports on results.* Agency heads shall provide a detailed report summarizing the results of each classification guidance review to ISOO and release an unclassified version to the public except when the existence of the guide or program is itself classified.

Subpart C—Identification and Markings

§ 2001.20 General.

A uniform security classification system requires that standard markings or other indicia be applied to classified information. Except in extraordinary circumstances, or as approved by the Director of ISOO, the marking of classified information shall not deviate from the following prescribed formats. If markings cannot be affixed to specific classified information or materials, the originator shall provide holders or recipients of the information with written instructions for protecting the information. Markings shall be uniformly and conspicuously applied to leave no doubt about the classified status of the information, the level of protection required, and the duration of classification.

§ 2001.21 Original classification.

(a) *Primary markings.* At the time of original classification, the following shall be indicated in a manner that is immediately apparent:

(1) *Classification authority.* The name and position, or personal identifier, of the original classification authority shall appear on the "Classified By" line. An example might appear as:

Classified By: David Smith, Chief, Division 5

or

Classified By: ID#IMNO1

(2) *Agency and office of origin.* If not otherwise evident, the agency and office of origin shall be identified and follow the name on the "Classified By" line. An example might appear as:

Classified By: David Smith, Chief, Division 5, Department of Good Works, Office of Administration.

(3) *Reason for classification.* The original classification authority shall identify the reason(s) for the decision to classify. The original classification authority shall include on the "Reason" line the number 1.4 plus the letter(s) that corresponds to that classification category in section 1.4 of the Order.

(i) These categories, as they appear in the Order, are as follows:

(A) Military plans, weapons systems, or operations;

(B) Foreign government information;

(C) Intelligence activities (including covert action), intelligence sources or methods, or cryptology;

(D) Foreign relations or foreign activities of the United States, including confidential sources;

(E) Scientific, technological, or economic matters relating to the national security;

(F) United States Government programs for safeguarding nuclear materials or facilities;

(G) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or

(H) The development, production, or use of weapons of mass destruction.

(ii) An example might appear as:

Classified By: David Smith, Chief, Division 5, Department of Good Works, Office of Administration Reason: 1.4(g)

(4) *Declassification instructions.* The duration of the original classification decision shall be placed on the "Declassify On" line. When declassification dates are displayed numerically, the following format shall be used: YYYYMMDD. Events must be reasonably definite and foreseeable. The original classification authority will apply one of the following instructions:

(i) A date or event for declassification that corresponds to the lapse of the information's national security sensitivity, which is equal to or less than 10 years from the date of the original decision. The duration of classification would be marked as:

Classified By: David Smith, Chief, Division 5, Department of Good Works, Office of Administration
Reason: 1.4(g)
Declassify On: 20201014 or
Declassify On: Completion of Operation

(ii) A date not to exceed 25 years from the date of the original decision. For example, on a document that contains information classified on October 10, 2010, apply a date up to 25 years on the "Declassify On" line:

Classified By: David Smith, Chief, Division 5, Department of Good Works, Office of Administration
Reason: 1.4(g)
Declassify On: 20351010

(iii) If the classified information should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source, no date or event is required and the marking "50X1–HUM" shall be used in the "Declassify On" line; or

(iv) If the classified information should clearly and demonstrably be expected to reveal key design concepts of weapons of mass destruction, no date or event is required and the marking "50X2–WMD" shall be used in the "Declassify On" line.

(b) *Overall marking.* The highest level of classification is determined by the highest level of any one portion within the document and shall appear in a way that will distinguish it clearly from the informational text.

(1) Conspicuously place the overall classification at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any).

(2) For documents containing information classified at more than one level, the overall marking shall be the highest level. For example, if a document contains some information marked "Secret" and other information marked "Confidential," the overall marking would be "Secret."

(3) Each interior page of a classified document shall be marked at the top and bottom either with the highest level of classification of information contained on that page, including the designation "Unclassified" when it is applicable, or with the highest overall classification of the document.

(c) *Portion marking.* Each portion of a document, ordinarily a paragraph, but including subjects, titles, graphics, tables, charts, bullet statements, sub-paragraphs, classified signature blocks, bullets and other portions within slide presentations, and the like, shall be marked to indicate which portions are classified and which portions are unclassified by placing a parenthetical symbol immediately preceding the portion to which it applies.

(1) To indicate the appropriate classification level, the symbols "(TS)" for Top Secret, "(S)" for Secret, and "(C)" for Confidential will be used.

(2) Portions which do not meet the standards of the Order for classification shall be marked with "(U)" for Unclassified.

(3) In cases where portions are segmented such as paragraphs, sub-paragraphs, bullets, and sub-bullets and the classification level is the same throughout, it is sufficient to put only one portion marking at the beginning of the main paragraph or main bullet. If there are different levels of classification among these segments, then all segments shall be portion marked separately in order to avoid over-classification of any one segment. If the information contained in a sub-paragraph or sub-bullet is a higher level of classification than its parent paragraph or parent bullet, this does not make the parent paragraph or parent bullet classified at that same level. Each portion shall reflect the classification level of that individual portion and not any other portions. At the same time, any portion, no matter what its status, is still capable of determining the overall classification of the document.

(d) *Dissemination control and handling markings.* Many agencies require additional control and handling markings that supplement the overall classification markings. See § 2001.24(j) for specific guidance.

(e) *Date of origin of document.* The date of origin of the document shall be indicated in a manner that is immediately apparent.

§ 2001.22 Derivative classification.

(a) *General.* Information classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 2001.20 and § 2001.21, except as provided in this section. Information for these markings shall be carried forward from the source document or taken from instructions in the appropriate classification guide.

(b) *Identity of persons who apply derivative classification markings.* Derivative classifiers shall be identified by name and position, or by personal identifier, in a manner that is immediately apparent on each derivatively classified document. If not otherwise evident, the agency and office of origin shall be identified and follow the name on the "Classified By" line. An example might appear as:

Classified By: Peggy Jones, Lead Analyst, Research and Analysis Division or
Classified By: ID # IMN01

(c) *Source of derivative classification.*

(1) The derivative classifier shall concisely identify the source document or the classification guide on the "Derived From" line, including the agency and, where available, the office of origin, and the date of the source or guide. An example might appear as:

Derived From: Memo, "Funding Problems," October 20, 2008, Office of Administration, Department of Good Works or
Derived From: CG No. 1, Department of Good Works, dated October 20, 2008

(i) When a document is classified derivatively on the basis of more than one source document or classification guide, the "Derived From" line shall appear as:

Derived From: Multiple Sources

(ii) The derivative classifier shall include a listing of the source materials on, or attached to, each derivatively classified document.

(2) A document derivatively classified on the basis of a source document that is itself marked "Multiple Sources" shall cite the source document on its "Derived From" line rather than the term "Multiple Sources." An example might appear as:

Derived From: Report entitled, "New Weapons," dated October 20, 2009, Department of Good Works, Office of Administration

(d) *Reason for classification.* The reason for the original classification decision, as reflected in the source document(s) or classification guide, is

not transferred in a derivative classification action.

(e) *Declassification instructions.* (1) The derivative classifier shall carry forward the instructions on the "Declassify On" line from the source document to the derivative document, or the duration instruction from the classification or declassification guide, unless it contains one of the declassification instructions as listed in paragraph (e)(3) of this section. If the source document is missing the declassification instruction, then a calculated date of 25 years from the date of the source document (if available) or the current date (if the source document date is not available) shall be carried forward by the derivative classifier.

(2) When a document is classified derivatively on the basis of more than one source document or more than one element of a classification guide, the "Declassify On" line shall reflect the longest duration of any of its sources.

(3) When a document is classified derivatively either from a source document(s) or a classification guide that contains one of the following declassification instructions, "Originating Agency's Determination Required," "OADR," or "Manual Review," "MR," or any of the exemption markings X1, X2, X3, X4, X5, X6, X7, and X8, the derivative classifier shall calculate a date that is 25 years from the date of the source document when determining a derivative document's date or event to be placed in the "Declassify On" line.

(i) If a document is marked with the declassification instructions "DCI Only" or "DNI Only" and does not contain information described in E.O. 12951, "Release of Imagery Acquired by Space-Based National Intelligence Reconnaissance Systems," the derivative classifier shall calculate a date that is 25 years from the date of the source document when determining a derivative document's date or event to be placed in the "Declassify On" line.

(ii) If a document is marked with "DCI Only" or "DNI Only" and the information is subject to E.O. 12951, the derivative classifier shall use a date or event as prescribed by the Director of National Intelligence.

(4) When determining the most restrictive declassification instruction among multiple source documents, adhere to the following hierarchy for determining the declassification instructions for the "Declassify On" line:

(i) 50X1–HUM or 50X2–WMD, or an ISOO-approved designator reflecting the Panel approval for classification beyond 50 years in accordance with section 3.3(h)(2) of the Order;

(ii) 25X1 through 25X9, with a date or event;

(iii) A specific declassification date or event within 25 years;

(iv) Absent guidance from an original classification authority with jurisdiction over the information, a calculated 25-year date from the date of the source document.

(5) When declassification dates are displayed numerically, the following format shall be used: YYYYMMDD.

(f) *Overall marking.* The derivative classifier shall conspicuously mark the classified document with the highest level of classification of information included in the document, as provided in § 2001.21(b).

(g) *Portion marking.* Each portion of a derivatively classified document shall be marked immediately preceding the portion to which it applies, in accordance with its source, and as provided in § 2001.21(c).

(h) *Dissemination control and handling markings.* Many agencies require additional control and handling markings that supplement the overall classification markings. See § 2001.24(j) for specific guidance.

(i) *Date of origin of document.* The date of origin of the document shall be indicated in a manner that is immediately apparent.

§ 2001.23 Classification marking in the electronic environment.

(a) *General.* Classified national security information in the electronic environment shall be:

(1) Subject to all requirements of the Order.

(2) Marked with proper classification markings to the extent that such marking is practical, including portion marking, overall classification, "Classified By," "Derived From," "Reason" for classification (originally classified information only), and "Declassify On."

(3) Marked with proper classification markings when appearing in an electronic output (*e.g.,* database query) in which users of the information will need to be alerted to the classification status of the information.

(4) Marked in accordance with derivative classification procedures, maintaining traceability of classification decisions to the original classification authority. In cases where classified information in an electronic environment cannot be marked in this manner, a warning shall be applied to alert users that the information may not be used as a source for derivative classification and providing a point of contact and instructions for users to receive further guidance on the use and classification of the information.

(5) Prohibited from use as source of derivative classification if it is dynamic in nature (*e.g.,* wikis and blogs) and where information is not marked in accordance with the Order.

(b) *Markings on classified e-mail messages.* (1) E-mail transmitted on or prepared for transmission on classified systems or networks shall be configured to display the overall classification at the top and bottom of the body of each message. The overall classification marking string for the e-mail shall reflect the classification of the header and body of the message. This includes the subject line, the text of the e-mail, a classified signature block, attachments, included messages, and any other information conveyed in the body of the e-mail. A single linear text string showing the overall classification and markings shall be included in the first line of text and at the end of the body of the message after the signature block.

(2) Classified e-mail shall be portion marked. Each portion shall be marked to reflect the highest level of information contained in that portion. A text portion containing a uniform resource locator (URL) or reference (*i.e.,* link) to another document shall be portion marked based on the classification of the content of the URL or link text, even if the content to which it points reflects a higher classification marking.

(3) A classified signature block shall be portion marked to reflect the highest classification level markings of the information contained in the signature block itself.

(4) Subject lines shall be portion marked to reflect the sensitivity of the information in the subject line itself and shall not reflect any classification markings for the e-mail content or attachments. Subject lines and titles shall be portion marked before the subject or title.

(5) For a classified e-mail, the classification authority block shall be placed after the signature block, but before the overall classification marking string at the end of the e-mail. These blocks may appear as single linear text strings instead of the traditional appearance of three lines of text.

(6) When forwarding or replying to an e-mail, individuals shall ensure that, in addition to the markings required for the content of the reply or forward e-mail itself, the markings shall reflect the overall classification and declassification instructions for the entire string of e-mails and attachments. This will include any newly drafted material, material received from previous senders, and any attachments.

(c) *Marking Web pages with classified content.* (1) Web pages shall be classified and marked on their own content regardless of the classification of the pages to which they link. Any presentation of information to which the web materials link shall also be marked based on its own content.

(2) The overall classification marking string for every web page shall reflect the overall classification markings (and any dissemination control or handling markings) for the information on that page. Linear text appearing on both the top and bottom of the page is acceptable.

(3) If any graphical representation is utilized, a text equivalent of the overall classification marking string shall be included in the hypertext statement and page metadata. This will enable users without graphic display to be aware of the classification level of the page and allows for the use of text translators.

(4) Classified Web pages shall be portion marked. Each portion shall be marked to reflect the highest level of information contained in that portion. A portion containing a URL or reference to another document shall be portion marked based on the classification of the content of the URL itself, even if the content to which it points reflects a higher classification marking.

(5) Classified Web pages shall include the classification authority block on either the top or bottom of the page. These blocks may appear as single linear text strings instead of the traditional appearance of three lines of text.

(6) Electronic media files such as video, audio, images, or slides shall carry the overall classification and classification authority block, unless the addition of such information would render them inoperable. In such cases, another procedure shall be used to ensure recipients are aware of the classification status of the information and the declassification instructions.

(d) *Marking classified URLs.* URLs provide unique addresses in the electronic environment for web content and shall be portion marked based on the classification of the content of the URL itself. The URL shall not be portion marked to reflect the classification of the content to which it points. URLs shall be developed at an unclassified level whenever possible. When a URL is classified, a classification portion mark shall be used in the text of the URL string in a way that does not make the URL inoperable to identify the URL as a classified portion in any textual references to that URL. An example may appear as:

http://www.center.xyz/SECRET/filename_(S).html
http://www.center.xyz/filename2_(TS).html
http://www.center.xyz/filename_(TS//NF).html

(e) *Marking classified dynamic documents and relational databases.* (1) A dynamic page contains electronic information derived from a changeable source or ad hoc query, such as a relational database. The classification levels of information returned may vary depending upon the specific request.

(2) If there is a mechanism for determining the actual classification markings for dynamic documents, the appropriate classification markings shall be applied to and displayed on the document. If such a mechanism does not exist, the default should be the highest level of information in the database and a warning shall be applied at the top of each page of the document. Such content shall not be used as a basis for derivative classification. An example of such an applied warning may appear as:

> This content is classified at the [insert system-high classification level] level and may contain elements of information that are unclassified or classified at a lower level than the overall classification displayed. This content may not be used as a source of derivative classification; refer instead to the pertinent classification guide(s).

(3) This will alert the users of the information that there may be elements of information that may be either unclassified or classified at a lower level than the highest possible classification of the information returned. Users shall be encouraged to make further inquiries concerning the status of individual elements in order to avoid unnecessary classification and/or impediments to information sharing. Resources such as classification guides and points of contact shall be established to assist with these inquiries.

(4) Users developing a document based on query results from a database must properly mark the document in accordance with § 2001.22. If there is doubt about the correct markings, users should contact the database originating agency for guidance.

(f) *Marking classified bulletin board postings and blogs.* (1) A blog, an abbreviation of the term "web log," is a Web site consisting of a series of entries, often commentary, description of events, or other material such as graphics or video, created by the same individual as in a journal or by many individuals. While the content of the overall blog is dynamic, entries are generally static in nature.

(2) The overall classification marking string for every bulletin board or blog shall reflect the overall classification markings for the highest level of information allowed in that space. Linear text appearing on both the top and bottom of the page is acceptable.

(3) Subject lines of bulletin board postings, blog entries, or comments shall be portion marked to reflect the sensitivity of the information in the subject line itself, not the content of the post.

(4) The overall classification marking string for the bulletin board posting, blog entry, or comment shall reflect the classification markings for the subject line, the text of the posting, and any other information in the posting. These strings shall be entered manually or utilizing an electronic classification tool in the first line of text and at the end of the body of the posting. These strings may appear as single linear text.

(5) Bulletin board postings, blog entries, or comments shall be portion marked. Each portion shall be marked to reflect the highest level of information contained in that portion.

(g) *Marking classified wikis.* (1) Initial wiki submissions shall include the overall classification marking string, portion marking, and the classification authority block string in the same manner as mentioned above for bulletin boards and blogs. All of these strings may appear as single line text.

(2) When users modify existing entries which alter the classification level of the content or add new content, they shall change the required markings to reflect the classification markings for the resulting information. Systems shall provide a means to log the identity of each user, the changes made, and the time and date of each change.

(3) Wiki articles and entries shall be portion marked. Each portion shall be marked to reflect the highest level of information contained in that portion.

(h) *Instant messaging, chat, and chat rooms.* (1) Instant messages and chat conversations generally consist of brief textual messages but may also include URLs, images, or graphics. Chat discussions captured for retention or printing shall be marked at the top and bottom of each page with the overall classification reflecting all of the information within the discussion and, for classified discussions, portion markings and the classification authority block string shall also appear.

(2) Chat rooms shall display system-high overall classification markings and shall contain instructions informing users that the information may not be used as a source for derivative classification unless it is portion marked, contains an overall

classification marking, and a classification authority block.

(i) *Attached files.* When files are attached to another electronic message or document, the overall classification of the message or document shall account for the classification level of the attachment and the message or document shall be marked in accordance with § 2001.24(b).

(ii) *Reserved.*

§ 2001.24 Additional requirements.

(a) *Marking prohibitions.* Markings other than "Top Secret," "Secret," and "Confidential" shall not be used to identify classified national security information.

(b) *Transmittal documents.* A transmittal document shall indicate on its face the highest classification level of any classified information attached or enclosed. The transmittal shall also include conspicuously on its face the following or similar instructions, as appropriate:

Unclassified When Classified Enclosure Removed or
Upon Removal of Attachments, This Document is (Classification Level)

(c) *Foreign government information.* Unless otherwise evident, documents that contain foreign government information should include the marking, "This Document Contains (indicate country of origin) Information." Agencies may also require that the portions of the documents that contain the foreign government information be marked to indicate the government and classification level, using accepted country code standards, *e.g.,* "(Country code—C)." If the identity of the specific government must be concealed, the document shall be marked, "This Document Contains Foreign Government Information," and pertinent portions shall be marked "FGI" together with the classification level, *e.g.,* "(FGI–C)." In such cases, a separate record that identifies the foreign government shall be maintained in order to facilitate subsequent declassification actions. If the fact that information is foreign government information must be concealed, the markings described in this paragraph shall not be used and the document shall be marked as if it were wholly of U.S. origin. When classified records are transferred to NARA for storage or archival purposes, the accompanying documentation shall, at a minimum, identify the boxes that contain foreign government information.

(d) *Working papers.* A working paper is defined as documents or materials, regardless of the media, which are expected to be revised prior to the preparation of a finished product for dissemination or retention. Working papers containing classified information shall be dated when created, marked with the highest classification of any information contained in them, protected at that level, and if otherwise appropriate, destroyed when no longer needed. When any of the following conditions applies, working papers shall be controlled and marked in the same manner prescribed for a finished document at the same classification level:

(1) Released by the originator outside the originating activity;

(2) Retained more than 180 days from the date of origin; or

(3) Filed permanently.

(e) *Other material.* Bulky material, equipment, and facilities, etc., shall be clearly identified in a manner that leaves no doubt about the classification status of the material, the level of protection required, and the duration of classification. Upon a finding that identification would itself reveal classified information, such identification is not required. Supporting documentation for such a finding must be maintained in the appropriate security facility.

(f) *Unmarked materials.* Information contained in unmarked records, or presidential or related materials, and which pertains to the national defense or foreign relations of the United States, created, maintained, and protected as classified information under prior orders shall continue to be treated as classified information under the Order, and is subject to its provisions regarding declassification.

(g) *Classification by compilation/aggregation.* Compilation of items that are individually unclassified may be classified if the compiled information meets the standards established in section 1.2 of the Order and reveals an additional association or relationship, as determined by the original classification authority. Any unclassified portions will be portion marked (U), while the overall markings will reflect the classification of the compiled information even if all the portions are marked (U). In any such situation, clear instructions must appear with the compiled information as to the circumstances under which the individual portions constitute a classified compilation, and when they do not.

(h) *Commingling of Restricted Data (RD) and Formerly Restricted Data (FRD) with information classified under the Order.* (1) To the extent practicable, the commingling in the same document of RD or FRD with information classified under the Order should be avoided. When it is not practicable to avoid such commingling, the marking requirements in the Order and this Directive, as well as the marking requirements in 10 CFR part 1045, *Nuclear Classification and Declassification,* must be followed.

(2) Automatic declassification of documents containing RD or FRD is prohibited. Documents marked as containing RD or FRD are excluded from the automatic declassification provisions of the Order until the RD or FRD designation is properly removed by the Department of Energy. When the Department of Energy determines that an RD or FRD designation may be removed, any remaining information classified under the Order must be referred to the appropriate agency in accordance with the declassification provisions of the Order and this Directive.

(3) For commingled documents, the "Declassify On" line required by the Order and this Directive shall not include a declassification date or event and shall instead be annotated with "Not Applicable (or N/A) to RD/FRD portions" and "See source list for NSI portions." The source list, as described in § 2001.22(c)(1)(ii), shall include the declassification instruction for each of the source documents classified under the Order and shall not appear on the front page of the document.

(4) If an RD or FRD portion is extracted for use in a new document, the requirements of 10 CFR part 1045 must be followed.

(5) If a portion classified under the Order is extracted for use in a new document, the requirements of the Order and this Directive must be followed. The declassification date for the extracted portion shall be determined by using the source list required by § 2001.22(c)(1)(ii), the pertinent classification guide, or consultation with the original classification authority with jurisdiction for the information. However, if a commingled document is not portion marked, it shall not be used as a source for a derivatively classified document.

(6) If a commingled document is not portion marked based on appropriate authority, annotating the source list with the declassification instructions and including the "Declassify on" line in accordance with paragraph (h)(3) of this section are not required. The lack of declassification instructions does not eliminate the requirement to process commingled documents for declassification in accordance with the Order, this Directive, the Atomic Energy

Act, or 10 CFR part 1045 when they are requested under statute or the Order.

(i) *Transclassified Foreign Nuclear Information (TFNI).* (1) As permitted under 42 U.S.C. 2162(e), the Department of Energy shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Secretary of Energy and the Director of National Intelligence jointly determine to be necessary to carry out the provisions of 50 U.S.C. 403 and 403–1 and safeguarded under applicable Executive orders as "National Security Information" under a process called transclassification.

(2) When Restricted Data information is transclassified and is safeguarded as "National Security Information," it shall be handled, protected, and classified in conformity with the provisions of the Order and this Directive. Such information shall be labeled as "TFNI" and with any additional identifiers prescribed by the Department of Energy. The label "TFNI" shall be included on documents to indicate the information's transclassification from the Restricted Data category and its declassification process governed by the Secretary of Energy under the Atomic Energy Act.

(3) Automatic declassification of documents containing TFNI is prohibited. Documents marked as containing TFNI are excluded from the automatic declassification provisions of the Order until the TFNI designation is properly removed by the Department of Energy. When the Department of Energy determines that a TFNI designation may be removed, any remaining information classified under the Order must be referred to the appropriate agency in accordance with the declassification provisions of the Order and this Directive.

(j) *Approved dissemination control and handling markings.* (1) Dissemination control and handling markings identify the expansion or limitation on the distribution of the information. These markings are in addition to, and separate from, the level of classification.

(2) Only those external dissemination control and handling markings approved by ISOO or, with respect to the Intelligence Community by the Director of National Intelligence for intelligence and intelligence-related information, may be used by agencies to control and handle the dissemination of classified information pursuant to agency regulations and to policy directives and guidelines issued under section 5.4(d)(2) and section 6.2(b) of the Order. Such approved markings shall be uniform and binding on all agencies and must be available in a central registry.

(3) If used, the dissemination control and handling markings will appear at the top and bottom of each page after the level of classification.

(k) *Portion marking waivers.* (1) An agency head or senior agency official may request a waiver from the portion marking requirement for a specific category of information. Such a request shall be submitted to the Director of ISOO and should include the reasons that the benefits of portion marking are outweighed by other factors. The request must also demonstrate that the requested waiver will not create impediments to information sharing. Statements citing administrative burden alone will ordinarily not be viewed as sufficient grounds to support a waiver.

(2) Any approved portion marking waiver will be temporary with specific expiration dates.

(3) Requests for portion marking waivers from elements of the Intelligence Community (to include pertinent elements of the Department of Defense) should include a statement of support from the Director of National Intelligence or his or her designee. Requests for portion marking waivers from elements of the Department of Defense (to include pertinent elements of the Intelligence Community) should include a statement of support from the Secretary of Defense or his or her designee. Requests for portion marking waivers from elements of the Department of Homeland Security should include a statement of support from the Secretary of Homeland Security or his or her designee.

(4) A document not portion marked, based on an ISOO-approved waiver, must contain a warning statement that it may not be used as a source for derivative classification.

(5) If a classified document that is not portion marked, based on an ISOO-approved waiver, is transmitted outside the originating organization, the document must be portion marked unless otherwise explicitly provided in the waiver approval.

(l) *Marking information that has been reclassified.* Specific information may only be reclassified if all the conditions of section 1.7(d) of the Order and its implementing directives have been met.

(1) When taking this action, an original classification authority must include the following markings on the information:

(i) The level of classification;

(ii) The identity, by name and position, or by personal identifier of the original classification authority;

(iii) Declassification instructions;

(iv) A concise reason for classification, including reference to the applicable classification category from section 1.4 of the Order; and

(v) The date the reclassification action was taken.

(2) The original classification authority shall notify all known authorized holders of this action.

(m) *Marking of electronic storage media.* Classified computer media such as USB sticks, hard drives, CD ROMs, and diskettes shall be marked to indicate the highest overall classification of the information contained within the media.

§ 2001.25 Declassification markings.

(a) *General.* A uniform security classification system requires that standard markings be applied to declassified information. Except in extraordinary circumstances, or as approved by the Director of ISOO, the marking of declassified information shall not deviate from the following prescribed formats. If declassification markings cannot be affixed to specific information or materials, the originator shall provide holders or recipients of the information with written instructions for marking the information. Markings shall be uniformly and conspicuously applied to leave no doubt about the declassified status of the information and who authorized the declassification.

(b) The following markings shall be applied to records, or copies of records, regardless of media:

(1) The word, "Declassified;"

(2) The identity of the declassification authority, by name and position, or by personal identifier, or the title and date of the declassification guide. If the identity of the declassification authority must be protected, a personal identifier may be used or the information may be retained in agency files.

(3) The date of declassification; and

(4) The overall classification markings that appear on the cover page or first page shall be lined with an "X" or straight line. An example might appear as:

~~SECRET~~
Declassified by David Smith, Chief, Division 5, August 17, 2008

§ 2001.26 Automatic declassification exemption markings.

(a) *Marking information exempted from automatic declassification at 25 years.* (1) When the Panel has approved an agency proposal to exempt permanently valuable information from automatic declassification at 25 years, the "Declassify On" line shall be revised to include the symbol "25X" plus the

number(s) that corresponds to the category(ies) in section 3.3(b) of the Order. Except for when the exemption pertains to information that should clearly and demonstrably be expected to reveal the identity of a confidential human source, or a human intelligence source, or key design concepts of weapons of mass destruction, the revised "Declassify On" line shall also include the new date for declassification as approved by the Panel, not to exceed 50 years from the date of origin of the record. Records that contain information, the release of which should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source, or key design concepts of weapons of mass destruction, are exempt from automatic declassification at 50 years.

(2) The pertinent exemptions, using the language of section 3.3(b) of the Order, are:

25X1: reveal the identity of a confidential human source, a human intelligence source, a relationship with an intelligence or security service of a foreign government or international organization, or a non-human intelligence source; or impair the effectiveness of an intelligence method currently in use, available for use, or under development.

25X2: reveal information that would assist in the development, production, or use of weapons of mass destruction;

25X3: reveal information that would impair U.S. cryptologic systems or activities;

25X4: reveal information that would impair the application of state-of-the-art technology within a U.S. weapon system;

25X5: reveal formally named or numbered U.S. military war plans that remain in effect, or reveal operational or tactical elements of prior plans that are contained in such active plans;

25X6: reveal information, including foreign government information, that would cause serious harm to relations between the United States and a foreign government, or to ongoing diplomatic activities of the United States;

25X7: reveal information that would impair the current ability of United States Government officials to protect the President, Vice President, and other protectees for whom protection services, in the interest of the national security, are authorized;

25X8: reveal information that would seriously impair current national security emergency preparedness plans or reveal current vulnerabilities of systems, installations, or infrastructures relating to the national security; or

25X9: violate a statute, treaty, or international agreement that does not permit the automatic or unilateral declassification of information at 25 years.

(3) The pertinent portion of the marking would appear as:

Declassify On: 25X4, 20501001

(4) Documents should not be marked with a "25X" marking until the agency has been informed that the Panel concurs with the proposed exemption.

(5) Agencies need not apply a "25X" marking to individual documents contained in a file series exempted from automatic declassification under section 3.3(c) of the Order until the individual document is removed from the file and may only apply such a marking as approved by the Panel under section 3.3(j) of the Order.

(6) Information containing foreign government information will be marked with a date in the "Declassify On" line that is no more than 25 years from the date of the document unless the originating agency has applied for and received Panel approval to exempt foreign government information from declassification at 25 years. Upon receipt of Panel approval, the agency may use either the 25X6 or 25X9 exemption markings, as appropriate, in the "Declassify On" followed by a date that has also been approved by the Panel. An example might appear as: 25X6, 20600129, or 25X9, 20600627. The marking "subject to treaty or international agreement" is not to be used at any time.

(b) *Marking information exempted from automatic declassification at 50 years.* Records exempted from automatic declassification at 50 years shall be automatically declassified on December 31 of a year that is no more than 75 years from the date of origin unless an agency head, within five years of that date, proposes to exempt specific information from declassification at 75 years and the proposal is formally approved by the Panel.

(1) When the information clearly and demonstrably could be expected to reveal the identity of a confidential human source or a human intelligence source, the marking shall be "50X1–HUM."

(2) When the information clearly and demonstrably could reveal key design concepts of weapons of mass destruction, the marking shall be "50X2–WMD."

(3) In extraordinary cases in which the Panel has approved an exemption from declassification at 50 years under section 3.3(h) of the Order, the same procedures as those under § 2001.26(a) will be followed with the exception that the number "50" will be used in place of the "25."

(4) Requests for exemption from automatic declassification at 50 years from elements of the Intelligence Community (to include pertinent elements of the Department of Defense) should include a statement of support from the Director of National Intelligence or his or her designee. Requests for automatic declassification exemptions from elements of the Department of Defense (to include pertinent elements of the Intelligence community) should include a statement of support from the Secretary of Defense or his or her designee. Requests for automatic declassification exemptions from elements of the Department of Homeland Security should include a statement of support from the Secretary of the Department of Homeland Security or his or her designee.

(c) *Marking information exempted from automatic declassification at 75 years.* Records exempted from automatic declassification at 75 years shall be automatically declassified on December 31 of the year that has been formally approved by the Panel.

(1) Information approved by the Panel as exempt from automatic declassification at 75 years shall be marked "75X" with the appropriate automatic declassification exemption category number followed by the approved declassification date or event.

(2) Requests for exemption from automatic declassification at 75 years from elements of the Intelligence Community (to include pertinent elements of the Department of Defense) should include a statement of support from the Director of National Intelligence or his or her designee. Requests for automatic declassification exemptions from elements of the Department of Defense (to include pertinent elements of the Intelligence community) should include a statement of support from the Secretary of Defense or his or her designee.

Subpart D—Declassification

§ 2001.30 Automatic declassification.

(a) *General.* All departments and agencies that have original classification authority or previously had original classification authority, or maintain records determined to be permanently valuable that contain classified national security information, shall comply with the automatic declassification provisions of the Order. All agencies with original classification authority shall cooperate with NARA in managing automatic declassification of accessioned Federal records, presidential papers and records, and donated historical materials under the control of the Archivist.

(b) *Presidential papers, materials, and records.* The Archivist shall establish procedures for the declassification of presidential, vice-presidential, or White House materials transferred to the legal

custody of NARA or maintained in the presidential libraries.

(c) *Classified information in the custody of contractors, licensees, certificate holders, or grantees.* Pursuant to the provisions of the National Industrial Security Program, agencies must provide security classification/declassification guidance to such entities or individuals who possess classified information. Agencies must also determine if classified Federal records are held by such entities or individuals, and if so, whether they are permanent records of historical value and thus subject to section 3.3 of the Order. Until such a determination has been made by an appropriate agency official, such records shall not be subject to automatic declassification, or destroyed, and shall be safeguarded in accordance with the most recent security classification/declassification guidance provided by the agency.

(d) *Transferred information.* In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage, the receiving agency shall be deemed to be the originating agency.

(e) *Unofficially transferred information.* In the case of classified information that is not officially transferred as described in paragraph (d) of this section but that originated in an agency that has ceased to exist and for which there is no successor agency, the agency in possession shall serve as the originating agency and shall be responsible for actions for those records in accordance with section 3.3 of the Order and in consultation with the Director of the National Declassification Center (NDC).

(f) *Processing records originated by another agency.* When an agency uncovers classified records originated by another agency that appear to meet the criteria for referral according to section 3.3(d) of the Order, the finding agency shall identify those records for referral to the originating agency as described in § 2001.34.

(g) *Unscheduled records.* Classified information in records that have not been scheduled for disposal or retention by NARA is not subject to section 3.3 of the Order. Classified information in records that become scheduled as permanently valuable when that information is already more than 20 years old shall be subject to the automatic declassification provisions of section 3.3 of the Order five years from the date the records are scheduled. Classified information in records that become scheduled as permanently valuable when that information is less than 20 years old shall be subject to the automatic declassification provisions of section 3.3 of the Order at 25 years.

(h) *Temporary records and non-record materials.* Classified information contained in records determined not to be permanently valuable or non-record materials shall be processed in accordance with section 3.6(c) of the Order.

(i) *Foreign government information.* The declassifying agency is the agency that initially received or classified the information. When foreign government information appears to be subject to automatic declassification, the declassifying agency shall determine whether the information is subject to a treaty or international agreement that does not permit automatic or unilateral declassification. The declassifying agency shall also determine if another exemption under section 3.3(b) of the Order, such as the exemption that pertains to United States foreign relations, may apply to the information. If the declassifying agency believes such an exemption may apply, it should consult with any other concerned agencies in making its declassification determination. The declassifying agency or the Department of State, as appropriate, may consult with the foreign government prior to declassification.

(j) *Assistance to the Archivist of the United States.* Agencies shall consult with the Director of the NDC established in section 3.7 of the Order concerning their automatic declassification programs. At the request of the Archivist, agencies shall cooperate with the Director of the NDC in developing priorities for the declassification of records to ensure that declassification is accomplished efficiently and in a timely manner. Agencies shall consult with NARA and the Director of the NDC before reviewing records in their holdings to ensure that appropriate procedures are established for maintaining the integrity of the records and that NARA receives accurate and sufficient information about agency declassification actions, including metadata and other processing information, when records are accessioned by NARA. This data shall include certification by the agency that the records have been reviewed in accordance with Public Law 105–261, section 3161 governing Restricted Data and Formerly Restricted Data.

(k) *Use of approved declassification guides.* Approved declassification guides are the sole basis for the exemption from automatic declassification of specific information as provided in section 3.3(b) of the Order and the sole basis for the continued classification of information under section 3.3(h) of the Order. These guides must be prepared in accordance with section 3.3(j) of the Order and include additional pertinent detail relating to the exemptions described in sections 3.3(b) and 3.3(h) of the Order, and follow the format required of declassification guides as described in § 2001.32. During a review under section 3.3 of the Order, it is expected that agencies will use these guides to identify specific information for exemption from automatic declassification. It is further expected that the guides or detailed declassification guidance will be made available to the NDC under section 3.7(b) of the Order and to appropriately cleared individuals of other agencies to support equity recognition.

(l) *Automatic declassification date.* No later than December 31 of the year that is 25 years from the date of origin, classified records determined to be permanently valuable shall be automatically declassified unless automatic declassification has been delayed for any reason as provided in § 2001.30(n) and sections 3.3(b) and (c) of the Order. If the date of origin of an individual record cannot be readily determined, the date of original classification shall be used instead.

(m) *Exemption from Automatic Declassification at 25, 50, or 75 years.* Agencies may propose to exempt from automatic declassification specific information, either by reference to information in specific records, in specific file series of records, or in the form of a declassification guide, in accordance with section 3.3(j) of the Order. Agencies may propose to exempt information within five years of, but not later than one year before the information is subject to automatic declassification. The agency head or senior agency official, within the specified timeframe, shall notify the Director of ISOO, serving as the Executive Secretary of the Panel, of the specific information being proposed for exemption from automatic declassification.

(n) *Delays in the onset of automatic declassification*—(1) *Media that make a review for possible declassification exemptions more difficult or costly.* An agency head or senior agency official shall consult with the Director of the NDC before delaying automatic declassification for up to five years for classified information contained in media that make a review for possible declassification more difficult or costly. When determined by NARA or jointly determined by NARA and another agency, the following may be delayed

due to the increased difficulty and cost of conducting declassification processing:

(i) Records requiring extraordinary preservation or conservation treatment, to include reformatting, to preclude damage to the records by declassification processing;

(ii) Records which pose a potential menace to health, life, or property due to contamination by a hazardous substance; and

(iii) Electronic media if the media is subject to issues of software or hardware obsolescence or degraded data.

(2) *Referred records.* Records containing classified information that originated with other agencies or the disclosure of which would affect the interests or activities of other agencies and could reasonably be expected to fall under one or more of the exemption categories of section 3.3(b) of the Order shall be identified prior to the onset of automatic declassification for later referral to those agencies. Declassification reviewers shall be trained periodically on other agency equities to aid in the proper identification of other agency equities eligible for referral.

(i) Information properly identified as a referral to another agency contained in records accessioned by NARA or in the custody of the presidential libraries shall be subject to automatic declassification only after the referral has been made available by NARA for agency review in accordance with § 2001.34, provided the information has not otherwise been properly exempted by an equity holding agency under section 3.3 of the Order.

(ii) Information properly identified as a referral to another agency contained in records maintained in the physical, but not legal, custody of NARA shall be subject to automatic declassification after accessioning and in accordance with § 2001.34, provided the information has not otherwise been properly exempted by an equity holding agency under section 3.3 of the Order.

(3) *Newly discovered records.* An agency head or senior agency official must consult with the Director of ISOO on any decision to delay automatic declassification of newly discovered records no later than 90 days, from the discovery of the records. The notification shall identify the records, their volume, the anticipated date for declassification, and the circumstances of the discovery. An agency may be granted up to three years from the date of discovery to make a declassification, exemption, or referral determination. If referrals to other agencies are properly identified, they will be handled in accordance with subparagraphs 2(i) and 2(ii) above.

(4) *Integral file blocks.* Classified records within an integral file block that are otherwise subject to automatic declassification under section 3.3 of the Order shall not be automatically declassified until December 31 of the year that is 25 years from the date of the most recent record within the file block. For purposes of automatic declassification, integral file blocks shall contain only records dated within ten years of the oldest record in the file block. Integral file blocks applied prior to December 29, 2009, that cover more than ten years remain in effect until December 31, 2012, unless an agency requests an extension from the Director of ISOO on a case-by-case basis prior to December 31, 2011, which is subsequently approved.

(5) *File series exemptions.* Agencies seeking to delay the automatic declassification of a specific series of records as defined in section 6.1(r) of the Order because it almost invariably contains information that falls within one or more of the exemption categories under section 3.3(b) must submit their request in accordance with section 3.3(c) of the Order to the Director of ISOO, serving as Executive Secretary of the Panel, at least one year prior to the onset of automatic declassification. Once approved by the Panel, the records in the file series exemption remain subject to section 3.5 of the Order. This delay applies only to records within the specific file series. Copies of records within the specific file series or records of a similar topic to the specific file series located elsewhere may be exempted in accordance with exemptions approved by the Panel.

(o) *Redaction standard.* Agencies are encouraged but are not required to redact documents that contain information that is exempt from automatic declassification under section 3.3 of the Order, especially if the information that must remain classified comprises a relatively small portion of the document. Any such redactions shall be performed in accordance with policies and procedures established in accordance with § 2001.45(d).

(p) *Restricted Data and Formerly Restricted Data.* (1) Restricted Data and Formerly Restricted Data are excluded from the automatic declassification requirements in section 3.3 of the Order because they are classified under the Atomic Energy Act of 1954, as amended. Restricted Data concerns:

(i) The design, manufacture, or utilization of atomic weapons;

(ii) The production of special nuclear material, *e.g.,* enriched uranium or plutonium; or

(iii) The use of special nuclear material in the production of energy.

(2) Formerly Restricted Data is information that is still classified under the Atomic Energy Act of 1954, as amended, but which has been removed from the Restricted Data category because it is related primarily to the military utilization of atomic weapons.

(3) Any document marked as containing Restricted Data or Formerly Restricted Data or identified as potentially containing unmarked Restricted Data or Formerly Restricted Data shall be referred to the Department of Energy in accordance with § 2001.34(b)(8).

(4) Automatic declassification of documents containing Restricted Data or Formerly Restricted Data is prohibited. Documents marked as containing Restricted Data or Formerly Restricted Data are excluded from the automatic declassification provisions of the Order until the Restricted Data or Formerly Restricted Data designation is properly removed by the Department of Energy. When the Department of Energy determines that a Restricted Data or Formerly Restricted Data designation may be removed, any remaining information classified under the Order must be referred to the appropriate agency in accordance with the declassification provisions of the Order and this Directive.

(5) Any document containing information concerning foreign nuclear programs that was removed from the Restricted Data category in order to carry out provisions of the National Security Act of 1947, as amended, shall be referred to the Department of Energy.

(6) The Secretary of Energy shall determine when information concerning foreign nuclear programs that was removed from the Restricted Data category in order to carry out the provisions of the National Security Act of 1947, as amended, may be declassified. Unless otherwise determined, information concerning foreign nuclear programs (*e.g.,* intelligence assessments or reports, foreign nuclear program information provided to the U.S. Government) shall be declassified when comparable information concerning the United States nuclear program is declassified. When the Secretary of Energy determines that information concerning foreign nuclear programs may be declassified, any remaining information classified under the Order must be referred to the appropriate agency in accordance with the declassification

provisions of the Order and this Directive.

§ 2001.31 Systematic declassification review.

(a) *General.* Agencies shall establish systematic review programs for those records containing information exempted from automatic declassification. This includes individual records as well as file series of records. Agencies shall prioritize their review of such records in accordance with priorities established by the NDC.

§ 2001.32 Declassification guides.

(a) *Preparation of declassification guides.* Beginning one year after the effective date of this directive, declassification guides must be submitted to the Director of ISOO, serving as the Executive Secretary of the Panel, at least one year prior to the onset of automatic declassification for approval by the Panel. Currently approved guides remain in effect until a new guide is approved, to the extent they are otherwise applied consistent with section 3.3(b) of the Order. The information to be exempted must be narrowly defined, with sufficient specificity to allow the user to identify the information with precision. Exemptions must be based upon specific content and not type of document. Exemptions for general categories of information are not acceptable. Agencies must prepare guides that clearly delineate between the exemptions proposed under sections 3.3(b), 3.3(h)(1) and (2), and 3.3(h)(3).

(b) *General content of declassification guides.* Declassification guides must be specific and detailed as to the information requiring continued classification and clearly and demonstrably explain the reasons for continued classification. Declassification guides shall:

(1) Be submitted by the agency head or the designated senior agency official;

(2) Provide the date of issuance or last review;

(3) State precisely the information that the agency proposes to exempt from automatic declassification and to specifically declassify;

(4) Identify any related files series that have been exempted from automatic declassification pursuant to section 3.3(c) of the Order; and

(5) To the extent a guide is used in conjunction with the automatic declassification provisions in section 3.3 of the Order, state precisely the elements of information to be exempted from declassification to include:

(i) The appropriate exemption category listed in section 3.3(b), and, if appropriate, section 3.3(h) of the Order; and

(ii) A date or event for declassification that is in accordance with section 3.3(b) or section 3.3(h).

(c) *Internal review and update.* Agency declassification guides shall be reviewed and updated as circumstances require, but at least once every five years. Each agency shall maintain a list of its declassification guides in use.

(d) *Dissemination of guides.* (1) Declassification guides shall be disseminated within the agency to be used by all personnel with declassification review responsibilities.

(2) Declassification guides or detailed declassification guidance shall be submitted to the Director of the NDC in accordance with section 3.7(b)(3) of the Order.

§ 2001.33 Mandatory review for declassification.

(a) *U.S. originated information*—(1) *Regulations.* Each agency shall publish, and update as needed or required, in the **Federal Register** regulations concerning the handling of mandatory declassification review requests, to include the identity of the person(s) or office(s) to which requests should be addressed.

(2) *Processing*—(i) *Requests for classified records in the custody of the originating agency.* A valid mandatory declassification review request must be of sufficient specificity to allow agency personnel to locate the records containing the information sought with a reasonable amount of effort. Requests for broad types of information, entire file series of records, or similar non-specific requests may be denied by agencies for processing under this section. In responding to mandatory declassification review requests, agencies shall make a final determination within one year from the date of receipt. When information cannot be declassified in its entirety, agencies shall make reasonable efforts to release, consistent with other applicable laws, those declassified portions of the requested information that constitute a coherent segment. Upon denial, in whole or in part, of an initial request, the agency shall also notify the requestor of the right of an administrative appeal, which must be filed within 60 days of receipt of the denial. Agencies receiving mandatory review requests are expected to conduct a line-by-line review of the record(s) for public access and are expected to release the information to the requestor, unless that information is prohibited from release under the provisions of a statutory authority, such as, but not limited to, the Freedom of Information Act, (5 U.S.C. 552), as amended, the Presidential Records Act of 1978 (44 U.S.C. 2201–2207), or the National Security Act of 1947 (Pub. L. 235, 61 Stat. 496, 50 U.S.C. Chapter 15).

(ii) *Requests for classified records in the custody of an agency other than the originating agency.* When an agency receives a mandatory declassification review request for records in its possession that were originated by another agency, it shall refer the request and the pertinent records to the originating agency. However, if the originating agency has previously agreed that the custodial agency may review its records, the custodial agency shall review the requested records in accordance with declassification guides or guidelines provided by the originating agency. Upon receipt of a request from the referring agency, the originating agency shall promptly process the request for declassification and release in accordance with this section. The originating agency shall communicate its declassification determination to the referring agency. The referring agency is responsible for collecting all agency review results and informing the requestor of any final decision regarding the declassification of the requested information unless a prior arrangement has been made with the originating agency.

(iii) *Appeals of denials of mandatory declassification review requests.* The agency appellate authority shall normally make a determination within 60 working days following the receipt of an appeal. If additional time is required to make a determination, the agency appellate authority shall notify the requester of the additional time needed and provide the requester with the reason for the extension. The agency appellate authority shall notify the requestor in writing of the final determination and of the reasons for any denial. The appellate authority must inform the requestor of his or her final appeal rights to the Panel.

(iv) *Appeals to the Interagency Security Classification Appeals Panel.* In accordance with section 5.3(c) of the Order, the Panel shall publish in the **Federal Register** the rules and procedures for bringing mandatory declassification appeals before it.

(v) *Records subject to mandatory declassification review.* Records containing information exempted from automatic declassification in accordance with section 3.3(c) of the Order or with § 2001.30(n)(1) are still subject to the mandatory declassification review provisions of section 3.5 of the Order.

(b) *Foreign government information.* Except as provided in this paragraph, agencies shall process mandatory declassification review requests for classified records containing foreign government information in accordance with this section. The declassifying agency is the agency that initially received or classified the information. When foreign government information is being considered for declassification, the declassifying agency shall determine whether the information is subject to a treaty or international agreement that does not permit automatic or unilateral declassification. The declassifying agency or the Department of State, as appropriate, may consult with the foreign government(s) prior to declassification.

(c) *Cryptologic information.* Mandatory declassification review requests for cryptologic information shall be processed in accordance with special procedures issued by the Secretary of Defense and, when cryptologic information pertains to intelligence activities, the Director of National Intelligence.

(d) *Intelligence information.* Mandatory declassification review requests for information pertaining to intelligence sources, methods, and activities shall be processed in accordance with special procedures issued by the Director of National Intelligence.

(e) *Fees.* In responding to mandatory declassification review requests for classified records, agency heads may charge fees in accordance with 31 U.S.C. 9701 or relevant fee provisions in other applicable statutes.

(f) *Requests filed under mandatory declassification review and the Freedom of Information Act.* When a requester submits a request both under mandatory declassification review and the Freedom of Information Act (FOIA), the agency shall require the requestor to select one process or the other. If the requestor fails to select one or the other, the request will be treated as a FOIA request unless the requested materials are subject only to mandatory declassification review.

(g) *FOIA and Privacy Act requests.* Agency heads shall process requests for declassification that are submitted under the provisions of the FOIA, as amended, or the Privacy Act of 1974 (5 U.S.C. 552a), as amended, in accordance with the provisions of those Acts.

(h) *Redaction standard.* Agencies shall redact documents that are the subject of an access demand unless the overall meaning or informational value of the document is clearly distorted by redaction. The specific reason for the redaction, as provided for in section 1.4 or 3.3(b) of the Order, as applicable, must be included for each redaction. Information that is redacted due to a statutory authority must be clearly marked with the specific authority that authorizes the redaction. Any such redactions shall be performed in accordance with policies and procedures established in accordance with § 2001.45(d).

(i) *Limitations on requests.* Requests for mandatory declassification review made to an element of the Intelligence Community by anyone other than a citizen of the United States or an alien lawfully admitted for permanent residence, may be denied by the receiving Intelligence Community element. Documents required to be submitted for pre-publication review or other administrative process pursuant to an approved nondisclosure agreement are not subject to mandatory declassification review.

§ 2001.34 Referrals.

(a) *General.* Referrals are required under sections 3.3(d)(3) and 3.6(b) of the Order in order to ensure the timely, efficient, and effective processing of reviews and requests and in order to protect classified information from inadvertent disclosure.

(b) *Automatic declassification.* The referral process for records subject to automatic declassification entails identification of records containing classified information that originated with other agencies or the disclosure of which would affect the interests or activities of other agencies. Those records that could reasonably be expected to fall under one or more of the exemptions in section 3.3(b) of the Order are eligible for referral. The referral process also entails formal notification to those agencies, making the records available for review by those agencies, and recording final agency determinations.

(1) In accordance with section 3.3(d)(3) of the Order, the identification of records eligible for referral is the responsibility of the primary reviewing agency and shall be completed prior to the date of automatic declassification established by section 3.3(a) of the Order.

(2) Except as otherwise determined by the Director of the NDC, primary reviewing agencies shall utilize the Standard Form 715, *Government Declassification Review Tab,* to tab and identify any Federal record requiring referral and record the referral in a manner that provides the referral information in an NDC database system.

(3) Notification of referral of records accessioned into NARA or in the custody of the presidential libraries, and making the records available for review, is the responsibility of NARA and shall be accomplished through the NDC.

(4) Within 180 days of the effective date of this provision, the NDC shall develop and provide the affected agencies with a comprehensive and prioritized schedule for the resolution of referrals contained in accessioned Federal records and Presidential records. The schedule shall be developed in consultation with the affected agencies, consider the public interest in the records, and be in accordance with the authorized delays to automatic declassification set forth in section 3.3(d) of the Order. The initial schedule shall cover the balance of the first effective fiscal year and four subsequent fiscal years. Thereafter, the schedule shall cover five fiscal years. The NDC shall consult with the affected agencies and update and provide such schedules annually.

(5) The NDC shall provide formal notification of the availability of a referral to the receiving agency and records will be subject to automatic declassification in accordance with the schedule promulgated by the NDC in paragraph (b)(4) of this section, unless the information has been properly exempted by an equity holding agency under section 3.3 of the Order.

(6) Records in the physical but not legal custody of NARA shall be subject to automatic declassification after accessioning and in accordance with paragraphs (b)(3) and (b)(5) of this section.

(7) Agencies that establish a centralized facility as described in section 3.7(e) may make direct referrals provided such activities fall within the priorities and schedule established by the NDC and the activity is otherwise coordinated with the NDC. In such cases, the centralized facility is responsible for providing formal notification of a referral to receiving agencies and for making the records available for review or direct formal referral to agencies by providing a copy of the records unless another mechanism is identified in coordination with the NDC. As established in section 3.3(d)(3)(B), referrals to agencies from a centralized agency records facility as described in section 3.7(e) of the Order will be automatically declassified up to three years after the formal notification has been made, if the receiving agency fails to provide a final determination.

(8) Records marked as containing Restricted Data or Formerly Restricted Data or identified as potentially

containing unmarked Restricted Data or Formerly Restricted Data shall be referred to the Department of Energy through the NDC. If the Department of Energy confirms that the document contains Restricted Data or Formerly Restricted Data, it shall then be excluded from the automatic declassification provisions of the Order until the Restricted Data or Formerly Restricted Data designation is properly removed.

(i) When the Department of Energy provides notification that a Restricted Data or Formerly Restricted Data designation is not appropriate or when it is properly removed, the record shall be processed for automatic declassification through the NDC.

(ii) In all cases, should the record be the subject of an access demand made pursuant to the Order or provision of law, the information classified pursuant to Executive order (rather than the Atomic Energy Act, as amended) must stand on its own merits.

(9) The NDC, as well as any centralized agency facility established under section 3.7(e) of the Order, shall track and document referral actions and decisions in a manner that facilitates archival processing for public access. Central agency facilities must work with the NDC to ensure documentation meets NDC requirements, and transfer all documentation on pending referral actions and referral decisions to the NDC when transferring the records to NARA.

(10) In all cases, receiving agencies shall acknowledge receipt of formal referral notifications in a timely manner. If a disagreement arises concerning referral notifications, the Director of ISOO will determine the automatic declassification date and notify the senior agency official, as well as the NDC or the primary reviewing agency.

(11) *Remote Archives Capture (RAC).* Presidential records or materials scanned in the RAC process shall be prioritized and scheduled for review by the NDC. The initial notification shall be made to the agency with primary equity, which shall have up to one year to act on its information and to identify all other equities eligible for referral. All such additional referrals in an individual record shall be made at the same time, and once notified by the NDC of an eligible referral, such receiving agencies shall have up to one year to review the records before the onset of automatic declassification.

(c) *Agencies eligible to receive referrals.* The Director of ISOO will publish annually a list of those agencies eligible to receive referrals for each calendar year.

(d) *Systematic declassification review.* The identification of equities shall be accomplished in accordance with paragraph (b) of this section. Priorities for review will be established by the NDC.

(e) *Identification of interests other than national security.* Referrals under sections 3.3(d)(3) and 3.6(b) of the Order shall be assumed to be intended for later public release unless withholding is otherwise authorized and warranted under applicable law. If a receiving agency proposes to withhold any such information, it must notify the referring agency at the time they otherwise respond to the referral. Such notification shall identify the specific information at issue and the pertinent law.

§ 2001.35 Discretionary declassification.

(a) In accordance with section 3.1(d) of the Order, agencies may declassify information when the public interest in disclosure outweighs the need for continued classification.

(b) Agencies may also establish a discretionary declassification program that is separate from their automatic, systematic, and mandatory review programs.

§ 2001.36 Classified information in the custody of private organizations or individuals.

(a) *Authorized holders.* Agencies may allow for the holding of classified information by a private organization or individual provided that all access and safeguarding requirements of the Order have been met. Agencies must provide declassification assistance to such organizations or individuals.

(b) *Others.* Anyone who becomes aware of organizations or individuals who possess potentially classified national security information outside of government control must contact the Director of ISOO for guidance and assistance. The Director of ISOO, in consultation with other agencies, as appropriate, will ensure that the safeguarding and declassification requirements of the Order are met.

§ 2001.37 Assistance to the Department of State.

Heads of agencies shall assist the Department of State in its preparation of the Foreign Relations of the United States (FRUS) series by facilitating access to appropriate classified materials in their custody and by expediting declassification review of documents proposed for inclusion in the FRUS. If an agency fails to provide a final declassification review determination regarding a Department of State referral within 120 days of the date of the referral, or if applicable, within 120 days of the date of a High Level Panel decision, the Department of State, consistent with 22 U.S.C. 4353 and any implementing agency procedures, may seek the assistance of the Panel.

Subpart E—Safeguarding

§ 2001.40 General.

(a) Classified information, regardless of its form, shall be afforded a level of protection against loss or unauthorized disclosure commensurate with its level of classification.

(b) Except for foreign government information, agency heads or their designee(s) may adopt alternative measures, using risk management principles, to protect against loss or unauthorized disclosure when necessary to meet operational requirements. When alternative measures are used for other than temporary, unique situations, the alternative measures shall be documented and provided to the Director of ISOO. Upon request, the description shall be provided to any other agency with which classified information or secure facilities are shared. In all cases, the alternative measures shall provide protection sufficient to reasonably deter and detect loss or unauthorized disclosure. Risk management factors considered will include sensitivity, value, and crucial nature of the information; analysis of known and anticipated threats; vulnerability; and countermeasure benefits versus cost.

(c) North Atlantic Treaty Organization (NATO) classified information shall be safeguarded in compliance with U.S. Security Authority for NATO Instruction (USSAN) 1–07. Other foreign government information shall be safeguarded as described herein for U.S. information except as required by an existing treaty, agreement or other obligation (hereinafter, obligation). When the information is to be safeguarded pursuant to an existing obligation, the additional requirements at § 2001.54 may apply to the extent they were required in the obligation as originally negotiated or are agreed upon during amendment. Negotiations on new obligations or amendments to existing obligations shall strive to bring provisions for safeguarding foreign government information into accord with standards for safeguarding U.S. information as described in this Directive.

(d) *Need-to-know determinations.* (1) Agency heads, through their designees, shall identify organizational missions

and personnel requiring access to classified information to perform or assist in authorized governmental functions. These mission and personnel requirements are determined by the functions of an agency or the roles and responsibilities of personnel in the course of their official duties. Personnel determinations shall be consistent with section 4.1(a) of the Order.

(2) In instances where the provisions of section 4.1(a) of the Order are met, but there is a countervailing need to restrict the information, disagreements that cannot be resolved shall be referred by agency heads or designees to either the Director of ISOO or, with respect to the Intelligence Community, the Director of National Intelligence, as appropriate. Disagreements concerning information protected under section 4.3 of the Order shall instead be referred to the appropriate official named in section 4.3 of the Order.

§ 2001.41 Responsibilities of holders.

Authorized persons who have access to classified information are responsible for:

(a) Protecting it from persons without authorized access to that information, to include securing it in approved equipment or facilities whenever it is not under the direct control of an authorized person;

(b) Meeting safeguarding requirements prescribed by the agency head; and

(c) Ensuring that classified information is not communicated over unsecured voice or data circuits, in public conveyances or places, or in any other manner that permits interception by unauthorized persons.

§ 2001.42 Standards for security equipment.

(a) *Storage.* The Administrator of the General Services Administration (GSA) shall, in coordination with agency heads originating classified information, establish and publish uniform standards, specifications, qualified product lists or databases, and supply schedules for security equipment designed to provide secure storage for classified information. Whenever new secure storage equipment is procured, it shall be in conformance with the standards and specifications established by the Administrator of the GSA, and shall, to the maximum extent possible, be of the type available through the Federal Supply System.

(b) *Destruction.* Effective January 1, 2011, only equipment listed on an Evaluated Products List (EPL) issued by the National Security Agency (NSA) may be utilized to destroy classified information using any method covered by an EPL. However, equipment approved for use prior to January 1, 2011, and not found on an EPL, may be utilized for the destruction of classified information until December 31, 2016. Unless NSA determines otherwise, whenever an EPL is revised, equipment removed from an EPL may be utilized for the destruction of classified information up to six years from the date of its removal from an EPL. In all cases, if any such previously approved equipment needs to be replaced or otherwise requires a rebuild or replacement of a critical assembly, the unit must be taken out of service for the destruction in accordance with this section. The Administrator of the GSA shall, to the maximum extent possible, coordinate supply schedules and otherwise seek to make equipment on an EPL available through the Federal Supply System.

§ 2001.43 Storage.

(a) *General.* Classified information shall be stored only under conditions designed to deter and detect unauthorized access to the information. Storage at overseas locations shall be at U.S. Government-controlled facilities unless otherwise stipulated in treaties or international agreements. Overseas storage standards for facilities under a Chief of Mission are promulgated under the authority of the Overseas Security Policy Board.

(b) *Requirements for physical protection*—(1) *Top Secret.* Top Secret information shall be stored in a GSA-approved security container, a vault built to Federal Standard (FED STD) 832, or an open storage area constructed in accordance with § 2001.53. In addition, supplemental controls are required as follows:

(i) For GSA-approved containers, one of the following supplemental controls:

(A) Inspection of the container every two hours by an employee cleared at least to the Secret level;

(B) An Intrusion Detection System (IDS) with the personnel responding to the alarm arriving within 15 minutes of the alarm annunciation. Acceptability of Intrusion Detection Equipment (IDE): All IDE must be in accordance with standards approved by ISOO. Government and proprietary installed, maintained, or furnished systems are subject to approval only by the agency head; or

(C) Security-In-Depth coverage of the area in which the container is located, provided the container is equipped with a lock meeting Federal Specification FF–L–2740.

(ii) For open storage areas covered by Security-In-Depth, an IDS with the personnel responding to the alarm arriving within 15 minutes of the alarm annunciation.

(iii) For open storage areas not covered by Security-In-Depth, personnel responding to the alarm shall arrive within five minutes of the alarm annunciation.

(2) *Secret.* Secret information shall be stored in the same manner as Top Secret information or, until October 1, 2012, in a non-GSA-approved container having a built-in combination lock or in a non-GSA-approved container secured with a rigid metal lockbar and an agency head approved padlock. Security-In-Depth is required in areas in which a non-GSA-approved container or open storage area is located. Except for storage in a GSA-approved container or a vault built to FED STD 832, one of the following supplemental controls is required:

(i) Inspection of the container or open storage area every four hours by an employee cleared at least to the Secret level; or

(ii) An IDS with the personnel responding to the alarm arriving within 30 minutes of the alarm annunciation.

(3) *Confidential.* Confidential information shall be stored in the same manner as prescribed for Top Secret or Secret information except that supplemental controls are not required.

(c) *Combinations.* Use and maintenance of dial-type locks and other changeable combination locks.

(1) *Equipment in service.* Combinations to dial-type locks shall be changed only by persons authorized access to the level of information protected unless other sufficient controls exist to prevent access to the lock or knowledge of the combination. Combinations shall be changed under the following conditions:

(i) Whenever such equipment is placed into use;

(ii) Whenever a person knowing the combination no longer requires access to it unless other sufficient controls exist to prevent access to the lock; or

(iii) Whenever a combination has been subject to possible unauthorized disclosure.

(2) *Equipment out of service.* When security equipment is taken out of service, it shall be inspected to ensure that no classified information remains and the combination lock should be reset to a standard combination of 50–25–50 for built-in combination locks or 10–20–30 for combination padlocks.

(d) *Key operated locks.* When special circumstances exist, an agency head may approve the use of key operated locks for the storage of Secret and Confidential information. Whenever such locks are used, administrative

procedures for the control and accounting of keys and locks shall be included in implementing regulations required under section 5.4(d)(2) of the Order.

(e) *Repairs.* The neutralization and repair of GSA-approved security containers and vault doors will be in accordance with FED STD 809.

§ 2001.44 Reciprocity of use and inspection of facilities.

(a) Once a facility is authorized, approved, certified, or accredited for classified use, then all agencies desiring to conduct classified work in the designated space(s) at the same security level shall accept the authorization, approval, certification, or accreditation without change, enhancements, or upgrades provided that no waiver, exception, or deviation has been issued or approved. In the event that a waiver exception, or deviation was granted in the original accreditation of the designated space(s), an agency seeking to utilize the designated facility space may require that a risk mitigation strategy be implemented or agreed upon prior to using the space(s).

(b) Subsequent security inspections or reviews for authorization, approval, certification, or accreditation purposes shall normally be conducted no more frequently than annually unless otherwise required due to a change in the designated facility space(s) or due to a change in the use or ownership of the facility space(s). This does not imply a formal one-year inspection or review requirement or establish any other formal period for inspections or review.

§ 2001.45 Information controls.

(a) *General.* Agency heads shall establish a system of control measures which assure that access to classified information is provided to authorized persons. The control measures shall be appropriate to the environment in which the access occurs and the nature and volume of the information. The system shall include technical, physical, and personnel control measures. Administrative control measures which may include records of internal distribution, access, generation, inventory, reproduction, and disposition of classified information shall be required when technical, physical and personnel control measures are insufficient to deter and detect access by unauthorized persons.

(1) *Combinations.* Combinations to locks used to secure vaults, open storage areas, and security containers that are approved for the safeguarding of classified information shall be protected in the same manner as the highest level of classified information that the vault, open storage area, or security container is used to protect.

(2) *Computer and information system passwords.* Passwords shall be protected in the same manner as the highest level of classified information that the computer or system is certified and accredited to process. Passwords shall be changed on a frequency determined to be sufficient to meet the level of risk assessed by the agency.

(b) *Reproduction.* Reproduction of classified information shall be held to the minimum consistent with operational requirements. The following additional control measures shall be taken:

(1) Reproduction shall be accomplished by authorized persons knowledgeable of the procedures for classified reproduction;

(2) Unless restricted by the originating agency, Top Secret, Secret, and Confidential information may be reproduced to the extent required by operational needs, or to facilitate review for declassification;

(3) Copies of classified information shall be subject to the same controls as the original information; and

(4) The use of technology that prevents, discourages, or detects the unauthorized reproduction of classified information is encouraged.

(c) *Forms.* The use of standard forms prescribed in Subpart H of this part is mandatory for all agencies that create and/or handle national security information.

(d) *Redaction*—(1) *Policies and procedures.* Classified information may be subject to loss, compromise, or unauthorized disclosure if it is not correctly redacted. Agencies shall establish policies and procedures for the redaction of classified information from documents intended for release. Such policies and procedures require the approval of the agency head and shall be sufficiently detailed to ensure that redaction is performed consistently and reliably, using only approved redaction methods that permanently remove the classified information from copies of the documents intended for release. Agencies shall ensure that personnel who perform redaction fully understand the policies, procedures, and methods and are aware of the vulnerabilities surrounding the process.

(2) *Technical guidance for redaction.* Technical guidance concerning appropriate methods, equipment, and standards for the redaction of classified electronic and optical media shall be issued by NSA.

§ 2001.46 Transmission.

(a) *General.* Classified information shall be transmitted and received in an authorized manner which ensures that evidence of tampering can be detected, that inadvertent access can be precluded, and that provides a method which assures timely delivery to the intended recipient. Persons transmitting classified information are responsible for ensuring that intended recipients are authorized persons with the capability to store classified information in accordance with this Directive.

(b) *Dispatch.* Agency heads shall establish procedures which ensure that:

(1) All classified information physically transmitted outside facilities shall be enclosed in two layers, both of which provide reasonable evidence of tampering and which conceal the contents. The inner enclosure shall clearly identify the address of both the sender and the intended recipient, the highest classification level of the contents, and any appropriate warning notices. The outer enclosure shall be the same except that no markings to indicate that the contents are classified shall be visible. Intended recipients shall be identified by name only as part of an attention line. The following exceptions apply:

(i) If the classified information is an internal component of a packable item of equipment, the outside shell or body may be considered as the inner enclosure provided it does not reveal classified information;

(ii) If the classified information is an inaccessible internal component of a bulky item of equipment, the outside or body of the item may be considered to be a sufficient enclosure provided observation of it does not reveal classified information;

(iii) If the classified information is an item of equipment that is not reasonably packable and the shell or body is classified, it shall be concealed with an opaque enclosure that will hide all classified features;

(iv) Specialized shipping containers, including closed cargo transporters or diplomatic pouch, may be considered the outer enclosure when used; and

(v) When classified information is hand-carried outside a facility, a locked briefcase may serve as the outer enclosure.

(2) Couriers and authorized persons designated to hand-carry classified information shall ensure that the information remains under their constant and continuous protection and that direct point-to-point delivery is made. As an exception, agency heads may approve, as a substitute for a courier on direct flights, the use of

specialized shipping containers that are of sufficient construction to provide evidence of forced entry, are secured with a combination padlock meeting Federal Specification FF–P–110, are equipped with an electronic seal that would provide evidence of surreptitious entry and are handled by the carrier in a manner to ensure that the container is protected until its delivery is completed.

(c) *Transmission methods within and between the U.S., Puerto Rico, or a U.S. possession or trust territory.*

(1) *Top Secret.* Top Secret information shall be transmitted by direct contact between authorized persons; the Defense Courier Service or an authorized government agency courier service; a designated courier or escort with Top Secret clearance; electronic means over approved communications systems. Under no circumstances will Top Secret information be transmitted via the U.S. Postal Service or any other cleared or uncleared commercial carrier.

(2) *Secret.* Secret information shall be transmitted by:

(i) Any of the methods established for Top Secret; U.S. Postal Service Express Mail and U.S. Postal Service Registered Mail, as long as the Waiver of Signature block on the U.S. Postal Service Express Mail Label shall not be completed; and cleared commercial carriers or cleared commercial messenger services. The use of street-side mail collection boxes is strictly prohibited; and

(ii) Agency heads may, when a requirement exists for overnight delivery within the U.S. and its Territories, authorize the use of the current holder of the GSA contract for overnight delivery of information for the Executive Branch as long as applicable postal regulations (39 CFR. Chapter I) are met. Any such delivery service shall be U.S. owned and operated, provide automated in-transit tracking of the classified information, and ensure package integrity during transit. The contract shall require cooperation with government inquiries in the event of a loss, theft, or possible unauthorized disclosure of classified information. The sender is responsible for ensuring that an authorized person will be available to receive the delivery and verification of the correct mailing address. The package may be addressed to the recipient by name. The release signature block on the receipt label shall not be executed under any circumstances. The use of external (street side) collection boxes is prohibited. Classified Communications Security Information, NATO, and foreign government information shall not be transmitted in this manner.

(3) *Confidential.* Confidential information shall be transmitted by any of the methods established for Secret information or U.S. Postal Service Certified Mail. In addition, when the recipient is a U.S. Government facility, the Confidential information may be transmitted via U.S. First Class Mail. However, Confidential information shall not be transmitted to government contractor facilities via first class mail. When first class mail is used, the envelope or outer wrapper shall be marked to indicate that the information is not to be forwarded, but is to be returned to sender. The use of streetside mail collection boxes is prohibited.

(d) *Transmission methods to a U.S. Government facility located outside the U.S.* The transmission of classified information to a U.S. Government facility located outside the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, or a U.S. possession or trust territory, shall be by methods specified above for Top Secret information or by the Department of State Courier Service. U.S. Registered Mail through Military Postal Service facilities may be used to transmit Secret and Confidential information provided that the information does not at any time pass out of U.S. citizen control nor pass through a foreign postal system.

(e) *Transmission of U.S. classified information to foreign governments.* Such transmission shall take place between designated government representatives using the government-to-government transmission methods described in paragraph (d) of this section or through channels agreed to by the National Security Authorities of the two governments. When classified information is transferred to a foreign government or its representative a signed receipt is required.

(f) *Receipt of classified information.* Agency heads shall establish procedures which ensure that classified information is received in a manner which precludes unauthorized access, provides for inspection of all classified information received for evidence of tampering and confirmation of contents, and ensures timely acknowledgment of the receipt of Top Secret and Secret information by an authorized recipient. As noted in paragraph (e) of this section, a receipt acknowledgment of all classified material transmitted to a foreign government or its representative is required.

§ 2001.47 Destruction.

Classified information identified for destruction shall be destroyed completely to preclude recognition or reconstruction of the classified information in accordance with procedures and methods prescribed by agency heads. The methods and equipment used to routinely destroy classified information include burning, cross-cut shredding, wet-pulping, melting, mutilation, chemical decomposition or pulverizing. Agencies shall comply with the destruction equipment standard stated in § 2001.42(b) of this Directive.

§ 2001.48 Loss, possible compromise or unauthorized disclosure.

(a) *General.* Any person who has knowledge that classified information has been or may have been lost, possibly compromised or disclosed to an unauthorized person(s) shall immediately report the circumstances to an official designated for this purpose.

(b) *Cases involving information originated by a foreign government or another U.S. government agency.* Whenever a loss or possible unauthorized disclosure involves the classified information or interests of a foreign government agency, or another U.S. government agency, the department or agency in which the compromise occurred shall advise the other government agency or foreign government of the circumstances and findings that affect their information or interests. However, foreign governments normally will not be advised of any security system vulnerabilities that contributed to the compromise.

(c) *Inquiry/investigation and corrective actions.* Agency heads shall establish appropriate procedures to conduct an inquiry/investigation of a loss, possible compromise or unauthorized disclosure of classified information, in order to implement appropriate corrective actions, which may include disciplinary sanctions, and to ascertain the degree of damage to national security.

(d) *Reports to ISOO.* In accordance with section 5.5(e)(2) of the Order, agency heads or senior agency officials shall notify the Director of ISOO when a violation occurs under paragraphs 5.5(b)(1), (2), or (3) of the Order that:

(1) Is reported to oversight committees in the Legislative branch;

(2) May attract significant public attention;

(3) Involves large amounts of classified information; or

(4) Reveals a potential systemic weakness in classification, safeguarding, or declassification policy or practices.

(e) *Department of Justice and legal counsel coordination.* Agency heads shall establish procedures to ensure coordination with legal counsel whenever a formal action, beyond a

reprimand, is contemplated against any person believed responsible for the unauthorized disclosure of classified information. Whenever a criminal violation appears to have occurred and a criminal prosecution is contemplated, agency heads shall use established procedures to ensure coordination with:

(1) The Department of Justice, and

(2) The legal counsel of the agency where the individual responsible is assigned or employed.

§ 2001.49 Special access programs.

(a) *General.* The safeguarding requirements of this Directive may be enhanced for information in special access programs (SAP), established under the provisions of section 4.3 of the Order by the agency head responsible for creating the SAP. Agency heads shall ensure that the enhanced controls are based on an assessment of the value, critical nature, and vulnerability of the information.

(b) *Significant interagency support requirements.* Agency heads must ensure that a Memorandum of Agreement/Understanding is established for each SAP that has significant interagency support requirements, to appropriately and fully address support requirements and supporting agency oversight responsibilities for that SAP.

§ 2001.50 Telecommunications automated information systems and network security.

Each agency head shall ensure that classified information electronically accessed, processed, stored or transmitted is protected in accordance with applicable national policy issuances identified in the Committee on National Security Systems (CNSS) issuances and the Intelligence Community Directive (ICD) 503, *Intelligence Community Information Technology Systems Security Risk Management, Certification, and Accreditation.*

§ 2001.51 Technical security.

Based upon the risk management factors referenced in § 2001.40 of this directive, agency heads shall determine the requirement for technical countermeasures such as Technical Surveillance Countermeasures and TEMPEST necessary to detect or deter exploitation of classified information through technical collection methods and may apply countermeasures in accordance with NSTISSI 7000, *TEMPEST Countermeasures for Facilities,* and SPB Issuance 6–97, *National Policy on Technical Surveillance Countermeasures.*

§ 2001.52 Emergency authority.

(a) Agency heads or any designee may prescribe special provisions for the dissemination, transmission, safeguarding, and destruction of classified information during certain emergency situations.

(b) In emergency situations, in which there is an imminent threat to life or in defense of the homeland, agency heads or designees may authorize the disclosure of classified information to an individual or individuals who are otherwise not routinely eligible for access under the following conditions:

(1) Limit the amount of classified information disclosed to the absolute minimum to achieve the purpose;

(2) Limit the number of individuals who receive it;

(3) Transmit the classified information via approved Federal Government channels by the most secure and expeditious method to include those required in § 2001.46, or other means deemed necessary when time is of the essence;

(4) Provide instructions about what specific information is classified and how it should be safeguarded; physical custody of classified information must remain with an authorized Federal Government entity, in all but the most extraordinary circumstances;

(5) Provide appropriate briefings to the recipients on their responsibilities not to disclose the information and obtain a signed nondisclosure agreement;

(6) Within 72 hours of the disclosure of classified information, or the earliest opportunity that the emergency permits, but no later than 30 days after the release, the disclosing authority must notify the originating agency of the information by providing the following information:

(i) A description of the disclosed information;

(ii) To whom the information was disclosed;

(iii) How the information was disclosed and transmitted;

(iv) Reason for the emergency release;

(v) How the information is being safeguarded; and

(vi) A description of the briefings provided and a copy of the nondisclosure agreements signed.

(7) Information disclosed in emergency situations shall not be required to be declassified as a result of such disclosure or subsequent use by a recipient.

§ 2001.53 Open storage areas.

This section describes the minimum construction standards for open storage areas.

(a) *Construction.* The perimeter walls, floors, and ceiling will be permanently constructed and attached to each other. All construction must be done in a manner as to provide visual evidence of unauthorized penetration.

(b) *Doors.* Doors shall be constructed of wood, metal, or other solid material. Entrance doors shall be secured with a built-in GSA-approved three-position combination lock. When special circumstances exist, the agency head may authorize other locks on entrance doors for Secret and Confidential storage. Doors other than those secured with the aforementioned locks shall be secured from the inside with either deadbolt emergency egress hardware, a deadbolt, or a rigid wood or metal bar which extends across the width of the door, or by other means approved by the agency head.

(c) *Vents, ducts, and miscellaneous openings.* All vents, ducts, and similar openings in excess of 96 square inches (and over 6 inches in its smallest dimension) that enter or pass through an open storage area shall be protected with either bars, expanded metal grills, commercial metal sounds baffles, or an intrusion detection system.

(d) *Windows.* (1) All windows which might reasonably afford visual observation of classified activities within the facility shall be made opaque or equipped with blinds, drapes, or other coverings.

(2) Windows within 18 feet of the ground will be constructed from or covered with materials which provide protection from forced entry. The protection provided to the windows need be no stronger than the strength of the contiguous walls. Open storage areas which are located within a controlled compound or equivalent may eliminate the requirement for forced entry protection if the windows are made inoperable either by permanently sealing them or equipping them on the inside with a locking mechanism and they are covered by an IDS (either independently or by the motion detection sensors within the area).

§ 2001.54 Foreign government information.

The requirements described below are additional baseline safeguarding standards that may be necessary for foreign government information, other than NATO information, that requires protection pursuant to an existing treaty, agreement, bilateral exchange or other obligation. NATO classified information shall be safeguarded in compliance with USSAN 1–07. To the extent practical, and to facilitate its control, foreign government information

should be stored separately from other classified information. To avoid additional costs, separate storage may be accomplished by methods such as separate drawers of a container. The safeguarding standards described in paragraphs (a) through (e) of this section may be modified if required or permitted by treaties or agreements, or for other obligations, with the prior written consent of the National Security Authority of the originating government, hereafter "originating government."

(a) *Top Secret.* Records shall be maintained of the receipt, internal distribution, destruction, access, reproduction, and transmittal of foreign government Top Secret information. Reproduction requires the consent of the originating government. Destruction will be witnessed.

(b) *Secret.* Records shall be maintained of the receipt, external dispatch and destruction of foreign government Secret information. Other records may be necessary if required by the originator. Secret foreign government information may be reproduced to meet mission requirements unless prohibited by the originator. Reproduction shall be recorded unless this requirement is waived by the originator.

(c) *Confidential.* Records need not be maintained for foreign government Confidential information unless required by the originator.

(d) *Restricted and other foreign government information provided in confidence.* In order to assure the protection of other foreign government information provided in confidence (*e.g.,* foreign government "Restricted," "Designated," or unclassified provided in confidence), such information must be classified under the Order. The receiving agency, or a receiving U.S. contractor, licensee, grantee, or certificate holder acting in accordance with instructions received from the U.S. Government, shall provide a degree of protection to the foreign government information at least equivalent to that required by the government or international organization that provided the information. When adequate to achieve equivalency, these standards may be less restrictive than the safeguarding standards that ordinarily apply to U.S. Confidential information. If the foreign protection requirement is lower than the protection required for U.S. Confidential information, the following requirements shall be met:

(1) Documents may retain their original foreign markings if the responsible agency determines that these markings are adequate to meet the purposes served by U.S. classification markings. Otherwise, documents shall be marked, "This document contains (insert name of country) (insert classification level) information to be treated as U.S. (insert classification level)." The notation, "Modified Handling Authorized," may be added to either the foreign or U.S. markings authorized for foreign government information. If remarking foreign originated documents or matter is impractical, an approved cover sheet is an authorized option;

(2) Documents shall be provided only to persons in accordance with sections 4.1(a) and (h) of the Order;

(3) Individuals being given access shall be notified of applicable handling instructions. This may be accomplished by a briefing, written instructions, or by applying specific handling requirements to an approved cover sheet;

(4) Documents shall be stored in such a manner so as to prevent unauthorized access;

(5) Documents shall be transmitted in a method approved for classified information, unless this method is waived by the originating government.

(e) *Third-country transfers.* The release or disclosure of foreign government information to any third-country entity must have the prior consent of the originating government if required by a treaty, agreement, bilateral exchange, or other obligation.

§ 2001.55 Foreign disclosure of classified information.

Classified information originating in one agency may be disseminated by any other agency to which it has been made available to a foreign government or international organization of governments, or any element thereof, in accordance with statute, the Order, directives implementing the Order, direction of the President, or with the consent of the originating agency, unless the originating agency has determined that prior authorization is required for such dissemination and has marked or indicated such requirement on the medium containing the classified information. Markings used to implement this section shall be approved in accordance with § 2001.24(j). With respect to the Intelligence Community, the Director of National Intelligence may issue policy directives or guidelines pursuant to section 6.2(b) of the Order that modify such prior authorization.

Subpart F—Self-Inspections

§ 2001.60 General.

(a) *Purpose.* This subpart sets standards for establishing and maintaining an ongoing agency self-inspection program, which shall include regular reviews of representative samples of the agency's original and derivative classification actions.

(b) *Responsibility.* The senior agency official is responsible for directing and administering the agency's self-inspection program. The senior agency official shall designate agency personnel to assist in carrying out this responsibility. The program shall be structured to provide the senior agency official with information necessary to assess the effectiveness of the classified national security information program within individual agency activities and the agency as a whole, in order to enable the senior agency official to fulfill his or her responsibility to oversee the agency's program under section 5.4(d) of the Order.

(c) *Approach.* The senior agency official shall determine the means and methods for the conduct of self-inspections.

(1) Self-inspections should evaluate the adherence to the principles and requirements of the Order and this directive and the effectiveness of agency programs covering original classification, derivative classification, declassification, safeguarding, security violations, security education and training, and management and oversight.

(2) Regular reviews of representative samples of the agency's original and derivative classification actions shall encompass all agency activities that generate classified information. They shall include a sample of varying types of classified information (in document and electronic format such as e-mail) to provide a representative sample of the activity's classification actions. The sample shall be proportionally sufficient to enable a credible assessment of the agency's classified product. Agency personnel who are assigned to conduct reviews of agencies' original and derivative classification actions shall be knowledgeable of the classification and marking requirements of the Order and this directive, and have access to pertinent security classification guides. In accordance with section 5.4(d)(4) of the Order, the senior agency official shall authorize appropriate agency officials to correct misclassification actions.

(3) Self-inspections should include a review of relevant security directives and instructions, as well as interviews with producers and users of classified information.

(d) *Frequency.* Self-inspections shall be regular, ongoing, and conducted at least annually with the senior agency

official setting the frequency on the basis of program needs and the degree of classification activity. Activities that generate significant amounts of classified information shall include a representative sample of their original and derivative classification actions.

(e) *Coverage.* The senior agency official shall establish self-inspection coverage requirements based on program and policy needs. Agencies with special access programs shall evaluate those programs in accordance with sections 4.3(b)(2) and (4) of the Order, at least annually.

(f) *Reporting.* Agencies shall document the findings of self-inspections internally.

(1) *Internal.* The senior agency official shall set the format for documenting self-inspection findings. As part of corrective action for findings and other concerns of a systemic nature, refresher security education and training should address the underlying cause(s) of the issue.

(2) *External.* The senior agency official shall report annually to the Director of ISOO on the agency's self-inspection program. This report shall include:

(i) A description of the agency's self-inspection program to include activities assessed, program areas covered, and methodology utilized;

(ii) The assessment and a summary of the findings of the agency self-inspections in the following program areas: Original classification, derivative classification, declassification, safeguarding, security violations, security education and training, and management and oversight;

(iii) Specific information with regard to the findings of the annual review of the agency's original and derivative classification actions to include the volume of classified materials reviewed and the number and type of discrepancies that were identified;

(iv) Actions that have been taken or are planned to correct identified deficiencies or misclassification actions, and to deter their reoccurrence; and

(v) Best practices that were identified during self-inspections.

Subpart G—Security Education and Training

§ 2001.70 General.

(a) *Purpose.* This subpart sets standards for agency security education and training programs. Implementation of these standards should:

(1) Ensure that all executive branch employees who create, process, or handle classified information have a satisfactory knowledge and understanding of classification, safeguarding, and declassification policies and procedures;

(2) Increase uniformity in the conduct of agency security education and training programs; and

(3) Reduce instances of over-classification or improper classification, improper safeguarding, and inappropriate or inadequate declassification practices.

(b) *Responsibility.* The senior agency official is responsible for the agency's security education and training program. The senior agency official shall designate agency personnel, as necessary, to assist in carrying out this responsibility.

(c) *Approach.* Security education and training should be tailored to meet the specific needs of the agency's security program and the specific roles employees are expected to play in that program. The agency official(s) responsible for the program shall determine the means and methods for providing security education and training. Training methods may include briefings, interactive videos, dissemination of instructional materials, on-line presentations, and other media and methods. Each agency shall maintain records about the programs it has offered and employee participation in them.

(d) *Frequency.* The frequency of agency security education and training will vary in accordance with the needs of the agency's security classification program, subject to the following requirements:

(1) Initial training shall be provided to every person who has met the standards for access to classified information in accordance with section 4.1 of the Order.

(2) Original classification authorities shall receive training in proper classification and declassification prior to originally classifying information and at least once each calendar year thereafter.

(3) Persons who apply derivative classification markings shall receive training in the proper application of the derivative classification principles of the Order prior to derivatively classifying information and at least once every two years.

(4) Each agency shall provide some form of refresher security education and training at least annually for all its personnel who handle or generate classified information.

§ 2001.71 Coverage.

(a) *General.* Each department or agency shall establish and maintain a formal security education and training program which provides for initial training, refresher training, specialized training, and termination briefings. This subpart establishes fundamental security education and training standards for original classification authorities, derivative classifiers, declassification authorities, security managers, classification management officers, security specialists, and all other personnel whose duties significantly involve the creation or handling of classified information. Agency officials responsible for the security education and training programs should determine the specific training to be provided according to the agency's program and policy needs.

(b) *Initial training.* All cleared agency personnel shall receive initial training on basic security policies, principles, practices, and criminal, civil, and administrative penalties. Such training must be provided in conjunction with the granting of a security clearance, and prior to accessing classified information.

(c) *Training for original classification authorities.* Original classification authorities shall be provided detailed training on proper classification and declassification, with an emphasis on the avoidance of over-classification. At a minimum, the training shall cover classification standards, classification levels, classification authority, classification categories, duration of classification, identification and markings, classification prohibitions and limitations, sanctions, classification challenges, security classification guides, and information sharing.

(1) Personnel shall receive this training prior to originally classifying information.

(2) In addition to this initial training, original classification authorities shall receive training in proper classification and declassification at least once each calendar year.

(3) Original classification authorities who do not receive such mandatory training at least once within a calendar year shall have their classification authority suspended until such training has taken place.

(i) An agency head, deputy agency head, or senior agency official may grant a waiver of this requirement if an individual is unable to receive this training due to unavoidable circumstances. All such waivers shall be documented.

(ii) Whenever such a waiver is granted, the individual shall receive the required training as soon as practicable.

(d) *Training for persons who apply derivative classification markings.* Persons who apply derivative classification markings shall receive

training in the proper application of the derivative classification principles of the Order, emphasizing the avoidance of over-classification. At a minimum, the training shall cover the principles of derivative classification, classification levels, duration of classification, identification and markings, classification prohibitions and limitations, sanctions, classification challenges, security classification guides, and information sharing.

(1) Personnel shall receive this training prior to derivatively classifying information.

(2) In addition to this preparatory training, derivative classifiers shall receive such training at least once every two years.

(3) Derivative classifiers who do not receive such mandatory training at least once every two years shall have their authority to apply derivative classification markings suspended until they have received such training.

(i) An agency head, deputy agency head, or senior agency official may grant a waiver of this requirement if an individual is unable to receive this training due to unavoidable circumstances. All such waivers shall be documented.

(ii) Whenever such a waiver is granted, the individual shall receive the required training as soon as practicable.

(e) *Other specialized security education and training.* Classification management officers, security managers, security specialists, declassification authorities, and all other personnel whose duties significantly involve the creation or handling of classified information shall receive more detailed or additional training no later than six months after assumption of duties that require other specialized training.

(f) *Annual refresher security education and training.* Agencies shall provide annual refresher training to employees who create, process, or handle classified information. Annual refresher training should reinforce the policies, principles and procedures covered in initial and specialized training. Annual refresher training should also address identification and handling of other agency-originated information and foreign government information, as well as the threat and the techniques employed by foreign intelligence activities attempting to obtain classified information, and advise personnel of penalties for engaging in espionage activities. Annual refresher training should also address issues or concerns identified during agency self-inspections.

(g) *Termination briefings.* Except in extraordinary circumstances, each agency shall ensure that each employee who is granted access to classified information and who leaves the service of the agency receives a termination briefing. Also, each agency employee whose clearance is withdrawn or revoked must receive such a briefing. At a minimum, termination briefings must impress upon each employee the continuing responsibility not to disclose any classified information to which the employee had access and the potential penalties for non-compliance, and the obligation to return to the appropriate agency official all classified documents and materials in the employee's possession.

(h) *Other security education and training.* Agencies are encouraged to develop additional security education and training according to program and policy needs. Such security education and training could include:

(1) Practices applicable to U.S. officials traveling overseas;

(2) Procedures for protecting classified information processed and stored in automated information systems;

(3) Methods for dealing with uncleared personnel who work in proximity to classified information;

(4) Responsibilities of personnel serving as couriers of classified information; and

(5) Security requirements that govern participation in international programs.

Subpart H—Standard Forms

§ 2001.80 Prescribed standard forms.

(a) *General.* The purpose of the standard forms is to promote the implementation of the government-wide information security program. Standard forms are prescribed when their use will enhance the protection of national security information and/or will reduce the costs associated with its protection. The use of the standard forms prescribed is mandatory for agencies of the executive branch that create or handle national security information. As appropriate, these agencies may mandate the use of these forms by their contractors, licensees, or grantees who are authorized access to national security information.

(b) *Waivers.* Except for the SF 312, "Classified Information Nondisclosure Agreement," and the SF 714, "Financial Disclosure Report," (which are waiverable by the Director of National Intelligence, as the Security Executive Agent, under E.O. 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information*) only the Director of ISOO may grant a waiver from the use of the prescribed standard forms. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The Director of ISOO will review the request and notify the agency of the decision. Waivers approved prior to December 29, 2009, remain in effect and are subject to review.

(c) *Availability.* Agencies may obtain copies of the standard forms prescribed by ordering through FEDSTRIP/MILSTRIP or from the GSA Consumer Global Supply Centers, or the GSA Advantage on-line service. Some of these standard forms can be downloaded from the GSA Forms Library.

(d) *Standard Forms.* Standard forms required for application to national security information are as follows.

(1) *SF 311, Agency Security Classification Management Program Data:* The SF 311 is a data collection form completed by only those executive branch agencies that create and/or handle classified national security information. The form is a record of classification management data provided by the agencies. The agencies submit the completed forms on an annual basis to ISOO, no later than November 15 following the reporting period, for inclusion in a report to the President.

(2) *SF 312, Classified Information Nondisclosure Agreement:*

(i) The SF 312 is a nondisclosure agreement between the United States and an employee of the Federal Government or one of its contractors, licensees, or grantees. The prior execution of this form by an individual is necessary before the United States Government may grant that individual access to classified information, with the exception of an emergency as defined in section 4.2(b) of the Order.

(ii) Electronic signatures on SF–312s are prohibited.

(iii) The SF 312 is the current authorized form; if an employee originally signed the now outdated SF 189 or SF 189–A, or a form under an approved waiver, as agreement to nondisclosure, the forms remain valid. The SF 189 and SF 189–A are no longer available for use with new employees.

(iv) The use of the "Security Debriefing Acknowledgement" portion of the SF 312 is optional at the discretion of the implementing agency. If an agency chooses not to record its debriefing by signing/dating the debriefing section of the SF 312, then

the agency shall provide an alternative record.

(v) An authorized representative of a contractor, licensee, grantee, or other non-Government organization, acting as a designated agent of the United States, may witness the execution of the SF 312 by another non-Government employee, and may accept it on behalf of the United States. Also, an employee of a United States agency may witness the execution of the SF 312 by an employee, contractor, licensee, or grantee of another United States agency, provided that an authorized United States Government official or, for non-Government employees only, a designated agent of the United States subsequently accepts by signature the SF 312 on behalf of the United States.

(vi) The provisions of the SF 312, the SF 189, and the SF 189–A do not supersede the provisions of 5 U.S.C. 2302, which pertain to the protected disclosure of information by Government employees, or any other laws of the United States.

(vii) Each agency must retain its executed copies of the SF 312, SF 189, and SF 189–A in file systems from which an agreement can be expeditiously retrieved in the event that the United States must seek its enforcement or a subsequent employer must confirm its prior execution. The original, or a legally enforceable facsimile that is retained in lieu of the original, such as microfiche, microfilm, computer disk, or electronic storage medium, must be retained for 50 years following its date of execution. For agreements executed by civilian employees of the United States Government, an agency may store the executed copy of the SF 312 and SF 189 in the United States Office of Personnel Management's Official Personnel Folder as a long-term (right side) document for that employee. An agency may permit its contractors, licensees, and grantees to retain the executed agreements of their employees during the time of employment. Upon the termination of employment, the contractors, licensee, or grantee shall deliver the original or legally enforceable facsimile of the executed SF 312, SF 189, or SF 189–A of that employee to the Government agency primarily responsible for his or her classified work. A contractor, licensee, or grantee of an agency participating in the National Industrial Security Program shall provide the copy or legally enforceable facsimile of the executed SF 312, SF 189, or SF 189–A of a terminated employee to their cognizant security office. Each agency shall inform ISOO of the file systems that it uses to store these agreements for each category of affected individuals.

(viii) Only the Director of National Intelligence, as the Security Executive Agent, may grant an agency's request for a waiver from the use of the SF 312. To apply for a waiver, an agency must submit its proposed alternative nondisclosure agreement to the Director of the Special Security Center (SSC), Office of the Director of National Intelligence, along with a justification for its use. The Director, SSC, shall request a determination about the alternative agreement's enforceability from the Department of Justice.

(ix) The national stock number for the SF 312 is 7540–01–280–5499.

(3) *SF 700, Security Container Information:* The SF 700 provides the names, addresses, and telephone numbers of employees who are to be contacted if the security container to which the form pertains is found open and unattended. The form also includes the means to maintain a current record of the security container's combination and provides the envelope to be used to forward this information to the appropriate agency activity or official. If an agency determines, as part of its risk management strategy, that a security container information form is required, the SF 700 shall be used. Parts 2 and 2A of each completed copy of SF 700 shall be classified at the highest level of classification of the information authorized for storage in the security container. A new SF 700 must be completed each time the combination to the security container is changed. The national stock number for the SF 700 is 7540–01–214–5372.

(4) *SF 701, Activity Security Checklist:* The SF 701 provides a systematic means to make a thorough end-of-day security inspection for a particular work area and to allow for employee accountability in the event that irregularities are discovered. If an agency determines, as part of its risk management strategy, that an activity security checklist is required, the SF 701 will be used. Completion, storage, and disposition of SF 701 will be in accordance with each agency's security regulations. The national stock number for the SF 701 is 7540–01–213–7899.

(5) *SF 702, Security Container Check Sheet:* The SF 702 provides a record of the names and times that persons have opened, closed, or checked a particular container that holds classified information. If an agency determines, as part of its risk management strategy, that a security container check sheet is required, the SF 702 will be used. Completion, storage, and disposal of the SF 702 will be in accordance with each agency's security regulations. The national stock number of the SF 702 is 7540–01–213–7900.

(6) *SF 703, TOP SECRET Cover Sheet:* The SF 703 serves as a shield to protect Top Secret classified information from inadvertent disclosure and to alert observers that Top Secret information is attached to it. If an agency determines, as part of its risk management strategy, that a TOP SECRET cover sheet is required, the SF 703 will be used. The SF 703 is affixed to the top of the Top Secret document and remains attached until the document is downgraded, requiring the appropriate classification level cover sheet, declassified, or destroyed. When the SF 703 has been appropriately removed, it may, depending upon its condition, be reused. The national stock number of the SF 703 is 7540–01–213–7901.

(7) *SF 704, SECRET Cover Sheet:* The SF 704 serves as a shield to protect Secret classified information from inadvertent disclosure and to alert observers that Secret information is attached to it. If an agency determines, as part of its risk management strategy, that a SECRET cover sheet is required, the SF 704 will be used. The SF 704 is affixed to the top of the Secret document and remains attached until the document is downgraded, requiring the appropriate classification level cover sheet, declassified, or destroyed. When the SF 704 has been appropriately removed, it may, depending upon its condition, be reused. The national stock number of the SF 704 is 7540–01–213–7902.

(8) *SF 705, CONFIDENTIAL Cover Sheet:* The SF 705 serves as a shield to protect Confidential classified information from inadvertent disclosure and to alert observers that Confidential information is attached to it. If an agency determines, as part of its risk management strategy, that a CONFIDENTIAL cover sheet is required, the SF 705 will be used. The SF 705 is affixed to the top of the Confidential document and remains attached until the document is destroyed. When the SF 705 has been appropriately removed, it may, depending upon its condition, be reused. The national stock number of the SF 704 is 7540–01–213–7903.

(9) *SF 706, TOP SECRET Label:* The SF 706 is used to identify and protect electronic media and other media that contain Top Secret information. The SF 706 is used instead of the SF 703 for media other than documents. If an agency determines, as part of its risk management strategy, that a TOP SECRET label is required, the SF 706 will be used. The SF 706 is affixed to the medium containing Top Secret

information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the label has been applied, it cannot be removed. The national stock number of the SF 706 is 7540–01–207–5536.

(10) *SF 707, SECRET Label:* The SF 707 is used to identify and protect electronic media and other media that contain Secret information. The SF 707 is used instead of the SF 704 for media other than documents. If an agency determines, as part of its risk management strategy, that a SECRET label is required, the SF 707 will be used. The SF 707 is affixed to the medium containing Secret information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the label has been applied, it cannot be removed. The national stock number of the SF 707 is 7540–01–207–5537.

(11) *SF 708, CONFIDENTIAL Label:* The SF 708 is used to identify and protect electronic media and other media that contain Confidential information. The SF 708 is used instead of the SF 705 for media other than documents. If an agency determines, as part of its risk management strategy, that a CONFIDENTIAL label is required, the SF 708 will be used. The SF 708 is affixed to the medium containing Confidential information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the label has been applied, it cannot be removed. The national stock number of the SF 708 is 7540–01–207–5538.

(12) *SF 709, CLASSIFIED Label:* The SF 709 is used to identify and protect electronic media and other media that contain classified information pending a determination by the classifier of the specific classification level of the information. If an agency determines, as part of its risk management strategy, that a CLASSIFIED label is required, the SF 709 will be used. The SF 709 is affixed to the medium containing classified information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the label has been applied, it cannot be removed. When a classifier has made a determination of the specific level of classification of the information contained on the medium, either the SF 706, SF 707, or SF 708 shall be affixed on top of the SF 709 so that only the SF 706, SF 707, or SF 708 is visible. The national stock number of the SF 709 is 7540–01–207–5540.

(13) *SF 710, UNCLASSIFIED Label:* In a mixed environment in which classified and unclassified information are being processed or stored, the SF 710 is used to identify electronic media and other media that contain unclassified information. Its function is to aid in distinguishing among those media that contain either classified or unclassified information in a mixed environment. If an agency determines, as part of its risk management strategy, that an UNCLASSIFIED label is required, the SF 710 will be used. The SF 710 is affixed to the medium containing unclassified information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the label has been applied, it cannot be removed. However, the label is small enough so that it can be wholly covered by a SF 706, SF 707, SF 708, or SF 709 if the medium subsequently contains classified information. The national stock number of the SF 710 is 7540–01–207–5539.

(14) *SF 711, DATA DESCRIPTOR Label:* The SF 711 is used to identify additional safeguarding controls that pertain to classified information that is stored or contained on electronic or other media. If an agency determines, as part of its risk management strategy, that a DATA DESCRIPTOR label is required, the SF 711 will be used. The SF 711 is affixed to the electronic medium containing classified information in a manner that would not adversely affect operation of equipment in which the medium is used. The SF 711 is ordinarily used in conjunction with the SF 706, SF 707, SF 708, or SF 709, as appropriate. Once the label has been applied, it cannot be removed. The SF 711 provides spaces for information that should be completed as required. The national stock number of the SF 711 is 7540–01–207–5541.

(15) *SF 714, Financial Disclosure Report:* When required by an agency head or by the Director of National Intelligence, as the Security Executive Agent, the SF 714 contains information that is used to make personnel security determinations, including whether to grant a security clearance; to allow access to classified information, sensitive areas, and equipment; or to permit assignment to sensitive national security positions. The data may later be used as a part of a review process to evaluate continued eligibility for access to classified information or as evidence in legal proceedings. The SF 714 assists law enforcement agencies in obtaining pertinent information in the preliminary stages of potential espionage and counter terrorism cases.

(16) *SF 715, Government Declassification Review Tab:* The SF 715 is used to record the status of classified national security information reviewed for declassification. The SF 715 shall be used in all situations that call for the use of a tab as part of the processing of records determined to be of permanent historical value. The national stock number for the SF 715 is 7540–01–537–4689.

Subpart I—Reporting and Definitions

§ 2001.90 Agency annual reporting requirements.

(a) *Delegations of original classification authority.* Agencies shall report delegations of original classification authority to ISOO annually in accordance with section 1.3(c) of the Order and § 2001.11(c).

(b) *Statistical reporting.* Each agency that creates or safeguards classified information shall report annually to the Director of ISOO statistics related to its security classification program. The Director will instruct agencies what data elements are required, and how and when they are to be reported.

(c) *Accounting for costs.*

(1) Information on the costs associated with the implementation of the Order will be collected from the agencies. The agencies will provide data to ISOO on the cost estimates for classification-related activities. ISOO will report these cost estimates annually to the President. The agency senior official should work closely with the agency comptroller to ensure that the best estimates are collected.

(2) The Secretary of Defense, acting as the executive agent for the National Industrial Security Program under E.O.12829, as amended, *National Industrial Security Program,* and consistent with agreements entered into under section 202 of E.O. 12989, as amended, will collect cost estimates for classification-related activities of contractors, licensees, certificate holders, and grantees, and report them to ISOO annually. ISOO will report these cost estimates annually to the President.

(d) *Self-Inspections.* Agencies shall report annually to the Director of ISOO as required by section 5.4(d)(4) of the Order and outlined in § 2001.60(f).

§ 2001.91 Other agency reporting requirements.

(a) *Information declassified without proper authority.* Determinations that classified information has been declassified without proper authority shall be promptly reported in writing to the Director of ISOO in accordance with § 2001.13(a).

(b) *Reclassification actions.* Reclassification of information that has been declassified and released under

proper authority shall be reported promptly to the National Security Advisor and the Director of ISOO in accordance with section 1.7(c)(3) of the Order and § 2001.13(b).

(c) *Fundamental classification guidance review.* The initial fundamental guidance review is to be completed no later than June 27, 2012. Agency heads shall provide a detailed report summarizing the results of each classification guidance review to ISOO and release an unclassified version to the public in accordance with section 1.9 of the Order and § 2001.16(d).

(d) *Violations of the Order.* Agency heads or senior agency officials shall notify the Director of ISOO when a violation occurs under sections 5.5(b)(1), (2), or (3) of the Order and § 2001.48(d).

§ 2001.92 Definitions.

(a) *Accessioned records* means records of permanent historical value in the legal custody of NARA.

(b) *Authorized person* means a person who has a favorable determination of eligibility for access to classified information, has signed an approved nondisclosure agreement, and has a need-to-know.

(c) *Classification management* means the life-cycle management of classified national security information from original classification to declassification.

(d) *Cleared commercial carrier* means a carrier that is authorized by law, regulatory body, or regulation, to transport Secret and Confidential material and has been granted a Secret facility clearance in accordance with the National Industrial Security Program.

(e) *Control* means the authority of the agency that originates information, or its successor in function, to regulate access to the information.

(f) *Employee* means a person, other than the President and Vice President, employed by, detailed or assigned to, an agency, including members of the Armed Forces; an expert or consultant to an agency; an industrial or commercial contractor, licensee, certificate holder, or grantee of an agency, including all subcontractors; a personal services contractor; or any other category of person who acts for or on behalf of an agency as determined by the appropriate agency head.

(g) *Equity* refers to information:

(1) Originally classified by or under the control of an agency;

(2) In the possession of the receiving agency in the event of transfer of function; or

(3) In the possession of a successor agency for an agency that has ceased to exist.

(h) *Exempted* means nomenclature and markings indicating information has been determined to fall within an enumerated exemption from automatic declassification under the Order.

(i) *Facility* means an activity of an agency authorized by appropriate authority to conduct classified operations or to perform classified work.

(j) *Federal record* includes all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference, and stocks of publications and processed documents are not included. (44 U.S.C. 3301)

(k) *Newly discovered records* means records that were inadvertently not reviewed prior to the effective date of automatic declassification because the appropriate agency personnel were unaware of their existence.

(l) *Open storage area* means an area constructed in accordance with § 2001.53 of this part and authorized by the agency head for open storage of classified information.

(m) *Original classification authority with jurisdiction over the information* includes:

(1) The official who authorized the original classification, if that official is still serving in the same position;

(2) The originator's current successor in function;

(3) A supervisory official of either; or

(4) The senior agency official under the Order.

(n) *Permanent records* means any Federal record that has been determined by the National Archives to have sufficient value to warrant its preservation in the National Archives. Permanent records include all records accessioned by the National Archives into the National Archives and later increments of the same records, and those for which the disposition is permanent on SF 115s, Request for Records Disposition Authority, approved by the National Archives on or after May 14, 1973.

(o) *Permanently valuable information* or *permanent historical value* refers to information contained in:

(1) Records that have been accessioned by the National Archives;

(2) Records that have been scheduled as permanent under a records disposition schedule approved by the National Archives; and

(3) Presidential historical materials, presidential records or donated historical materials located in the National Archives, a presidential library, or any other approved repository.

(p) *Presidential papers, historical materials, and records* means the papers or records of the former Presidents under the legal control of the Archivist pursuant to sections 2111, 2111 note, or 2203 of title 44, U.S.C.

(q) *Redaction* means the removal of classified information from copies of a document such that recovery of the information on the copy is not possible using any reasonably known technique or analysis.

(r) *Risk management principles* means the principles applied for assessing threats and vulnerabilities and implementing security countermeasures while maximizing the sharing of information to achieve an acceptable level of risk at an acceptable cost.

(s) *Security-in-depth* means a determination by the agency head that a facility's security program consists of layered and complementary security controls sufficient to deter and detect unauthorized entry and movement within the facility. Examples include, but are not limited to, use of perimeter fences, employee and visitor access controls, use of an Intrusion Detection System (IDS), random guard patrols throughout the facility during nonworking hours, closed circuit video monitoring or other safeguards that mitigate the vulnerability of open storage areas without alarms and security storage cabinets during nonworking hours.

(t) *Supplemental controls* means prescribed procedures or systems that provide security control measures designed to augment the physical protection of classified information. Examples of supplemental controls include intrusion detection systems, periodic inspections of security containers or areas, and security-in-depth.

(u) *Temporary records* means Federal records approved by NARA for disposal, either immediately or after a specified retention period. Also called *disposable records.*

(v) *Transclassification* means information that has been removed from

the Restricted Data category in order to carry out provisions of the National Security Act of 1947, as amended, and safeguarded under applicable Executive orders as "National Security Information."

(w) *Unscheduled records* means Federal records whose final disposition has not been approved by NARA. All records that fall under a NARA approved records control schedule are considered to be scheduled records.

PART 2003—[REMOVED]

■ 2. Under the authority of E.O. 12958, 60 FR 19825, 3 CFR Comp., p. 333 as amended by E.O. 13292, 68 FR 15315, March 28, 2003, remove and reserve 32 CFR part 2003.

Dated: June 22, 2010.

William J. Bosanko,

Director, Information Security Oversight Office.

Approved: June 22, 2010.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2010–15443 Filed 6–25–10; 8:45 am]

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Federal Register

Monday,
June 28, 2010

Part VI

The President

Executive Order 13545—President's Council on Fitness, Sports, and Nutrition

Federal Register
Vol. 75, No. 123
Monday, June 28, 2010

Presidential Documents

Title 3—

The President

Executive Order 13545 of June 22, 2010

President's Council on Fitness, Sports, and Nutrition

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to recognize that good nutrition goes hand in hand with fitness and sports participation, Executive Order 13265 of June 6, 2002, is hereby amended as follows:

Section 1. The title is revised to read as follows: "President's Council on Fitness, Sports, and Nutrition."

Sec. 2. Sections 1 through 5 are revised to read as follows:

"**Section 1.** *Purpose.* The Secretary of Health and Human Services (Secretary), in carrying out the Secretary's responsibilities for public health and human services, shall develop and coordinate a national program to enhance physical activity, fitness, sports participation, and good nutrition. Through this program, the Secretary shall, in consultation with the Secretaries of Agriculture and Education, seek to:

(a) expand national interest in and awareness of the benefits of regular physical activity, fitness, sports participation, and good nutrition;

(b) stimulate and enhance coordination of programs within and among the private and public sectors that promote physical activity, fitness, sports participation, and good nutrition;

(c) expand availability of quality information and guidance regarding physical activity, fitness, sports participation, and good nutrition; and

(d) target all Americans, with particular emphasis on children and adolescents, as well as populations or communities in which specific risks or disparities in participation in, access to, or knowledge about the benefits of physical activity, fitness, sports participation, and good nutrition have been identified.

In implementing this order, the Secretary shall be guided by the science-based Federal Dietary Guidelines for Americans and the Physical Activity Guidelines for Americans. Additionally, the Secretary shall undertake nutrition-related activities under this order in coordination with the Secretary of Agriculture.

Sec. 2. *The President's Council on Fitness, Sports, and Nutrition.* (a) There is hereby established the President's Council on Fitness, Sports, and Nutrition (Council).

(b) The Council shall be composed of up to 25 members appointed by the President. Members shall serve for a term of 2 years, shall be eligible for reappointment, and may continue to serve after the expiration of their terms until the appointment of a successor. The President may designate one or more members as Chair or Vice Chair.

Sec. 3. *Functions of the Council.* (a) The Council shall advise the President, through the Secretary, concerning progress made in carrying out the provisions of this order and shall recommend to the President, through the Secretary, actions to accelerate progress.

(b) The Council shall advise the Secretary on ways to promote regular physical activity, fitness, sports participation, and good nutrition. Recommendations may address, but are not necessarily limited to, public awareness campaigns; Federal, State, and local physical activity; fitness, sports participation, and nutrition initiatives; and partnership opportunities between public- and private-sector health-promotion entities.

(c) The Council shall function as a liaison to relevant State, local, and private entities in order to advise the Secretary regarding opportunities to extend and improve physical activity, fitness, sports, and nutrition programs and services at the local, State, and national levels.

(d) The Council shall monitor the need to enhance programs and educational and promotional materials sponsored, overseen, or disseminated by the Council, and shall advise the Secretary as necessary concerning such need.

In performing its functions, the Council shall take into account the Federal Dietary Guidelines for Americans and the Physical Activity Guidelines for Americans.

Sec. 4. *Administration.* (a) Each executive department and agency shall, to the extent permitted by law and subject to the availability of funds, furnish such information and assistance to the Secretary and the Council as they may request.

(b) The members of the Council shall serve without compensation for their work on the Council. Members of the Council may, however, receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707).

(c) To the extent permitted by law, the Secretary shall furnish the Council with necessary staff, supplies, facilities, and other administrative services. The expenses of the Council shall be paid from funds available to the Secretary.

(d) The Secretary shall appoint an Executive Director of the Council who shall serve as a liaison to the Secretary and the White House on matters and activities pertaining to the Council.

(e) The Council, with the approval of the Secretary, may establish subcommittees as appropriate to aid in its work.

(f) The seal prescribed by Executive Order 10830 of July 24, 1959, as amended, shall be modified to reflect the name of the Council as established by this order.

Sec. 5. *General Provisions.* (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the administration of any portion of this order, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines and procedures issued by the Administrator of General Services.

(b) The Council shall terminate 2 years from the date of this order, unless extended by the President.

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

THE WHITE HOUSE,
June 22, 2010.

[FR Doc. 2010–15851
Filed 6–25–10; 11:15 am]
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S. 3473/P.L. 111–191
To amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill. (June 15, 2010; 124 Stat. 1278)
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