the requirements of CAA section 172(c)(1);

3. the RACM/RACT demonstration, as meeting the requirements of CAA section 172(c)(1);

4. the RFP demonstration, as meeting the requirements of CAA section 172(c)(2);

5. and contingency measures as meeting the requirements of the CAA section 172(c)(9).

B. Request for Public Comments

We are taking public comments for thirty days following the publication of this proposed rule in the **Federal Register**. We will take all comments into consideration in our final rule.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: November 26, 2013.

Jared Blumenfeld,

Regional Administrator, EPA Region IX.

[FR Doc. 2013–29583 Filed 12–10–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 411

[CMS–6061–ANPRM]

RIN 0938–AR88

Medicare Program; Medicare Secondary Payer and Certain Civil Money Penalties

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking (ANPRM) solicits public comment on specific practices for which civil money penalties (CMPs) may or may not be imposed for failure to comply with Medicare Secondary Payer reporting requirements for certain group health and non-group health plans arrangements.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on February 10, 2014.

ADDRESSES: In commenting, please refer to file code CMS–6061–ANPRM.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed).

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the 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–6061–ANPRM, P.O. Box 8013, Baltimore, MD 21244–8013. 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–6061–ANPRM, 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: Suzanne Mattes, (410) 786–2536.

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/.* Comments received timely will be also 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, please phone 1–800–743–3951.

I. Background

A. Imposition of Civil Money Penalties (CMPs)

In 1981, the Congress added section 1128A to the Social Security Act (the Act) (section 2105 of Pub. L. 97–35) to authorize the Secretary of Health and Human Services (Secretary) to impose civil money penalties (CMPs) and assessments on certain health care facilities, health care practitioners, and other suppliers for noncompliance with rules of the Medicare and Medicaid programs. CMPs and assessments provide an alternative enforcement tool for agencies use to ensure compliance with statutory and regulatory requirements and are in addition to potential criminal or civil penalties.

Since 1981, the Congress has significantly increased both the number and the types of circumstances under which the Secretary may impose CMPs. Some CMP authorities address fraud, misrepresentation, or falsification, while others address noncompliance with programmatic or regulatory requirements. The Secretary has delegated the authority for certain provisions to either the Office of Inspector General (OIG) or CMS (See the October 20, 1994 (58 FR 52967) notice titled ''Office of Inspector General; Health Care Financing Administration; Statement of Organization, Functions, and Delegations of Authority'').

B. Section 111 of the MMSEA Amendments to MSP Provisions

Under the Medicare law, as enacted in 1965, Medicare was the primary payer for certain designated health care services except those covered by workers' compensation. In 1980, Congress added section 1862(b) of the Act which defined when Medicare is the secondary payer to certain primary plans. These provisions are known as the Medicare Secondary Payer (MSP) provisions. Section 1862(b) of the Act prohibits Medicare from making payment if payment has been made or can reasonably be expected to be made by the following primary plans when certain conditions are satisfied: Group health plans; workers' compensation plans; liability insurance (including self-insurance); or no-fault insurance. For workers' compensation, liability insurance (including self-insurance), or no-fault insurance for which payment has not been made or cannot be expected to be made promptly, Medicare may make a conditional payment subject to Medicare payment rules. Any conditional payments made by Medicare are subject to repayment once the primary plan makes payment.

Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (Pub. L. 110–173) added paragraphs (7) and (8) to section 1862(b) of the Act which established new mandatory reporting requirements for certain group health plan (GHP) arrangements and for liability insurance (including self-insurance), no-fault insurance, and workers' compensation (collectively referred to as ''non-GHP'' or NGHP) arrangements.

Section 1862(b)(7) of the Act (42 U.S.C. 1395y(b)(7)) added new reporting rules for GHP, but did not eliminate any existing statutory provisions or regulations. Section 1862(b)(7) of the Act also includes, in part, authority for Medicare to impose CMPs against GHPs responsible reporting entities which are determined to be noncompliant. An entity serving as an insurer or third party administrator for a GHP, and, in the case of a GHP that is self-insured and self-administered, a plan administrator or fiduciary, must report under these requirements. Section 1862(b)(7) of the Act provides that, notwithstanding any other provision of law, the reporting requirement may be implemented by program instruction or otherwise.

Section 1862(b)(8) of the Act (42 U.S.C. 1395y(b)(8)) added new reporting rules for NGHP arrangements (applicable plans), but did not eliminate any existing statutory provisions or regulations. Section 1862(b)(8) of the Act also includes, in part, authority for CMS to impose CMPs against NGHPs which are determined to be noncompliant. Section 1862(b)(8) of the Act defines the term ''applicable plan'' to mean the following laws, plans, or other arrangements, including the fiduciary or administrator for such law, plan, or arrangement: (1) Liability insurance (including self-insurance); (2) no fault-insurance; and (3) workers' compensation laws or plans. Section 1862(b)(8) of the Act also requires applicable plans to notify CMS when they pay liability insurance (including self-insurance), no-fault insurance, and/or workers' compensation claims on behalf of Medicare beneficiaries. Information shall be submitted within a time specified by the Secretary after the claim is addressed or resolved (or partially addressed or resolved) through a settlement, judgment, award, or other payment, regardless of whether or not there is a determination or admission of liability.

C. Medicare IVIG (Intravenous Immunoglobulin) Access and Strengthening Medicare and Repaying Taxpayers Act of 2012

Section 1862(b)(8)(E) of the Act describes the enforcement provisions for NGHPs that fail to comply with the reporting requirements. On January 10, 2013, the Medicare IVIG (Intravenous Immunoglobulin) Access and Strengthening Medicare and Repaying Taxpayers Act of 2012 (SMART Act) was enacted (Pub. L. 112–242). The SMART Act amended section 1862(b)(8)(E) of the Act to state that applicable plans that fail to comply with the reporting requirements may be subject to a civil money penalty of up to $1,000 for each day of noncompliance with respect to each claimant (revising the prior mandatory nature of this CMPS provision). Section 1862(b)(8)(E) of the Act only applies to NGHPs.

II. Provisions of the Advanced Notice of Proposed Rulemaking

We are issuing this ANPRM to solicit public comments and proposals for the specification of practices for which CMPs would or would not be imposed in accordance with sections 1862(b)(7)(B) and (b)(8)(E) of the Act (42 U.S.C. 1395y(b)(7)(B) and (8)(E)). We are interested in comments and proposals to specifically define ''noncompliance'' in the context of the phrase, ''. . . for each day of noncompliance with respect to each claimant . . .'' in sections 1862(b)(7) or (b)(8) of the Act. We are seeking public comment and proposals on mechanisms and criteria that we

would employ to evaluate whether and when the agency would impose CMPs.

In addition, we are we are soliciting comments and proposals for methods to determine the dollar amount of a CMP that would be levied for each day that NGHP is a responsible reporting entity noncompliance under section 1862(b)(8) of the Act.

We are also soliciting comments on how we might devise a method(s) and criteria to determine which actions would constitute ''good faith effort(s)'' taken by an entity to identify a Medicare beneficiary for the purposes of reporting under section 1862(b)(8) of the Act.

We are specifically soliciting comments and proposals from insurers, third party administrators for GHPs, other applicable plans, and the public. When submitting comments regarding this issue, we ask that commenters specifically identify to which provision their comments relate (that is, section 1862(b)(7) or (b)(8) of the Act).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 28, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: July 30, 2013.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

Editorial Note: This document was received in the Office of the Federal Register on December 5, 2013.

[FR Doc. 2013–29473 Filed 12–10–13; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–261, RM–11707; DA 13–2129]

Television Broadcasting Services; Birmingham, Alabama

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Alabama Educational Television Commission (''AETC''), the licensee of station WBIQ(TV), channel *39, Birmingham, Alabama, requesting to return to its previously allotted channel *10 at Birmingham. AETC currently has a claim on two channels in the DTV Table of Allotments, channels *10 and *39, and seeks a waiver of the Commission's freeze on the filing of petitions for rulemaking by television stations seeking channel substitutions in order to relinquish all claims to channel *39 with the grant of this petition. AETC concludes that the proposed return of WBIQ(TV) to channel *10 will serve the public interest by allowing the station to conserve its resources and by not disrupting service to the public.

DATES: Comments must be filed on or before January 10, 2014, and reply comments on or before January 27, 2014.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: M. Scott Johnson, Esq., Fletcher, Heald, & Hildreth, PLC, 1300 N. 17th Street, Suite 1100, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Adrienne Denysyk, *Adrienne.Denysyk@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 13–261, adopted November 4, 2013, and released November 6, 2012. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via email *www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see §§ 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Alabama is amended by adding channel *10 and removing channel *39 at Birmingham.

[FR Doc. 2013–29585 Filed 12–10–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R2–ES–2012–0071; 4500030113]

RIN 1018–AY21

Endangered and Threatened Wildlife and Plants; Listing the Lesser Prairie-Chicken as a Threatened Species With a Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revision and reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose a revised