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Presidential Documents

Title 3—

The President

Notice of May 7, 2014

Continuation of the National Emergency With Respect to the Actions of the Government of Syria

On May 11, 2004, pursuant to his authority under the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003, Public Law 108–175, the President issued Executive Order 13338, in which he declared a national emergency with respect to the actions of the Government of Syria. To deal with this national emergency, Executive Order 13338 authorized the blocking of property of certain persons and prohibited the exportation or re-exportation of certain goods to Syria. The national emergency was modified in scope and relied upon for additional steps taken in Executive Order 13399 of April 25, 2006, Executive Order 13460 of February 13, 2008, Executive Order 13572 of April 29, 2011, Executive Order 13573 of May 18, 2011, Executive Order 13582 of August 17, 2011, Executive Order 13606 of April 22, 2012, and Executive Order 13608 of May 1, 2012.

The President took these actions to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of the Government of Syria in supporting terrorism, maintaining its then-existing occupation of Lebanon, pursuing weapons of mass destruction and missile programs, and undermining U.S. and international efforts with respect to the stabilization and reconstruction of Iraq.

The regime's brutal war on the Syrian people, who have been calling for freedom and a representative government, endangers not only the Syrian people themselves but also is generating instability throughout the region. The Syrian regime's actions and policies, including the use of chemical weapons, supporting terrorist organizations, and impeding the Lebanese government's ability to function effectively, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. As a result, the national emergency declared on May 11, 2004, and the measures to deal with that emergency adopted on that date in Executive Order 13338; on April 25, 2006, in Executive Order 13399; on February 13, 2008, in Executive Order 13460; on April 29, 2011, in Executive Order 13572; on May 18, 2011, in Executive Order 13573; on August 17, 2011, in Executive Order 13582; on April 22, 2012, in Executive Order 13606; and on May 1, 2012, in Executive Order 13608; must continue in effect beyond May 11, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), I am continuing for 1 year the national emergency declared with respect to the actions of the Government of Syria.

In addition, the United States condemns the Asad regime's use of brutal violence and human rights abuses and calls on the Asad regime to stop its violent war and allow a political transition in Syria that will forge a credible path to a future of greater freedom, democracy, opportunity, and justice.

The United States will consider changes in the composition, policies, and actions of the Government of Syria in determining whether to continue or terminate this national emergency in the future.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
May 7, 2014.

[FR Doc. 2014–10855
Filed 5–8–14; 8:45 am]
Billing code 3295–F4

Rules and Regulations

Federal Register

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Doc. No. AMS–FV–13–0067; FV13–946–2 FIR]

Irish Potatoes Grown in Washington; Temporary Change to the Handling Regulations and Reporting Requirements for Yellow Fleshed and White Types of Potatoes

Correction

In rule document 2014–10036, appearing on pages 24997 through 24999 in the issue of Friday, May 2, 2014, make the following correction:

On page 24998, in the first column, in the **DATES** section, ''May 5, 2013'' should read ''May 5, 2014''.

[FR Doc. C1–2014–10036 Filed 5–8–14; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005, 1006 and 1007

[Doc. No. AMS–DA–07–0059; AO–388–A22, AO–356–A43 and AO–366–A51; DA–07–03]

Milk in the Appalachian, Florida, and Southeast Marketing Areas; Order Amending the Orders

Correction

In rule document 2014–10037, appearing on pages 24999 through 25002 in the issue of Friday, May 2, 2014, make the following correction:

On page 24999, in the third column, in the **DATES** section, ''May 5, 2013'' should read ''May 5, 2014''.

[FR Doc. C1–2014–10037 Filed 5–8–14; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005 and 1007

[Doc. No. AMS–DA–09–0001; AO–388–A17 and AO–366–A46; DA–05–06–A]

Milk in the Appalachian and Southeast Marketing Areas; Order Amending the Orders

Correction

In rule document 2014–10031, appearing on pages 25003 through 25006 in the issue of Friday, May 2, 2014, make the following correction:

On page 25003, in the first column, in the **DATES** section, ''May 5, 2013'' should read ''May 5, 2014''.

[FR Doc. C1–2014–10031 Filed 5–8–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

10 CFR Parts 430 and 431

[Docket No. EERE–2012–BT–TP–0003]

RIN 1904–AC70

Amendments and Correction to Petitions for Waiver and Interim Waiver for Consumer Products and Commercial and Industrial Equipment

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

ACTION: Final rule.

SUMMARY: In this final rule, DOE amends portions of its regulations governing petitions for waiver and interim waiver from DOE test procedures to restore, with minor amendments, text inadvertently omitted in the March 7, 2011 certification, compliance, and enforcement final rule. Additionally, the rule adopts a process by which other manufacturers of a product employing a specific technology or characteristic, for which DOE has granted a waiver to another manufacturer for a product employing that particular technology, would be required to petition for a waiver. The rule also sets forth a process for manufacturers to request rescission or modification of a waiver if they determine that the waiver is no longer needed, or for other appropriate reasons; adopts other minor modifications to the waiver provisions for both consumer products and industrial equipment; and clarifies certain aspects related to the submission and processing of a waiver petition.

DATES: The effective date of this rule is June 9, 2014.

ADDRESSES: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2012-BT-TP-0003*. This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Phone: 202–586–6590. Email: *AS_Waiver_Requests@ee.doe.gov*.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., Washington, DC 20585–0121. Phone: 202–586–7796. Email: *Elizabeth.Kohl@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Authority

Title III of the Energy Policy and Conservation Act of 1975 (''EPCA'' or the ''Act''), Public Law 94–163 (42 U.S.C. 6291 *et seq.*), as amended,[1] sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291–6309) provides

[1] All references to EPCA in this final rule refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

for the Energy Conservation Program for Consumer Products Other Than Automobiles. The National Energy Conservation Policy Act (NECPA), Public Law 95–619, amended EPCA to add Part A–1 of Title III, which established an energy conservation program for certain industrial equipment. (42 U.S.C. 6311–6317) [2]

This final rule involves the regulatory provisions governing the submission and processing of test procedure waivers for both consumer products under Part A of EPCA and industrial equipment under Part A–1. EPCA directs DOE to prescribe test procedures that are reasonably designed to produce results reflecting the energy efficiency, energy use, and estimated annual operating costs for those products, and that are not unduly burdensome to conduct. 42 U.S.C. 6293(b)(3), 6314(a)(2). DOE's regulations in Title 10 of the Code of Federal Regulations (CFR), Section 430.27 (consumer products) and Section 431.401 (commercial equipment) contain provisions allowing a person to seek a waiver from the test procedure requirements if certain conditions are met. A waiver allows manufacturers to use an alternative test procedure in situations where the DOE test procedure cannot be used to test the product or equipment, or where use of the DOE test procedure would generate unrepresentative results.

II. Background

On December 17, 2012, DOE published a notice of proposed rulemaking (NOPR) (77 FR 74616) to propose amendments and corrections to portions of its regulations governing petitions for waiver and interim waiver from DOE test procedures. The NOPR proposed to restore, with minor amendments, text inadvertently omitted during another rulemaking and proposed a process by which, after DOE grants a waiver for a product employing a particular technology, other manufacturers of that product employing a technology or characteristic that results in the same need for a waiver would submit a petition for waiver. The NOPR also set forth a process for manufacturers to request rescission or modification of a waiver if they determine that the waiver is no longer needed, or for other appropriate reasons. DOE also proposed to make other minor modifications to the waiver provisions for both consumer products and commercial equipment and to clarify certain aspects related to the submission and processing of a waiver petition. This final rule adopts, with minor modifications, those proposals. The amendments are described in more detail in Section III.

III. Discussion of Specific Revisions to Waiver Provisions

In this final rule, DOE is adding an introductory paragraph to 430.27(a) and 431.401(a) to clarify that obtaining a waiver or interim waiver does not exempt a manufacturer of consumer products or commercial equipment from compliance with any other applicable regulatory requirements contained in 10 CFR parts 430 and 431, or the certification and compliance requirements of 10 CFR part 429. While a test procedure waiver or interim waiver provides an alternate test method for a particular basic model, a waiver cannot provide an alternative metric by which to certify compliance with an applicable standard or make representations as to the energy and/or water use of that basic model. The modifications to sections 430.27(a) and 431.401(a) clarify that a waiver or interim waiver cannot change the metric by which the energy use or efficiency of a basic model is described. This language affirms that a waiver is solely an authorization to use an alternative test method and does not relieve the manufacturer from any other regulatory requirements. The Association of Home Appliance Manufacturers (AHAM) commented that this clarification represents AHAM's understanding of current practice and, thus, did not oppose adding the express statements to the regulations. (AHAM, No. 4 at p. 2)

With regard to waiver applications for commercial equipment addressed in part 431, DOE is modifying section 431.401(a)(1) to expand the waiver provisions to apply to manufacturers of all types of covered commercial equipment, rather than just the five types of equipment currently listed (i.e., commercial warm air furnaces; commercial packaged boilers; small, large, and very large commercial package air conditioning and heating equipment; packaged terminal air conditioners and packaged terminal heat pumps; and commercial water heaters and hot water supply boilers (other than commercial heat pump water heaters); collectively, commercial HVAC and WH equipment). As a related action, DOE is amending the definition of ''private labeler'' in section 431.2 to reflect that the term applies to all products covered under part 431, and not only to commercial HVAC and WH equipment, as the definition currently states. Because this term could be applicable to persons who may submit petitions for waivers, or entities potentially affected by waivers issued under section 431.401, this change will ensure that the term is applied uniformly to all products. AHAM supported DOE extending the ability to obtain waivers to manufacturers of other commercial equipment, such as commercial clothes washers. (AHAM, No. 4 at p. 7) AHAM also stated that it did not oppose DOE amending the definition of private labeler in part 431. (AHAM, No. 4 at p. 7)

DOE has redesignated existing sections 430.27(f) and (k) into 430.27(a)(2), and 431.401(e)(2) and 431.401(f)(3) into 431.401(a)(2). To clarify compliance obligations further, DOE is amending sections 430.27(a)(2) and 431.401(a)(2) to specify that, while any person may petition for waiver and interim waiver, the ultimate responsibility for complying with the waiver provisions lies with the manufacturer, which, by statutory definition, includes importers. DOE believes this additional language clarifies that the compliance burden is on the manufacturer, regardless of which entity submits the waiver. AHAM commented that it supports the additional language, which reflects AHAM's current understanding. (AHAM, No. 4 at p. 2)

DOE is restoring, with minor amendments, provisions inadvertently omitted from section 430.27(b)(1) in a separate rulemaking process. On March 7, 2011, DOE published a final rule titled ''Energy Conservation Program: Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment.'' 76 FR 12422. Among other things, the rule added an electronic filing option for submitting petitions for waiver from the test procedure requirements for consumer products located at 10 CFR 430.27. Due to a drafting oversight, the provisions formerly located at 10 CFR 430.27(b)(1)(i) through (iv), which address what must be included in a waiver petition for consumer products, were deleted from the current regulatory text. In particular, the provisions required petitioners to: (1) Specify the basic model(s) to which the waiver applies; (2) identify other manufacturers of similar products; (3) include any known alternate test procedures of the basic model (4) sign the petition, and (5) include any request for confidential treatment for any information deemed confidential. AHAM commented that it supports restoring the omitted language. (AHAM, No. 4 at p. 2) This final rule

[2] For editorial reasons, Parts B (consumer products) and C (commercial equipment) of Title III of EPCA were re-designated as parts A and A–1, respectively, in the United States Code.

adopts these provisions with a minor modification to item (3) to specify that the alternate TP(s) must be specific to the product type.

This final rule also amends sections 430.27(b)(1)(i) and 431.401(b)(1)(i) to require waiver applicants to identify each brand name under which the basic model specified in the waiver will be distributed in commerce in the U.S. This amendment does not prohibit third party representatives such as original equipment manufacturers (''OEMs'') from submitting waiver applications on behalf of an importer; however, such OEMs are required to include all brand names and applicable basic model numbers for which the waiver will apply. This requirement will assist the Department in identifying the market-based brand name of a basic model addressed by a waiver granted by DOE. This information must be identical to the information submitted in the certification report for a given basic model. AHAM commented that it did not oppose the addition of brand information as part of a waiver petition. (AHAM, No. 4 at p. 2)

In many cases, notification of all manufacturers of the same product type, as currently required, leads to over-notification. Therefore, DOE is modifying sections 430.27(c) and 431.401(c) to require petitioners to notify, on publication of the waiver or interim waiver, all other manufacturers that manufacture products in the same product or equipment class as the basic model(s) for which the petition for waiver or interim waiver was requested. If the technology or characteristic at issue in the petition is known by the petitioner to be used in multiple product classes, notification must also be sent to manufacturers of products in those other product classes. This final rule requires notification upon publication of the interim waiver, which addresses manufacturer concerns about being required to notify other manufacturers (who are also likely to be competitors of the petitioner) prior to the marketing of the basic model(s) specified in the petition. Once a manufacturer receives an interim waiver and certifies compliance to DOE, the basic model(s) covered in the interim waiver may be distributed in commerce, so competitive concerns are less likely to be an issue. AHAM commented that it supports DOE's proposal and agreed that the change to the manufacturer notification requirements should help alleviate manufacturer concerns about notifying competitors prior to the marketing of new basic models. (AHAM, No. 4 at p. 2)

DOE has redesignated existing section 430.27(i) into paragraph 430.27(d)(3), and 431.401(f)(1) into paragraph 431.401(d)(3). DOE's experience has been that providing written notification to a petitioner of DOE's decision on a request for an interim waiver within 15 business days of receiving the petition is often not feasible. Therefore, DOE proposed to amend sections 430.27(e)(1) and 431.401(e)(1) to state that, if administratively feasible, DOE will notify an applicant in writing of the disposition of the petition for interim waiver within 30 business days of receipt of the petition. AHAM opposed DOE lengthening the time for a decision on a petition for interim waiver. (AHAM, No. 4 at p. 3) AHAM commented that the waiver and interim waiver processes take too long and that DOE should attempt to shorten the process. (AHAM, No. 4 at p. 3) AHAM also commented that manufacturers seeking waivers need swift decisions to bring products to market and that further delay by DOE prevents timely introduction of products to market. (AHAM, No. 4 at p. 3)

DOE recognizes the importance of timely processing of waiver applications and will continue to notify applicants of its decisions on interim waivers as soon as possible. Similarly, a manufacturer should petition for a waiver as soon as it realizes that a design (possibly a prototype) either cannot be tested under the DOE test procedure or that the test procedure yields results that are not representative of the model's actual energy consumption. In addition, manufacturers may speed processing of their petitions by providing all of the required information, including proposing a complete, alternative test method at the time the initial application is submitted. Submission of any relevant test data would also be helpful. Manufacturers may also facilitate review by providing an explanation of why the proposed test method more accurately represents the energy consumption of the basic model. Many of the delays in processing arise from iterative efforts by the Department to obtain sufficient information upon which to base a decision to grant an interim waiver. More importantly, the Department has an obligation to ensure that alternative test methods authorized by the Department yield measurements of energy consumption that are representative of actual performance. Such a determination requires careful analysis and sometimes requires testing by DOE even if the manufacturer provides test data with their submission. DOE has found that 15 days is not typically sufficient to perform the necessary review and is amending the regulation to set forth a time frame that is more likely to be feasible. In addition, because manufacturers routinely represent that their product development cycles are often in excess of a year, DOE concludes that 30 business days is a reasonable time frame for review of a petition for an alternative test method. Accordingly, DOE is amending sections 430.27(e)(1) and 431.401(e)(1) to state that, if administratively feasible, DOE will notify an applicant in writing of the disposition of the petition for interim waiver within 30 business days of receipt of the petition. DOE encourages manufacturers to submit a petition early to avoid any impact on product release and expects that the modification to the notification requirements (discussed above) will facilitate early submittal of petitions to the Department by eliminating some of the concerns related to advance notification of competitors.

In the NOPR, DOE proposed to amend existing sections 430.27(h) and 431.401(e)(4) (which are now sections 430.27(h)(1) and 431.401(h)(1)) to specify that an interim waiver expires within one (1) year of issuance unless either of the following occurs first: (1) DOE publishes a final decision and order in the **Federal Register**; or (2) DOE publishes a new or amended test procedure that addresses the issues presented in the waiver, and manufacturers are required to use that test procedure to demonstrate compliance with the applicable standard. 77 FR 74618. AHAM opposed the proposal to extend the expiration date of interim waivers. (AHAM, No. 4 at p. 3) AHAM urged DOE to complete the waiver process in a more timely fashion to avoid delaying the time to market. (AHAM, No. 4 at p. 3) AHAM acknowledged that it could decrease manufacturer burden in cases where an extension of an interim waiver is necessary, but emphasized that keeping the timeline as short as possible is more important, saying that the best way to mitigate manufacturer burden is to make an extension of an interim waiver unnecessary by issuing a final decision and order. (AHAM, No. 4 at p. 3)

DOE will continue to process petitions for waivers as quickly as possible and notes that the 1-year time period is not significantly different from the existing regulatory provisions specifying that an interim waiver is valid for 180 days but can be extended for an additional 180 days. As discussed below, DOE is clarifying in this rule that testing of a basic model conducted under an interim waiver is valid for

certification of compliance, alleviating AHAM's concern that any additional time needed for DOE to issue a final decision and order will impact the ability of a manufacturer to sell a product. This amendment obviates the need for manufacturers to request an extension of the interim waiver after 180 days, while providing sufficient time for DOE to consider the issues presented in the petition and publish a decision and order or amend the test procedure to eliminate the continued need for the waiver. In response to AHAM's comment, DOE is amending sections 430.27(h)(1) and 431.401(h)(1) to provide that if DOE has not, within the 1-year period, published a new or amended test procedure that addresses the issues presented in the waiver and that manufacturers are required to use to demonstrate compliance with the applicable standard, than DOE will issue a final decision and order on the petition.

DOE is adding new paragraphs 430.27(i) and 431.401(i) to specify the applicability of waivers (interim and final) with respect to determining and certifying compliance. The new paragraphs explain how manufacturers must determine the compliance of basic models subject to an interim waiver or waiver if the test procedure prescribed in the interim waiver differs from the test procedure prescribed in the subsequent decision and order on the waiver. A manufacturer who has already certified basic models using the procedure permitted in DOE's grant of an interim test procedure waiver is not required to re-test those basic models so long as certain criteria are met. However, if specified by DOE in the decision and order, by the time of the next annual certification the manufacturer must re-test and re-certify compliance using the procedure specified by DOE in the decision and order. In addition, when DOE publishes a decision and order on a petition for waiver in the **Federal Register**, a manufacturer must use the test procedure contained in that decision and order to rate any basic models covered by the decision and order that have not yet been certified to DOE. Finally, the test procedure in a decision and order must be used for all future testing for any basic models covered by the decision and order. AHAM agreed that clarification of the certification process where interim waivers are involved is helpful and supported the process described above as an appropriate way to address the situation in which a subsequent decision and order differs from an interim waiver. (AHAM, No. 4 at p. 4)

DOE is redesignating existing section 430.27(j) as 430.27(f)(1). In the NOPR, DOE proposed to specify that once DOE has granted a petition for waiver for a type of product or equipment employing a particular technology, other manufacturers of that product or equipment employing a technology or characteristic that results in the same need for a waiver, as specified by DOE in the published petition for waiver in the **Federal Register**, must submit a petition for waiver within 60 days. (Some examples of technologies or characteristics for which multiple manufacturers have, in the past, had the same need for a waiver include large-capacity clothes washers, refrigerator-freezers that employ multiple defrost cycles, and dishwashers with a water softener regeneration system.) 77 FR 74618.

AHAM commented that it did not believe that the new provision was needed. (AHAM, No. 4 at p.4) AHAM's view is that, under the current regulations, when DOE grants a waiver, ''manufacturers are already obligated to file a petition for waiver before introducing products that employ a technology or characteristic that results in the same need for a waiver.'' (AHAM, No. 4 at p.4) Thus, AHAM concluded that the regulatory text ''introduces more confusion than clarity on what is already a well-understood concept.'' (AHAM, No. 4 at p.4) The current reg text does not contain an affirmative requirement to petition for a waiver based on AHAM's comment, however, DOE concludes that AHAM is not objecting to the concept, but to a lack of clarity in the proposed regulatory text. Thus, DOE is adopting the amendment, but is clarifying the regulatory text in sections 430.27(j) and 431.401(j) as discussed in more detail below to address AHAM's concerns.

AHAM questioned what DOE intended by ''employ'' in the proposed text: ''. . . after DOE grants a petition for waiver for a product employing a particular technology or having a particular characteristic, any manufacturer of that product employing a technology. . . .'' (AHAM, No. 4 at p.5) AHAM asked whether it encompasses technology that a manufacturer may use in another country and could bring to market in the U.S., whether it includes technologies about to be brought to market, or whether it encompasses only technology already on the market. (AHAM, No. 4 at p.5)

AHAM also strongly opposed the 60-day limit for manufacturers to submit a petition for a waiver. (AHAM, No. 4 at p.5) AHAM raised a number of interpretive questions about how to apply the 60-day time limit. (AHAM, No. 4 at p.5) AHAM raised concerns that, although it did not interpret the proposed language to mean that a manufacturer could be precluded from ever employing the technology in the future if it failed to petition for a waiver during the 60-day period, AHAM was concerned that the language did not preclude that interpretation. (AHAM, No. 4 at p.5) AHAM also stated that it believed that a time limit was not necessary but that, if DOE retained a time limit, then DOE should adopt a longer time limit because 60 days may not be enough time for manufacturers to evaluate whether they have the same technology or characteristics at issue. (AHAM, No. 4 at p.5) AHAM proposed 180 days as a potentially more realistic time frame. (AHAM, No. 4 at p.5)

Much of the ambiguity in DOE's proposed language, as identified by AHAM, seems to stem from the 60-day time limit and how that time limit is applied to products in development. Based on AHAM's comment, DOE is modifying the regulatory text in sections 430.27(j) and 431.401(j) to clarify that if, at the time DOE grants a petition for waiver to a particular manufacturer, other manufacturers are distributing in commerce in the United States products or equipment employing the same technologies or characteristics at issue in the waiver, those manufacturers have 60 days to petition DOE for a waiver. If a manufacturer has not yet distributed in commerce in the United States products or equipment employing the same technologies or characteristics at issue in the waiver, such manufacturer must petition for and be granted a waiver prior to distributing the product or equipment in commerce in the United States. DOE encourages manufacturers to submit petitions for waiver in the early stages of development, to avoid delays in any future distribution of the product or equipment in commerce in the United States.

Another of AHAM's concerns was that DOE should ''address situations in which it is not readily apparent . . . what technology or characteristic is at issue.'' (AHAM, No. 4 at p.5) As part of this process, DOE will state in the **Federal Register** notice granting the waiver the specific technology or characteristic to which this provision would apply.

DOE is redesignating existing section 430.27(k) into paragraph 430.27(a)(2). In the NOPR, DOE also proposed to add new paragraphs (now 430.27(k) and

431.401(k)) to set forth a process for manufacturers to request rescission or modification of a waiver if they determine that the waiver is no longer needed, or for other appropriate reasons. The provision creates a process for DOE to consider and, as appropriate, grant the requested rescission or modification. Subsequent to the effective date of a rescission or modification, the manufacturer would be required to use the DOE test procedure in the CFR or an alternate test procedure specified in the order establishing the modification. DOE also proposed to add language to clarify that DOE may revoke or modify a waiver or interim waiver if it determines that the factual basis underlying the petition for waiver or interim waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 77 FR 74618.

AHAM commented that, while it did not oppose provisions regarding rescission or modification for waivers, DOE should provide a more detailed process. (AHAM, No. 4 at p.5) For petitioner-initiated rescission or modification, AHAM suggested that DOE should clarify who can request rescission or modification, how to request rescission or modification, that a request and grant for modification must explain the change, and what criteria DOE will use in making a decision. (AHAM, No. 4 at 6) AHAM stated that it understood the intent of the proposal to be that the only party who could request rescission or modification is the party who filed the original petition. (AHAM, No. 4 at 6) For DOE-initiated rescission or modification, AHAM suggested that DOE should clarify: the criteria DOE will evaluate when deciding whether to rescind or modify a waiver, that DOE will notify the petitioner regarding its intent to rescind or modify the waiver and allow the petitioner sufficient time to provide a response before publication in the **Federal Register,** that DOE will communicate a final decision to the petitioner prior to publication in the **Federal Register,** and an explanation of and basis for DOE's action (modification or rescission). (AHAM, No. 4 at 6)

DOE's proposed language in the NOPR states that petitioners may seek modification or rescission. To ensure that this language is clear that the original petitioner may seek a change, DOE is adding ''original'' before ''petitioner'' to the text. To address AHAM's concern that the regulation is unclear regarding how to submit a request for rescission or modification, DOE is adopting slightly modified language in paragraph (a)(3) of sections 430.27 and 431.401 to clarify that all correspondence regarding waivers, including requests for rescission or modification, should be directed to the same address(es) as petitions for waiver or interim waiver. DOE is also adopting slightly modified language in sections 430.27(k)(1) and 431.401(k)(1) that will clarify that a petitioner must, in a request for rescission, provide a statement explaining why it is requesting rescission and, in a request for modification, explain the need for modification and detail the requested modifications and the impact on measured energy consumption.

DOE's proposal also provided that DOE's determination would be based on a finding that the factual basis underlying the petition for waiver or interim waiver is incorrect, or that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 77 FR 74618. The basis for a determination could be test data showing either that the information in the initial petition was incorrect or that the alternative test procedure does not, in fact, generate results that are representative of the basic models' true energy consumption characteristics. In addition, the proposed language stated that DOE's determination would consider the relevant information contained in the record and any comments received, ensuring that the basis for any determination will be public and that the petitioner's views will be considered. 77 FR 74623. DOE is adopting slightly modified text in sections 430.27(k)(3) and 431.401(k)(3) to make clear that DOE will specify the basis for its determination and, in the case of a modification, will also specify the change to the authorized test procedure.

With respect to DOE-initiated actions, AHAM's comment also suggests that it is concerned that a manufacturer may not have an opportunity to respond prior to a determination to rescind or modify a waiver. The proposed text in the NOPR stated that DOE will publish any proposed rescission or modification in the **Federal Register** for public comment, which would provide the petitioner and any other interested parties an opportunity to respond prior to DOE making a decision. 77 FR 74623, 74625. DOE proposed a process mirroring that of an initial petition for waiver and has revised the text in sections 430.27(k)(2) and 431.401(k)(2) to clarify that the petitioner will have an opportunity to rebut any comments. AHAM also suggested that the petitioner should receive notice of DOE's decision prior to publication in the **Federal Register**; however, given the comment opportunity being provided, it is unclear what the purpose of such notification would be.

Therefore, as described above, DOE is adopting the new paragraphs 430.27(k) and 431.401(k) to set forth a process for an original petitioner to request rescission or modification of a waiver if it determines that the waiver is no longer needed, or for other appropriate reasons. The provision creates a process for DOE to consider and, as appropriate, grant the requested rescission or modification. Subsequent to the effective date of a rescission or modification, the manufacturer must use the specified DOE test procedure. The process for rescission or modification in this final rule mirrors the process for petitioning for a waiver.

Finally, in the NOPR, DOE proposed to create a simplified process to allow for petitioners to request that DOE extend the scope of a waiver or interim waiver to include additional basic models employing the same technology as the basic models set forth in the original petition. 77 FR 74618. AHAM commented that it supports the general principle but indicated that the regulation should provide more detail about the process. (AHAM, No. 4 at p. 6) AHAM suggested that a manufacturer should simply need to submit a statement to DOE that the petition for waiver or interim waiver is being extended to include other specified models that employ the same technology or characteristic, and DOE should not need to make a decision. (AHAM, No. 4 at pp. 6–7) AHAM suggested that such a statement could be under penalty of perjury. (AHAM, No. 4 at p. 6) AHAM agreed that the statement should be published in the **Federal Register**. (AHAM, No. 4 at pp. 6–7) AHAM also commented that such a process should be applied to both petitions for waiver and granted waivers. (AHAM, No. 4 at p. 7)

AHAM's suggested approach, where manufacturers would be permitted to extend a waiver to additional models unilaterally, would not allow DOE to fulfill its responsibility to ensure that an alternative test procedure is appropriate for the new basic model(s). Therefore, DOE is adopting the simplified process in sections 430.27(g) and 431.401(g). DOE expects that the simplified process will expedite the review where a manufacturer is using the same technology for a given covered product and applying the same methods in an already established waiver. DOE is modifying the language to clarify that

this process can be used to add models at any stage of the waiver process. Notice of any such extension would be published in the **Federal Register**.

DOE is redesignating existing section 430.27(l) as 430.27(f)(2), 430.27(m) as 430.27(l), and 431.401(g) as 431.401(l). In the NOPR, DOE also proposed to amend the existing paragraphs 430.27(m) and 431.401(g) to provide that, as soon as is practicable after DOE grants a waiver, DOE will publish a proposed rule to amend the relevant test procedure regulation to eliminate the need for the continuation of the waiver. 77 FR 74618. AHAM opposed this proposal, stating that the current regulations require DOE to amend the test procedure within one year of granting a waiver. (AHAM, No. 4 at p. 3) AHAM again emphasized the need for DOE to shorten the time for which waivers are necessary and to provide regulated parties with certainty by adhering to the one year timing requirement in the current regulations. (AHAM, No. 4 at p. 4)

DOE agrees that providing regulatory certainty is important and is committed to updating its test procedures in a timely manner, particularly to address issues raised in waiver petitions. DOE also understands that a large number of separate test procedure rulemakings could tax manufacturer resources. Consolidating multiple waivers into one rulemaking is more efficient and less burdensome for DOE and regulated parties than opening multiple rulemakings on a staggered basis to meet an artificial one-year deadline. In addition, manufacturer certainty is maintained by the regulatory amendment stating that the decision and order remains in effect until a new test procedure addressing the waiver is published and its use is required. Therefore, DOE is amending the existing 430.27(m) and 431.401(g) (which are renumbered as 430.27(l) and 431.401(l)) as proposed.

As part of the modifications to 430.27(m) and 431.401(g) (which are renumbered 430.27(l) and 431.401(l)) and to 430.27(h) and 431.401(e)(4) (the latter is renumbered as 431.401(h)(1), DOE proposed in the NOPR to clarify that a waiver (interim, if still in effect consistent with 430.27(h) and 431.401(h)(1), or final) terminates on the date when use of the amended test procedure is required to be used by manufacturers to demonstrate compliance with the applicable energy or water conservation standard. 77 FR 74618. Continuation of the waiver until the date when use of an amended test procedure is required to demonstrate compliance, rather than the effective date of that test procedure (i.e., the date on which that procedure officially becomes part of the Code of Federal Regulations), prevents situations where a waiver has expired while the amended test procedure is effective but its use is not yet required. DOE did not receive any comments on this issue and is adopting the amendment as proposed.

To keep the regulatory text current, DOE is removing all references to the ''Assistant Secretary for Conservation and Renewable Energy'' in 10 CFR 430.27 and the ''Assistant Secretary for Energy Efficiency and Renewable Energy'' in 10 CFR 431.401 and is replacing these terms with ''DOE.''

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires preparation of a regulatory flexibility analysis (RFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site, *http://www.energy.gov/gc/*.

DOE reviewed the waiver requirements being proposed under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certified that the proposed rule, if adopted, would not have a significant impact on a substantial number of small entities. The factual basis for this certification is set forth below. DOE received no comments on the certification. Comments on the potential economic impacts of the rule, and any changes made as a result of those comments, are discussed in section III. These changes did not result in a change to the factual basis for DOE's certification.

The rule may affect small manufacturers of covered consumer products and commercial equipment. DOE does not, however, expect that the impact of the rule would be significant. The regulatory provisions proposed would clarify the effect of the waiver (the waiver does not release a manufacturer from complying with the applicable standard and certification requirements) and the responsibility for compliance with the waiver provisions (the manufacturer is responsible for the compliance regardless of who submits the petition). The rule would also specify how manufacturers would certify basic models specified in a petition for an interim waiver and waiver if the test procedure prescribed in the interim waiver differs from the test procedure prescribed in the subsequent decision and order on the waiver. The rule clarifies existing regulatory requirements and does not add new regulatory burden. The reinstatement of the provisions of 10 CFR 430.27(b)(1) that were inadvertently removed is also not expected to impose a significant regulatory burden. These provisions require petitioners to: Specify the basic model(s) to which the waiver applies, identify other manufacturers of similar products, include any known alternate test procedures of the basic model, sign the petition, and include a request seeking confidential treatment for any information deemed confidential. Manufacturers have already been complying with these requirements since they were enacted on November 26, 1986. 51 FR 42826.

In addition, the new waiver requirements would require petitioners to specify the brand names under which a basic model would be sold and expand the eligibility for waivers to all types of covered equipment subject to DOE's test procedures. These requirements are not expected to result in a significant impact, as they are consistent with the purpose of the existing waiver process, which is to assist manufacturers in testing their equipment to demonstrate compliance with DOE standards. The new waiver requirements would also amend the timelines for the issuance of an interim waiver from 15 to 30 days, a provision that manufacturers can account for in their product development and marketing schedule without significant difficulty. The rule would also extend

the time periods covered by an interim waiver or waiver, providing more certainty for manufacturers as they rate, certify and market their products. The rule clarifies that DOE would not change the established metric in a test procedure waiver is also not expected to result in a significant impact because the established metric is already required as a result of the applicable energy conservation standard.

DOE is also specifying that once DOE has granted a petition for waiver for a product or type of equipment employing a particular technology, other manufacturers of that product or equipment employing a technology or characteristic that results in the same need for a waiver must submit a petition for waiver within 60 days. DOE revised its proposal to clarify that the requirement applies only where manufacturers are distributing such product in commerce in the United States at the time the waiver is granted. Manufacturers who are not distributing such product in commerce in the United States at the time the waiver is granted must apply for and be granted a waiver prior to distribution in the United States, but there is no specified time requirement for the application. DOE does not expect this requirement to impose significant additional burden because, given that the products or equipment produced by these manufacturers employ a technology that provides the same function that led DOE to grant a waiver in the first instance, these manufacturers would likely need to petition for waiver under DOE's existing regulations. This provision specifies the circumstances under which this process must be completed.

The rule sets forth a process for manufacturers to request rescission or modification of a waiver. This provision would allow manufacturers to notify DOE if they believe a previously granted waiver is no longer needed, or that rescission or modification is necessary for other appropriate reasons. The provision then sets forth the process for DOE to consider and, as appropriate, grant the request. The intent of this provision is to reduce manufacturer burden by providing a process for manufacturers to request rescission or modification of a waiver that they believe is inappropriate or unworkable. Similarly, the rule would provide a process by which DOE may revoke or modify a previously granted waiver if DOE determines that the factual basis underlying the petition for waiver or interim waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. In such cases, the manufacturer would be required to test its products or equipment using the DOE test procedure. DOE does not believe that this provision would result in a significant impact on small manufacturers. Given that a revocation or modification is only issued if the factual basis underlying the original petition was not correct in the first instance, EPCA would already require the manufacturers to use the applicable DOE test procedure.

For the reasons stated above, DOE certifies that this final rule would not result in a significant impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE transmitted its certification to the Small Business Administration (SBA) as required by 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

The final rule contains a collection-of-information requirement that is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). DOE submitted this collection to OMB for approval, as part of DOE's information collection approved under OMB Control No. 1910–1400. Public reporting burden for the submission of a petition for waiver or interim waiver, or a request for rescission, is estimated to average *5 hours* per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DOE continues to seek public comment regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121 or *Amendments-Correction-2012-TP-0003@ee.doe.gov*, and by email to *OIRA_Submission@omb.eop.gov*.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE amends its procedures for manufacturers to seek and for DOE to grant petitions for waivers of the DOE test procedures. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends an existing rule without affecting the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA

governs and prescribes Federal preemption of State regulations for energy conservation for the products that are the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Pub. L. No. 104–4, sec. 201 (codified at 2 U.S.C. 1531). For any proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc*. DOE examined this rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it will not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

Today's final rule does not authorize or require the use of any commercial standard.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

N. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on May 2, 2014.

Kathleen B. Hogan,

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

For the reasons stated in the preamble, DOE amends parts 430 and 431 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.27 is revised to read as follows:

§ 430.27 Petitions for waiver and interim waiver.

(a) *General information.* This section provides a means for seeking waivers of the test procedure requirements of this subpart for basic models that meet the requirements of paragraph (a)(1) of this section. In granting a waiver or interim waiver, DOE will not change the energy use or efficiency metric that the manufacturer must use to certify compliance with the applicable energy conservation standard and to make representations about the energy use or efficiency of the covered product. The granting of a waiver or interim waiver by DOE does not exempt such basic models from any other regulatory requirement contained in this part or the certification and compliance requirements of 10 CFR part 429 and specifies an alternative method for testing the basic models addressed in the waiver.

(1) Any interested person may submit a petition to waive for a particular basic model any requirements of § 430.23 or of any appendix to this subpart, upon the grounds that the basic model contains one or more design characteristics which either prevent testing of the basic model according to the prescribed test procedures or cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy and/or water consumption characteristics as to provide materially inaccurate comparative data.

(2) Manufacturers of basic model(s) subject to a waiver or interim waiver are responsible for complying with the other requirements of this subpart and with the requirements of 10 CFR part 429 regardless of the person that originally submitted the petition for waiver and/or interim waiver. The filing of a petition for waiver and/or interim waiver shall not constitute grounds for noncompliance with any requirements of this subpart.

(3) All correspondence regarding waivers and interim waivers must be submitted to DOE either electronically to *AS_Waiver_Requests@ee.doe.gov* (preferred method of transmittal) or by mail to U.S. Department of Energy, Building Technologies Program, Test Procedure Waiver, 1000 Independence Avenue SW., Mailstop EE–5B, Washington, DC 20585–0121.

(b) *Petition content and publication.* (1) Each petition for waiver must:

(i) Identify the particular basic model(s) for which a waiver is requested, each brand name under which the identified basic model(s) will be distributed in commerce, the design characteristic(s) constituting the grounds for the petition, and the specific requirements sought to be waived, and must discuss in detail the need for the requested waiver;

(ii) Identify manufacturers of all other basic models distributed in commerce in the United States and known to the petitioner to incorporate design characteristic(s) similar to those found in the basic model that is the subject of the petition;

(iii) Include any alternate test procedures known to the petitioner to evaluate the performance of the product type in a manner representative of the energy and/or water consumption characteristics of the basic model; and

(iv) Be signed by the petitioner or an authorized representative. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a petition for waiver or in supporting documentation must be accompanied by a copy of the petition, application or supporting documentation from which the information claimed to be confidential has been deleted. DOE will publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and will solicit comments, data and information with respect to the determination of the petition.

(2) Each petition for interim waiver must reference the related petition for waiver by identifying the particular basic model(s) for which a waiver is being sought. Each petition for interim waiver must demonstrate likely success of the petition for waiver and address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the petition for interim waiver. Each petition for interim waiver must be signed by the petitioner or an authorized representative.

(c) *Notification to other manufacturers.* (1) Each petitioner for interim waiver must, upon publication of a grant of an interim waiver in the **Federal Register**, notify in writing all known manufacturers of domestically marketed basic models of the same product class (as specified in 10 CFR 430.32) and of other product classes known to the petitioner to use the technology or have the characteristic at issue in the waiver. The notice must include a statement that DOE has published the interim waiver and petition for waiver in the **Federal Register** and the date the petition for waiver was published. The notice must also include a statement that DOE will receive and consider timely written comments on the petition for waiver. Within five working days, each petitioner must file with DOE a statement certifying the names and addresses of each person to whom a notice of the petition for waiver has been sent.

(2) If a petitioner does not request an interim waiver and notification has not been provided pursuant to paragraph (c)(1) of this section, each petitioner, after filing a petition for waiver with DOE, and after the petition for waiver has been published in the **Federal**

Register, must, within five working days of such publication, notify in writing all known manufacturers of domestically marketed units of the same product class (as listed in 10 CFR 430.32) and of other product classes known to the petitioner to use the technology or have the characteristic at issue in the waiver. The notice must include a statement that DOE has published the petition in the **Federal Register** and the date the petition for waiver was published. Within five working days of the publication of the petition in the **Federal Register**, each petitioner must file with DOE a statement certifying the names and addresses of each person to whom a notice of the petition for waiver has been sent.

(d) *Public comment and rebuttal.* (1) Any person submitting written comments to DOE with respect to an interim waiver must also send a copy of the comments to the petitioner by the deadline specified in the notice.

(2) Any person submitting written comments to DOE with respect to a petition for waiver must also send a copy of such comments to the petitioner.

(3) A petitioner may, within 10 working days of the close of the comment period specified in the **Federal Register**, submit a rebuttal statement to DOE. A petitioner may rebut more than one comment in a single rebuttal statement.

(e) *Provisions specific to interim waivers*—(1) Disposition of application. If administratively feasible, DOE will notify the applicant in writing of the disposition of the petition for interim waiver within 30 business days of receipt of the application. Notice of DOE's determination on the petition for interim waiver will be published in the **Federal Register**.

(2) Criteria for granting. DOE will grant an interim waiver from the test procedure requirements if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.

(f) *Provisions specific to waivers*—(1) Disposition of application. The petitioner shall be notified in writing as soon as practicable of the disposition of each petition for waiver. DOE shall issue a decision on the petition as soon as is practicable following receipt and review of the Petition for Waiver and other applicable documents, including, but not limited to, comments and rebuttal statements.

(2) Criteria for granting. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model(s) for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. Waivers may be granted subject to conditions, which may include adherence to alternate test procedures specified by DOE. DOE will consult with the Federal Trade Commission prior to granting any waiver, and will promptly publish in the **Federal Register** notice of each waiver granted or denied, and any limiting conditions of each waiver granted.

(g) *Extension to additional basic models.* A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition. DOE will publish any such extension in the **Federal Register**.

(h) *Duration.* (1) Within one year of issuance of an interim waiver, DOE will either:

(i) Publish in the **Federal Register** a determination on the petition for waiver; or

(ii) Publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver.

(2) When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance.

(i) *Compliance certification.* (1) If the alternate test procedure specified in the interim waiver differs from the alternate test procedure specified by DOE in a subsequent decision and order granting the petition for waiver, a manufacturer who has already certified basic models using the procedure permitted in DOE's grant of an interim test procedure waiver is not required to re-test and re-rate those basic models so long as: The manufacturer used that alternative procedure to certify the compliance of the basic model after DOE granted the company's interim waiver request; changes have not been made to those basic models that would cause them to use more energy or otherwise be less energy efficient; and the manufacturer does not modify the certified rating. However, if the alternate test procedure specified in the interim waiver differs from the alternate test procedure specified by DOE in a subsequent decision and order granting the petition for waiver and if specified by DOE in the decision and order, the manufacturer must re-test and re-certify compliance using the procedure specified by DOE in the decision and order by the time of the next annual certification.

(2) After DOE publishes a decision and order in the **Federal Register**, a manufacturer must use the test procedure contained in that notice to rate any basic models covered by the waiver that have not yet been certified to DOE and for any future testing in support of the certification for the basic model(s) while the waiver is valid.

(j) *Petition for waiver required of other manufacturers.* Within 60 days after DOE issues a waiver to a manufacturer for a product employing a particular technology or having a particular characteristic, any manufacturer currently distributing in commerce in the United States a product employing a technology or characteristic that results in the same need for a waiver (as specified by DOE in the published decision and order on the petition in the **Federal Register**) must submit a petition for waiver pursuant to the requirements of this section. Manufacturers not currently distributing such products in commerce in the United States must petition for and be granted a waiver prior to distribution in commerce in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of this section.

(k) *Rescission or modification.* (1) DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics. Waivers and interim waivers are conditioned upon the validity of statements, representations, and documents provided by the requestor; any evidence that the original grant of a waiver or interim waiver was based upon inaccurate information will weigh against continuation of the waiver. DOE's decision will specify the basis for its determination and, in the case of a modification, will also specify the change to the authorized test procedure.

(2) A person may request that DOE rescind or modify a waiver or interim waiver issued to that person if the person discovers an error in the information provided to DOE as part of its petition, determines that the waiver

is no longer needed, or for other appropriate reasons. In a request for rescission, the requestor must provide a statement explaining why it is requesting rescission. In a request for modification, the requestor must explain the need for modification to the authorized test procedure and detail the modifications needed and the corresponding impact on measured energy consumption.

(3) DOE will publish a proposed rescission or modification (DOE-initiated or at the request of the original requestor) in the **Federal Register** for public comment. A requestor may, within 10 working days of the close of the comment period specified in the proposed rescission or modification published in the **Federal Register**, submit a rebuttal statement to DOE. A requestor may rebut more than one comment in a single rebuttal statement.

(4) DOE will publish its decision in the **Federal Register**. DOE's determination will be based on relevant information contained in the record and any comments received.

(5) After the effective date of a rescission, any basic model(s) previously subject to a waiver must be tested and certified using the applicable DOE test procedure in 10 CFR part 430.

(l) *Revision of regulation.* As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule.

(m) To exhaust administrative remedies, any person aggrieved by an action under this section must file an appeal with the DOE's Office of Hearings and Appeals as provided in 10 CFR part 1003, subpart C.

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 3. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6311–6317.

■ 4. Section 431.2 is amended by revising the definition of ''Private labeler'' to read as follows:

§ 431.2 Definitions.

* * * * *

Private labeler means, with respect to any product covered under this part, an owner of a brand or trademark on the label of a covered product which bears a private label. A covered product bears a private label if:

(1) Such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product;

(2) The person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled; and

(3) The brand or trademark of a manufacturer of such product does not appear on such label.

* * * * *

■ 5. Section 431.401 is revised to read as follows:

§ 431.401 Petitions for waiver and interim waiver.

(a) *General information.* This section provides a means for seeking waivers of the test procedure requirements of this part for basic models that meet the requirements of paragraph (a)(1) of this section. In granting a waiver or interim waiver, DOE will not change the energy use or efficiency metric that the manufacturer must use to certify compliance with the applicable energy conservation standard and to make representations about the energy use or efficiency of the covered equipment. The granting of a waiver or interim waiver by DOE does not exempt such basic models from any other regulatory requirement contained in this part or the certification and compliance requirements of 10 CFR part 429 and specifies an alternative method for testing the basic model(s) addressed in the waiver.

(1) Any interested person may submit a petition to waive for a particular basic model the requirements of any uniform test method contained in this part, upon the grounds that either the basic model contains one or more design characteristics that prevent testing of the basic model according to the prescribed test procedures or cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data.

(2) Manufacturers of basic model(s) subject to a waiver or interim waiver are responsible for complying with the other requirements of this part and with the requirements of 10 CFR part 429 regardless of the person that originally submitted the petition for waiver and/or interim waiver. The filing of a petition for waiver and/or interim waiver shall not constitute grounds for noncompliance with any requirements of this part.

(3) All correspondence regarding waivers and interim waivers must be submitted to DOE either electronically to *AS_Waiver_Requests@ee.doe.gov* (preferred method of transmittal) or by mail to U.S. Department of Energy, Building Technologies Program, Test Procedure Waiver, 1000 Independence Avenue SW., Mailstop EE–5B, Washington, DC 20585–0121.

(b) *Petition content and publication.* (1) Each petition for waiver must:

(i) Identify the particular basic model(s) for which a waiver is requested, each brand name under which the identified basic model(s) will be distributed in commerce, the design characteristic(s) constituting the grounds for the petition, and the specific requirements sought to be waived, and must discuss in detail the need for the requested waiver;

(ii) Identify manufacturers of all other basic models distributed in commerce in the United States and known to the petitioner to incorporate design characteristic(s) similar to those found in the basic model that is the subject of the petition;

(iii) Include any alternate test procedures known to the petitioner to evaluate the performance of the equipment type in a manner representative of the energy and/or water consumption characteristics of the basic model; and

(iv) Be signed by the petitioner or an authorized representative. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a petition for waiver or in supporting documentation must be accompanied by a copy of the petition, application or supporting documentation from which the information claimed to be confidential has been deleted. DOE will publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and will solicit comments, data and information with respect to the determination of the petition.

(2) Each petition for interim waiver must reference the related petition for waiver by identifying the particular basic model(s) for which a waiver is being sought. Each petition for interim waiver must demonstrate likely success of the petition for waiver and address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the petition for interim waiver. Each petition for interim waiver must be signed by the petitioner or an authorized representative.

(c) *Notification to other manufacturers.* (1) Each petitioner for

interim waiver must, upon publication of a grant of an interim waiver in the **Federal Register**, notify in writing all known manufacturers of domestically marketed basic models of the same equipment class (as specified in the relevant subpart of 10 CFR part 431), and of other equipment classes known to the petitioner to use the technology or have the characteristic at issue in the waiver. The notice must include a statement that DOE has published the interim waiver and petition for waiver in the **Federal Register** and the date the petition for waiver was published. The notice must also include a statement that DOE will receive and consider timely written comments on the petition for waiver. Within five working days, each petitioner must file with DOE a statement certifying the names and addresses of each person to whom a notice of the petition for waiver has been sent.

(2) If a petitioner does not request an interim waiver and notification has not been provided pursuant to paragraph (c)(1) of this section, each petitioner, after filing a petition for waiver with DOE, and after the petition for waiver has been published in the **Federal Register**, must, within five working days of such publication, notify in writing all known manufacturers of domestically marketed basic models of the same equipment class (as listed in the relevant subpart of 10 CFR part 431), and of other equipment classes known to the petitioner to use the technology or have the characteristic at issue in the waiver. The notice must include a statement that DOE has published the petition in the **Federal Register** and the date the petition for waiver was published. Within five working days of the publication of the petition in the **Federal Register**, each petitioner must file with DOE a statement certifying the names and addresses of each person to whom a notice of the petition for waiver has been sent.

(d) *Public comment and rebuttal.* (1) Any person submitting written comments to DOE with respect to an interim waiver must also send a copy of the comments to the petitioner by the deadline specified in the notice.

(2) Any person submitting written comments to DOE with respect to a petition for waiver must also send a copy of such comments to the petitioner.

(3) A petitioner may, within 10 working days of the close of the comment period specified in the **Federal Register**, submit a rebuttal statement to DOE. A petitioner may rebut more than one comment in a single rebuttal statement.

(e) Provisions specific to interim waivers—(1) Disposition of application. If administratively feasible, DOE will notify the applicant in writing of the disposition of the petition for interim waiver within 30 business days of receipt of the application. Notice of DOE's determination on the petition for interim waiver will be published in the **Federal Register**.

(2) Criteria for granting. DOE will grant an interim waiver from the test procedure requirements if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.

(f) *Provisions specific to waivers*—(1) Disposition of application. The petitioner shall be notified in writing as soon as practicable of the disposition of each petition for waiver. DOE shall issue a decision on the petition as soon as is practicable following receipt and review of the Petition for Waiver and other applicable documents, including, but not limited to, comments and rebuttal statements.

(2) Criteria for granting. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model(s) for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. DOE may grant a waiver subject to conditions, which may include adherence to alternate test procedures specified by DOE. DOE will promptly publish in the **Federal Register** notice of each waiver granted or denied, and any limiting conditions of each waiver granted.

(g) *Extension to additional basic models.* A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition. DOE will publish any such extension in the **Federal Register**.

(h) *Duration.* (1) Within one year of issuance of an interim waiver, DOE will either:

(i) Publish in the **Federal Register** a determination on the petition for waiver; or

(ii) Publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver.

(2) When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance.

(i) *Compliance Certification.* (1) If the alternate test procedure specified in the interim waiver differs from the alternate test procedure specified by DOE in a subsequent decision and order granting the petition for waiver, a manufacturer who has already certified basic models using the procedure permitted in DOE's grant of an interim test procedure waiver is not required to re-test and re-rate those basic models so long as: The manufacturer used that alternative procedure to certify the compliance of the basic model after DOE granted the company's interim waiver request; changes have not been made to those basic models that would cause them to use more energy or otherwise be less energy efficient; and the manufacturer does not modify the certified rating. However, if the alternate test procedure specified in the interim waiver differs from the alternate test procedure specified by DOE in a subsequent decision and order granting the petition for waiver and if specified by DOE in the decision and order, the manufacturer must re-test and re-certify compliance using the procedure specified by DOE in the decision and order by the time of the next annual certification.

(2) After DOE publishes a decision and order in the **Federal Register**, a manufacturer must use the test procedure contained in that notice to rate any basic models covered by the waiver that have not yet been certified to DOE and for any future testing of any basic model(s) covered by the decision and order.

(j) *Petition for waiver required of other manufactures.* Within 60 days after DOE issues a waiver to a manufacturer for equipment employing a particular technology or having a particular characteristic, any manufacturer currently distributing in commerce in the United States equipment employing a technology or characteristic that results in the same need for a waiver (as specified by DOE in the published decision and order on the petition in the **Federal Register**) must submit a petition for waiver pursuant to the requirements of this section. Manufacturers not currently distributing such equipment in commerce in the United States must petition for and be granted a waiver prior to distribution in commerce in the United States. Manufacturers may also submit a request for interim waiver

pursuant to the requirements of this section.

(k) *Rescission or modification.* (1) DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics. Waivers and interim waivers are conditioned upon the validity of statements, representations, and documents provided by the requestor; any evidence that the original grant of a waiver or interim waiver was based upon inaccurate information will weigh against continuation of the waiver. DOE's decision will specify the basis for its determination and, in the case of a modification, will also specify the change to the authorized test procedure.

(2) A person may request that DOE rescind or modify a waiver or interim waiver issued to that person if the person discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. In a request for rescission, the requestor must provide a statement explaining why it is requesting rescission. In a request for modification, the requestor must explain the need for modification to the authorized test procedure and detail the modifications needed and the corresponding impact on measured energy consumption.

(3) DOE will publish a proposed rescission or modification (DOE-initiated or at the request of the original requestor) in the **Federal Register** for public comment. A requestor may, within 10 working days of the close of the comment period specified in the proposed rescission or modification published in the **Federal Register**, submit a rebuttal statement to DOE. A requestor may rebut more than one comment in a single rebuttal statement.

(4) DOE will publish its decision in the **Federal Register**. DOE's determination will be based on relevant information contained in the record and any comments received.

(5) After the effective date of a rescission, any basic model(s) previously subject to a waiver must be tested and certified using the applicable DOE test procedure in 10 CFR part 431.

(l) *Revision of regulation.* As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule.

(m) To exhaust administrative remedies, any person aggrieved by an action under this section must file an appeal with the DOE's Office of Hearings and Appeals as provided in 10 CFR part 1003, subpart C.

[FR Doc. 2014–10684 Filed 5–8–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0967; Directorate Identifier 2013–CE–042–AD; Amendment 39–17839; AD 2014–09–04]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2009–21–08 R1 for Piaggio Aero Industries S.p.A Model P–180 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cases of un-commanded operation of switched off nose-wheel steering system caused by internal leakage of a steering select/bypass valve. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 13, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0967*; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Piaggio Aero Industries S.p.A—Airworthiness Office, Via Luigi Cibrario, 4–16154 Genova-Italy; phone: +39 010 6481353; fax: +39 010 6481881; email: *airworthiness@piaggioaero.it*; Internet: *http://www.piaggioaero.com/#/en/aftersales/service-support*. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain PIAGGIO AERO INDUSTRIES S.p.A Model P–180 airplanes. That NPRM was published in the **Federal Register** on November 20, 2013 (78 FR 69597), and proposed to supersede AD 2009–21–08 R1, Amendment 39–16169 (75 FR 904, January 7, 2010).

The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

> Cases of un-commanded operation of switched off nose-wheel steering system were reported. Internal leakage of a Steering Select/Bypass Valve, installed in the nose landing gear (NLG) Steering Manifold, was identified as a failure cause.
>
> This condition, if not detected and corrected, could lead to loss of directional control on ground during take-off or landing, possibly resulting in a runway excursion.
>
> To address this unsafe condition, EASA issued AD 2009–0129 to require repetitive functional checks of the Steering Manifold to verify internal leakage proofness and accomplishment of the functional check upon installation of a replacement Steering Manifold on an aeroplane.
>
> Since that AD was issued, PAI issued Service Bulletin (SB) 80–0249 at revision 3, providing improved testing procedures.
>
> For the reasons described above, this AD retains the requirements of EASA AD 2009–0129, which is superseded, but requires accomplishment of the functional checks in accordance with the improved procedures and additionally, before release to service of an aeroplane after installation of a replacement NLG. This AD also introduces an optional modification, which constitutes terminating action for the repetitive functional checks required by this AD.
>
> This AD is revised to introduce a relieving compliance time for aeroplanes earlier inspected in accordance with EASA AD 2009–0129.

The MCAI can be found in the AD docket on the Internet at *http://*

www.regulations.gov/#!documentDetail;D=FAA-2013-0967-0002.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request To Add an Additional Method of Compliance for Doing the Functional Test of the Nose Landing Gear (NLG) Steering Manifold

Carlo Cardu of Piaggio Aero Industries S.p.A requested that we add an additional method of compliance for doing the functional tests of the NLG steering manifold required in paragraph (f)(1) of the proposed AD.

Carlo Cardu stated that following Part A1 of Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N. 80–0249, Rev. 3, dated July 22, 2013, should be allowed to show compliance for doing the functional tests required in paragraph (f)(1) of the proposed AD because the procedures in Part A1 are more thorough than the procedures in Part A2 and meet the full intent of Part A2.

We agree with the commenter and have changed the final rule AD action based on this comment.

Request To Clarify the Compliance Time for the Repetitive 165-Hour Time-in-Service (TIS) Functional Tests

Carlo Cardu of Piaggio Aero Industries S.p.A requested that we clarify that each time a functional test of the nose landing gear (NLG) steering manifold is done following Part A1 of the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N. 80–0249, Rev. 3, dated July 22, 2013, that the time counting towards the required 165-hour TIS repetitive functional test is reset to zero.

We agree with the commenter and have changed the final rule AD action based on this comment.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 69597, November 20, 2013), for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 69597, November 20, 2013).

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

Costs of Compliance

We estimate that this AD will affect 112 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic functional test requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $19,040, or $170 per product.

In addition, we estimate the following cost to do the optional modification to terminate the required repetitive functional tests. For Model P–180 Avanti airplanes, it will take about 40 work-hours and require parts costing $2,000, for a cost of $5,400 per product. For Model P–180 Avanti II airplanes, it will take about 40 work-hours and require parts costing $4,000, for a cost of $7,400 per product. We have no way of determining the number of operators that may choose this optional action.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0967*; 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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–16169 (75 FR 904, January 7, 2010), and adding the following new AD:

2014–09–04 Piaggio Aero Industries S.p.A: Amendment 39–17839; Docket No. FAA–2013–0967; Directorate Identifier 2013–CE–042–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 13, 2014.

(b) Affected ADs

This AD supersedes AD 2009–21–08 R1, Amendment 39–16169 (75 FR 904, January 7, 2010).

(c) Applicability

This AD applies to Piaggio Aero Industries S.p.A. Model P–180 airplanes, serial numbers

1004 through 1218, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cases of uncommanded operation of switched off nose-wheel steering system caused by internal leakage of a steering select/bypass valve. We are issuing this AD to prevent loss of directional control on ground during take-off or landing, which could result in a runway excursion.

(f) Actions and Compliance

Unless already done, do the actions required in paragraph (f)(1) through paragraph (f)(5) of this AD, including all subparagraphs:

(1) At whichever of the compliance times specified in paragraph (f)(1)(i) and paragraph (f)(1)(ii) of this AD that occurs first and repetitively thereafter at intervals not to exceed 165 hours time-in-service (TIS), do a functional test of the nose landing gear (NLG) steering manifold following Part A1 or Part A2 of the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N. 80–0249, Rev. 3, dated July 22, 2013 (includes Confirmation Slip). Any functional test completed following either Part A1 or Part A2 resets the time counting towards the 165-hour TIS repetitive functional test to zero.

(i) Within the next 165 hours TIS after June 13, 2014 (the effective date of this AD) or within the next 6 months after June 13, 2014 (the effective date of this AD), whichever occurs first; or

(ii) Within the next 165 hours TIS after the last inspection done in compliance with AD 2009–21–08 R1, Amendment 39–16169 (75 FR 904, January 7, 2010).

(2) Within the next 220 hours TIS after June 13, 2014 (the effective date of this AD) or within the next 6 months after June 13, 2014 (the effective date of this AD), whichever occurs first, and repetitively thereafter at intervals not to exceed 660 TIS or 12 months, whichever occurs first, do a functional test of the nose landing gear (NLG) steering manifold following Part A1 of the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N. 80–0249, Rev. 3, dated July 22, 2013 (includes Confirmation Slip). Any functional test completed following either Part A1 or Part A2 resets the time counting towards the 165-hour TIS repetitive functional test required by paragraph (f)(1) of this AD to zero.

(3) If, during any functional test required in paragraphs (f)(1) and (f)(2) of this AD, any NLG steering actuator movement discrepancy is detected, before further flight, replace the NLG steering manifold with a serviceable part as specified in Part A1 and Part A2 of the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N. 80–0249, Rev. 3, dated July 22, 2013 (includes Confirmation Slip).

(4) As of June 13, 2014 (the effective date of this AD), installation of a replacement NLG steering manifold or a replacement NLG is allowed, provided that, before release to service, the NLG steering manifold passes a functional test following Part A1 of the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N. 80–0249, Rev. 3, dated July 22, 2013 (includes Confirmation Slip).

(5) To terminate the repetitive functional tests required in paragraph (f)(1) and paragraph (f)(2) of this AD, at any time after the initial functional test required in paragraph (f)(1) and paragraph (f)(2) of this AD, you may modify the electrical configuration of the steering system following the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin (Recommended) N. 80–0285, dated September 30, 2013 (includes Confirmation Slip), or the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Service Bulletin (Recommended) N. 80–0286, Rev. 1, dated September 30, 2013 (includes Confirmation Slip), as applicable.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards 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: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

(i) Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(ii) AMOCs approved for AD 2009–21–08 R1 (75 FR 904, January 7, 2010) are not approved for AMOCs for this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

(h) Related Information

Refer to European Aviation Safety Agency (EASA) AD No. 2013–0242R1, dated October 9, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0967-0002.*

(i) Material Incorporated by Reference

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

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

(i) Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N. 80–0249, Rev. 3, dated July 22, 2013 (includes Confirmation Slip).

(ii) Piaggio Aero Industries S.p.A. Service Bulletin (Recommended) N. 80–0285, dated September 30, 2013 (includes Confirmation Slip).

(iii) Piaggio Aero Industries S.p.A. Service Bulletin (Recommended) N. 80–0286, Rev. 1, dated September 30, 2013 (includes Confirmation Slip).

(3) For Piaggio Aero Industries S.p.A service information identified in this AD, contact Piaggio Aero Industries S.p.A—Airworthiness Office, Via Luigi Cibrario, 4–16154 Genova-Italy; phone: +39 010 6481353; fax: +39 010 6481881; email: *airworthiness@piaggioaero.it*; Internet: *http://www.piaggioaero.com/#/en/aftersales/service-support.*

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

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

Issued in Kansas City, Missouri, on April 17, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09431 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0686; Directorate Identifier 2013–NM–006–AD; Amendment 39–17843; AD 2014–09–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2007–16–19, which applied to certain The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes. AD 2007–16–19 required repetitive detailed inspections for cracking of the aft tension tie channels from body station (BS) 1120 to BS 1220 and from BS 880 to BS 1100, and corrective actions if necessary. AD 2007–16–19 also provided optional terminating action. This new AD retains the existing requirements, limits the area of the detailed inspection, adds repetitive surface high-frequency eddy current inspections, and mandates the previously optional terminating action. This AD was prompted by an analysis that indicated the need to mandate the previously optional modification. We are issuing this AD to prevent fatigue cracking of the tension ties, which could result in reduced structural integrity of the airplane and rapid depressurization of the airplane.

DATES: This AD is effective June 13, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 13, 2014

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of September 12, 2012 (77 FR 47267, August 8, 2012).

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0686; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007). AD 2007–16–19 applied to certain The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes. The NPRM published in the **Federal Register** on August 12, 2013 (78 FR 48835). The NPRM was prompted by an analysis that indicated the need to mandate the previously optional modification. The NPRM proposed to continue to require repetitive detailed inspections for cracking of the aft tension tie channels from body station (BS) 1120 to BS 1220 and from BS 880 to BS 1100, and corrective actions if necessary. The NPRM also proposed to provide optional terminating action for the repetitive detailed inspections at BS 1120 to 1220. The NPRM also proposed to limit the area of the detailed inspection, add repetitive surface high-frequency eddy current inspections, and mandate the previously optional terminating action for BS 880 to 1100. We are issuing this AD to prevent fatigue cracking of the tension ties, which could result in reduced structural integrity of the airplane and rapid depressurization of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 48835, August 12, 2013) and the FAA's response to each comment.

Request To Change Service Information Reference

Paragraph (h) of the NPRM (78 FR 48835, August 12, 2013) specified a modification and related investigative and corrective actions, in accordance with Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012. Paragraph (h) of the NPRM included the following provision:

> Modification of a tension tie at STA 1120 to 1220, as required by paragraph (p) of AD 2012–15–13 . . ., is acceptable for compliance with the requirements of paragraph (h) of this AD for that tension tie location only.

Boeing requested that we revise that sentence to specify that the modification is terminating action if done in accordance with Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011—instead of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), which could be superseded in the future.

We agree with the request, for the reasons provided by the commenter, and have revised this terminating action provision accordingly in this final rule. We have also revised paragraph (b) of this final rule to remove the reference to AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012). In addition, we have moved the terminating action provisions from paragraph (h) of this final rule to a new paragraph (i) in this final rule, and redesignated subsequent paragraphs accordingly.

Requests for More Specific Exception References

Boeing requested that we revise paragraphs (g) and (h) of the NPRM (78 FR 48835, August 12, 2013) to change the reference to the compliance-time exception paragraph, which the NPRM identified as paragraph ''(i).'' Boeing requested that we more specifically identify this exception as paragraph ''(i)(2)'' of the NPRM.

We agree, and have revised paragraphs (g) and (h) accordingly in this final rule—except that paragraph (i)(2) of the NPRM (78 FR 48835, August 12, 2013) has been redesignated as paragraph (j)(2) in this final rule.

Additional Changes to NPRM (78 FR 48835, August 12, 2013)

Paragraph (h) of the NPRM (78 FR 48835, August 12, 2013) provided terminating action for all tension tie locations (BS 880 to 1220). We have revised paragraph (h) in this final rule to require terminating action for BS 880

to 1100 only, and to move the (optional) terminating action for BS 1120 to 1220 to new paragraph (i) in this final rule. We redesignated subsequent paragraphs accordingly.

We have further revised paragraph (h) of the NPRM (78 FR 48835, August 12, 2013), now paragraphs (h) and (i) in this final rule, to clarify that modification of a tension tie is acceptable for compliance with the requirements of paragraph (g) of this AD for the affected tension tie location only.

Paragraph (h) of the NPRM (78 FR 48835, August 12, 2013) incorrectly stated that it terminated paragraph (h) of the AD. Paragraphs (h) and (i) in this final rule instead identify paragraph (g) of the AD as the terminated action.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 48835, August 12, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 48835, August 12, 2013).

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

Costs of Compliance

We estimate that this AD affects 1 airplane of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained detailed inspection (retained actions).	4 work-hours × $85 per hour = $340 per inspection cycle.	$0	$340 per inspection cycle.	$340 per inspection cycle.
New surface high-frequency eddy current inspection.	4 work-hours × $85 per hour = $340 per inspection cycle.	0	$340 per inspection cycle.	$340 per inspection cycle.
New modification	64 work-hours × $85 per hour = $5,440.	14,948	$20,388	$20,388

We have received no definitive data that would enable us to provide work-hour estimates for repair of cracks found in a bolt hole during the detailed inspection specified in this AD. The cost for parts (oversized fastener kit) for this condition is $2,292.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007), and adding the following new AD:

2014–09–08 The Boeing Company: Amendment 39–17843; Docket No. FAA–2013–0686; Directorate Identifier 2013–NM–006–AD.

(a) Effective Date

This AD is effective June 13, 2014.

(b) Affected ADs

This AD supersedes AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007).

(c) Applicability

This AD applies to The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the tension ties are subject to widespread fatigue damage (WFD). We are issuing this AD to prevent fatigue cracking of the tension ties, which could result in reduced structural integrity of the airplane and rapid depressurization of the airplane.

(f) Compliance

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

(g) Repetitive Inspections

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as specified in paragraph (j)(2) of this AD: Do

detailed and surface high-frequency eddy current inspections for cracks in the tension ties at body station (BS) 880 to 1100, 1120, 1160, 1200, and 1220, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as required by paragraph (j)(3) of this AD. Do all applicable corrective actions before further flight. Repeat the inspections thereafter at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, until the tension ties have been modified as required by paragraph (h) of this AD or as specified in paragraph (i) of this AD. Repair or modification of a tension tie at any location in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, terminates the repetitive inspection requirements of this AD for that tension tie location only.

(h) Tension Tie Modification: BS 880 to 1100

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as specified in paragraph (j)(2) of this AD: Modify the tension ties from BS 880 to 1100, and do all applicable related investigative and corrective actions, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as required by paragraph (j)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Modification as required by this paragraph terminates the repetitive inspection requirements of paragraph (g) of this AD for the affected tension tie location(s) only.

(i) Optional Terminating Action: BS 1120 to 1220

Modification of a tension tie at BS 1120 to 1220 in accordance with Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011, except as required by paragraph (j)(4) of this AD, terminates the requirements of paragraph (g) of this AD for that tension tie location only. Paragraph (p) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), mandates the accomplishment of the modification and associated actions specified in Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011.

(j) Service Information Clarification and Exceptions

(1) Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, specifies certain compliance times ''after August 28, 2007.'' August 28, 2007, is the effective date of AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007).

(2) Where Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, specifies a compliance time ''after the Revision 1 date of this service bulletin,'' this AD requires compliance within the specified time after the effective date of this AD.

(3) Where Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, specifies to contact Boeing for certain repair instructions: Repair before further flight using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(4) Where Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011, specifies to contact Boeing for repair instructions or additional modification requirements, repair of the cracking or additional actions must be done using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for the detailed inspections, repairs, and modification specified in paragraphs (g) and (h) of this AD, for that affected tension tie location only, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2610, dated May 10, 2007 (which is not incorporated by reference in this AD).

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously in accordance with AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007), are approved as AMOCs for the corresponding provisions of this AD.

(m) Related Information

(1) For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov*.

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

(n) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on June 13, 2014.

(i) Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012.

(ii) Reserved.

(4) The following service information was approved for IBR on September 12, 2012 (77 FR 47267, August 8, 2012).

(i) Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on April 22, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09832 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0130; Directorate Identifier 2014–CE–005–AD; Amendment 39–17847; AD 2014–09–12]

RIN 2120–AA64

Airworthiness Directives; Alpha Aviation Concept Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Alpha Aviation Concept Limited Model R2160 airplanes. This AD results from

mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the metal screen shield over the ignition switch may ground out the ignition terminals. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 13, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0130; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Alpha Aviation, 59 Hautapu Road, RD 1, Cambridge 3493, New Zealand; telephone: +64 7 827 0528; fax: +64 7 929 2878; Internet: *www.alphaaviation.co.nz*. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123 ; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to certain Alpha Aviation Concept Limited Model R2160 airplane. The NPRM was published in the **Federal Register** on March 3, 2014 (79 FR 11723). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> The AD is prompted by an overseas DR300/180R aircraft accident which occurred during take-off. Investigation revealed a distorted metal screen shield which grounded the ignition switch terminals and resulted in loss of engine power.
>
> Robin aircraft manufactured prior to 1985 were fitted with ignition switches protected with a metal screen shield. With subsequent radio and electrical system improvements ignition switch shielding is no longer required, and most aircraft do not have metal screen shielded ignition switches.
>
> This AD requires a one-time inspection of the ignition switch to determine if a metal screen shield is installed, and depending on findings, to modify or replace the ignition switch with a serviceable part. The AD prohibits the installation of a metal screen shield ignition switch on any aircraft.

The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0130-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 11723, March 3, 2014) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 11723, March 3, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 11723, March 3, 2014).

Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $2,550, or $255 per product.

In addition, we estimate that any necessary follow-on actions will take about 3 work-hours and require parts costing $100, for a cost of $355 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2012–0130; 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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2014–09–12 Alpha Aviation Concept Limited: Amendment 39–17847; Docket No. FAA–2014–0130; Directorate Identifier 2014–CE–005–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 13, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Alpha Aviation Concept Limited Model R2160 airplanes, serial numbers 001 through 378, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 74: Ignition.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the metal screen shield over the ignition switch may ground out the ignition terminals. We are issuing this AD to prevent the ignition switch metal screen from grounding out the ignition switch terminals, which could cause the engine to shut down.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within the next 50 hours time-in-service after June 13, 2014 (the effective date of this AD) or within the next 3 months after June 13, 2014 (the effective date of this AD), whichever occurs first, inspect the airplane ignition switch for the presence of a metal screen shield. Do the inspection following the Accomplishment Instructions in Alpha Aviation Service Bulletin AA–SB–24–002, Revision 0, dated January 2014.

(2) If a metal screen is found during the inspection required in paragraph (f)(1) of this AD, before further flight, modify or replace the ignition switch following the Accomplishment Instructions in Alpha Aviation Service Bulletin AA–SB–24–002, Revision 0, dated January 2014.

(3) As of June 13, 2014 (the effective date of this AD), do not install an ignition switch with a metal screen shield.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards 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: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI Civil Aviation Authority (CAA) AD DCA/R2000/42, dated January 29, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0130-0002.*

(i) Material Incorporated by Reference

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

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

(i) Alpha Aviation Service Bulletin AA–SB–24–002, Revision 0, dated January 2014.

(ii) Reserved.

(3) For Alpha Aviation Concept Limited service information identified in this AD, contact Alpha Aviation, 59 Hautapu Road, RD 1, Cambridge 3493, New Zealand; telephone: +64 7 827 0528; fax: +64 7 929 2878; Internet: *www.alphaaviation.co.nz.*

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

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

Issued in Kansas City, Missouri, on April 25, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–10058 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0092; Directorate Identifier 2014–CE–002–AD; Amendment 39–17846; AD 2014–09–11]

RIN 2120–AA64

Airworthiness Directives; GROB–WERKE Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain GROB–WERKE Models G115EG and G120A airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks in the left hand elevator flange. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 13, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0092; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Grob Aircraft AG, Customer Service, Lettenbachstrasse 9, 86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268–998–105; fax; + 49 (0) 8268–998–200; email: *productsupport@grob-aircraft.com*; Internet: *grob-aircraft.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816)

329–4090; email: *karl.schletzbaum@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to certain GROB–WERKE Models G115EG and G120A airplanes. That NPRM was published in the **Federal Register** on February 20, 2014 (79 FR 9661). That NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

An operator of a G 115E aeroplane reported finding a crack during scheduled maintenance on the left hand (LH) elevator flange, part number (P/N) 115E–3761.06. The design of the right hand (RH) elevator flange, P/N 115E–3762.07, is identical. A similar design is used for the elevator flanges installed on G 120A and G–120A–I aeroplanes, P/N 120A–3561.20(A) and P/N 120A–3562.20(A). Therefore, the reported deficiency may also exist on G 120 aeroplanes.

This condition, if not detected and corrected, could lead to elevator failure, resulting in reduced control of the aeroplane.

To address this potential unsafe condition, GROB Aircraft AG issued Service Bulletins (SB) MSB1078–194 and SB MSB1121–140 to provide instruction for inspection and corrective action.

For the reasons described above, this AD requires repetitive inspections of both elevator flanges on an aeroplane to detect any crack, and, depending on findings, replacement of the affected part.

You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0092-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 9661, February 20, 2014) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 9661, February 20, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 9661, February 20, 2014).

Costs of Compliance

We estimate that this AD will affect 6 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $510, or $85 per product.

In addition, we estimate that any necessary follow-on actions will take about 8 work-hours and require parts costing approximately $306 for the left hand (LH) elevator flange and $365 for the right hand (RH) elevator flange. We estimate a cost of $986 to replace the LH elevator flange per product and $1,045 to replace the RH elevator flange per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0092; 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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2014–09–11 GROB–WERKE: Amendment 39–17846; Docket No. FAA–2014–0092; Directorate Identifier 2014–CE–002–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 13, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GROB–WERKE Model G115EG airplanes, all serial numbers, and Model G120A airplanes, serial numbers 85001 through 85007, 85026 through 85056, and 85058, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI

describes the unsafe condition as cracks in the left hand elevator flange. We are issuing this AD to detect and correct cracks in the left hand and right hand elevator flanges, which could cause the elevator to fail and could result in reduced control.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within the next 30 days after June 13, 2014 (the effective date of this AD) and repetitively thereafter at intervals not to exceed 100 hours time-in-service (TIS), inspect the left hand (LH) and the right hand (RH) elevator flanges, part number (P/N) 115E–3761.06 and P/N 115E–3762.07 or P/N 120A–3561.20(A) and P/N 120A–3562.20(A), as applicable, for cracks. Do the inspections following GROB Aircraft Service Bulletin No. MSB1078–194/1, dated December 3, 2013, or GROB Aircraft Service Bulletin No. MSB1121–140, dated December 3, 2013, as applicable.

(2) If any crack is found during any inspection required in paragraph (f)(1) of this AD, before further flight, replace the affected elevator flange with a serviceable part. Do the replacement following GROB Aircraft Service Bulletin No. MSB1078–194/1, dated December 3, 2013, or GROB Aircraft Service Bulletin No. MSB1121–140, dated December 3, 2013, as applicable.

(3) As of June 13, 2014 (the effective date of this AD), only install an elevator flange P/N 115E–3761.06, P/N 115E–3762.07, P/N 120A–3561.20(A), or P/N 120A–3562.20(A), if it has been inspected following GROB Aircraft Service Bulletin No. MSB1078–194/1, dated December 3, 2013, or GROB Aircraft Service Bulletin No. MSB1121–140, dated December 3, 2013, as applicable, and is free of any cracks.

(g) Credit for Actions Accomplished in Accordance With Previous Service Information for Model G115EG Airplanes

This paragraph provides credit for the initial inspection required in paragraph (f)(1) of this AD and any replacement required in paragraph (f)(2) based on the result of the initial inspection if already done before June 13, 2014 (the effective date of this AD) following GROB Aircraft Service Bulletin No. MSB1078–194, dated November 26, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards 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: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2014–0004, dated January 7, 2014; and GROB Aircraft Service Bulletin No. MSB1078–194, dated November 26, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0092-0002.*

(j) Material Incorporated by Reference

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

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

(i) GROB Aircraft Service Bulletin No. MSB1078–194/1, dated December 3, 2013.

(ii) GROB Aircraft Service Bulletin No. MSB1121–140, dated December 3, 2013.

(3) For GROB–WERKE service information identified in this AD, contact Grob Aircraft AG, Customer Service, Lettenbachstrasse 9, 86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268–998–105; fax; + 49 (0) 8268–998–200; email: *productsupport@grob-aircraft.com*; Internet: *grob-aircraft.com.*

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

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

Issued in Kansas City, Missouri, on April 25, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–10060 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0214; Airspace Docket No. 14–AGL–10]

Amendment of Class D and E Airspace; Grand Forks, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Technical amendment; correction.

SUMMARY: This action amends a typographical error in the effective date of a final rule technical amendment correction published in the **Federal Register** of February 6, 2014, that amends Class D and E airspace in the Grand Forks, ND, area. The effective date year is corrected from February 6, 2013, to February 6, 2014.

DATES: Effective date: 0901 UTC, May 9, 2014.

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:

History

On February 6, 2014, a final rule technical amendment correction was published in the **Federal Register** amending Class D and Class E airspace in Grand Forks, ND (79 FR 7055, Docket No. FAA–2013–0950). The document became effective upon publication. Subsequent to publication, the FAA found the document showing the effective date as being one year prior to publication; February 6, 2013, instead of February 6, 2014.

Since this is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, I find that notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest. Also, as immediate corrective action is necessary to show the correct effective date to avoid confusion in the publication of the

amendment to FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, the FAA finds good cause, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

Final Rule Correction

Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of February 6, 2014 (79 FR 7055), the date, under the **DATES** heading on page 7056, column 1, lines 9 and 10, is corrected to read:

DATES: Effective Date: 0901 UTC, February 6, 2014.

Issued in Fort Worth, Texas, on April 2, 2014.

Kent M. Wheeler

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–09892 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0135; Airspace Docket No. 14–AGL–4]

Amendment of Class E Airspace; Grand Forks, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Class E airspace within the Grand Forks, ND, area by amending the geographic coordinates of the Grand Forks International Airport ILS Localizer. The boundaries and operating requirements of the airspace remain the same.

DATES: Effective date: 0901 UTC, June 9, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: 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:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the geographic coordinates of the Grand Forks International Airport ILS Localizer from ''(lat. 47°53′43″ N., long. 97°10′52″ W.)'' to ''(lat. 47°57′43″ N., long. 97°10′52″ W.)'', to coincide with the FAA's Aeronautical database. Since this is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, I find that notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the 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 amends controlled airspace in the Grand Forks, ND area.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

AGL ND E5 Grand Forks, ND [Amended]

Grand Forks International Airport, ND
(Lat. 47°56′50″ N., long. 97°10′26″ W.)
Grand Forks, Grand Forks AFB, ND
(Lat. 47°57′41″ N., long. 97°24′03″ W.)
Grand Forks International Airport ILS Localizer
(Lat. 47°57′43″ N., long. 97°10′52″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Grand Forks International Airport, and within a 7-mile radius of Grand Forks AFB, and within 3 miles each side of the Grand Forks International Airport ILS Localizer north course extending from the 7-mile radius to 10 miles north of the airport, and that airspace extending upward from 1,200 feet above the surface within a 34-mile radius of Grand Forks AFB, within the state of North Dakota.

Issued in Fort Worth, Texas on April 28, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–10597 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–13–P

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Notice of Final Rulemaking; Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan To Revise the Human Health Water Quality Criteria for PCBs in Zones 2 Through 6 of the Delaware Estuary and Bay

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: By Resolution No. 2013–8 on December 4, 2013, the Delaware River Basin Commission (''DRBC'' or ''Commission'') approved amendments to the Commission's *Water Quality Regulations, Water Code* and *Comprehensive Plan* to establish a uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay, DRBC Water Quality Management Zones 2 through 6, for the protection of human health from carcinogenic effects.

DATES: This regulation is effective June 9, 2014. The incorporation by reference of the publications listed in this rule is approved by the Director of the Federal Register of Regulations as of June 9, 2014.

FOR FURTHER INFORMATION CONTACT: Pamela M. Bush, Commission Secretary and Assistant General Counsel by phoning 609–883–9500 Ext. 203, or by email to *pamela.bush@drbc.state.nj.us.*

SUPPLEMENTARY INFORMATION: The Delaware River Basin Commission is a federal-state regional agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. Its members are the governors of the four basin states—Delaware, New Jersey, New York and Pennsylvania—and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government.

Notice of the proposed amendments appeared in the **Federal Register** (78 FR 47241) on August 5, 2013 as well as in the Delaware Register of Regulations (17 DE Reg. 143) on August 1, 2013, the New Jersey Register (45 N.J.R. 1907) on August 5, 2013, the New York State Register (page 3) on August 14, 2013 and the Pennsylvania Bulletin (43 Pa.B. 4740) on August 17, 2013. Notice of the proposed changes also was published on the Commission's Web site on August 2, 2013. A public hearing was held on September 10, 2013 and written comments were accepted through September 20, 2013.

The uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay for the protection of human health from carcinogenic effects is the product of more than a decade of data-gathering, assessment, debate and consensus-building involving dischargers, regulators, scientists, policy-makers and other stakeholders from across the region. The criterion is the product of a rigorous application of the most current available data and methodology, including site-specific data on fish consumption, site-specific bioaccumulation factors, and the current U.S. Environmental Protection Agency (EPA) methodology for the development of human health criteria for toxic pollutants (*see* EPA–822–B–00–004, October 2000). The criterion will replace the Commission's current PCB criteria for the Estuary and Bay, which are inconsistent with the current EPA methodology and pre-date the collection of site-specific data that are relevant to the development of human health water quality criteria. The current data also vary by water quality zone, adding undue complexity to application of the criteria in these tidal waters.

In addition to proposing the criterion, the Commission's notice of proposed rulemaking in August 2013 invited comment on a draft strategy for implementing the criterion for both point and non-point sources. Developed by the DRBC in partnership with the environmental agencies of the states of Delaware, New Jersey and Pennsylvania, EPA regions II and III and EPA Headquarters (collectively, ''the co-regulators''), the draft strategy sets forth detailed approaches for reducing PCB loadings from point and non-point sources over the coming decades. A key objective of the strategy is to provide uniformity and a degree of certainty to NPDES permits that will be issued by the states bordering the Estuary and Bay. Notably, no Commission action on the draft implementation strategy was or is proposed. As DRBC's Notice of Proposed Rulemaking indicated, new total maximum daily loads (''Stage 2 TMDLs'') for PCBs in the Delaware Estuary and Bay will be established by EPA on behalf of the Estuary states and at their request following publication of this Final Rule. The strategy document will be included as an Appendix to the Stage 2 TMDL report when issued. Until Stage 2 TMDLs based upon the new criterion are established the co-regulators will apply the existing NPDES permit approach, which was published as an appendix to the 2003 (Stage 1) TMDLs for PCBs in the Delaware Estuary.

The complete text of Resolution No. 2013–8, the *Water Code,* the *Administrative Manual Part III—Water Quality Regulations,* the basis and background document setting forth the technical basis for the new criterion, the response-to-comment document addressing comments received by DRBC on the proposed criterion and the draft implementation strategy, and additional documents concerning the control of PCBs in the Delaware Estuary all are available on the Commission's Web site, DRBC.net. Copies also may be obtained from the Commission's Secretary and Assistant General Counsel at the telephone number and email address listed above. A charge for printing and mailing may apply.

List of Subjects in 18 CFR Part 410

Incorporation by reference, Water audit, Water pollution control, Water reservoirs, Water supply, Watersheds.

For the reasons set forth in the preamble, the Delaware River Basin Commission amends part 410 of title 18 of the Code of Federal Regulations as follows:

PART 410—BASIN REGULATIONS; WATER CODE AND ADMINISTRATIVE MANUAL—PART III WATER QUALITY REGULATIONS

■ 1. The authority citation for Part 410 continues to read:

Authority: Delaware River Basin Compact, 75 Stat. 688.

■ 2. In § 410.1 revise paragraph (c) to read as follows:

§ 410.1 Basin regulations—Water Code and Administrative Manual—Part III Water Quality Regulations.

* * * * *

(c) Work, services, activities and facilities affecting the conservation, utilization, control, development or management of water resources within the Delaware River Basin are subject to regulations contained within the Delaware River Basin Water Code with Amendments Through December 4, 2013 and the Administrative Manual—Part III Water Quality Regulations with Amendments Through December 4, 2013. Both the Delaware River Basin Water Code and the Administrative Manual—Part III Water Quality Regulations are incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain or inspect copies at the Delaware River Basin Commission (DRBC), 25 State Police Drive, West Trenton, New Jersey 08628–0360, 609–883–9500, *http://www.drbc.net*, 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/code_of_federal_regulations/ibr_locations.html.*

Dated: May 1, 2014.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2014–10461 Filed 5–8–14; 8:45 am]

BILLING CODE 6360–01–P

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Notice of Final Rulemaking; Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan To Update Water Quality Criteria for pH

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: By Resolution No. 2013–9 on December 4, 2013, the Delaware River Basin Commission (''DRBC'' or ''Commission'') approved amendments to the Commission's *Water Quality Regulations, Water Code* and *Comprehensive Plan* to update the Commission's stream quality objectives for pH in interstate tidal and non-tidal reaches of the main stem Delaware River.

DATES: This regulation is effective June 9, 2014. The incorporation by reference of the publications listed in this rule is approved by the Director of the Federal Register of Regulations as of June 9, 2014.

FOR FURTHER INFORMATION CONTACT: Pamela M. Bush, Commission Secretary and Assistant General Counsel by phoning 609–883–9500 Ext. 203, or by email to *pamela.bush@drbc.state.nj.us.*

SUPPLEMENTARY INFORMATION: The Delaware River Basin Commission is a federal-state regional agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. Its members are the governors of the four basin states—Delaware, New Jersey, New York and Pennsylvania—and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government.

Notice of the proposed amendments appeared in the **Federal Register** (78 FR 58985) on September 25, 2013 as well as in the Delaware Register of Regulations (17 DE Reg. 365) on October 1, 2013, the New Jersey Register (45 N.J.R. 2201) on October 7, 2013, the New York State Register (page 13) on October 9, 2013 and the Pennsylvania Bulletin (43 Pa.B. 5995) on October 12, 2013. Notice of the proposed changes also was published on the Commission's Web site on September 20, 2013. A public hearing was held on October 24, 2013 and written comments were accepted through November 21, 2013. No written or oral comments were received.

The Commission's current criteria for pH in interstate streams were adopted in 1967. Today, these criteria are inconsistent with scientists' increased understanding of natural fluctuations in freshwater and saltwater pH levels and with modern applications of pH criteria. The amendments approved by the Commission on December 4, 2013 will minimize regulatory inconsistencies and better address natural pH cycles in the main stem Delaware River. First, they will increase from 6.0 to 6.5 the lower threshold of the range of acceptable pH conditions in non-tidal zones of the main stem—DRBC Water Quality Zones 1A through 1E. Second, they will add a clause to the pH criteria for all interstate tidal and non-tidal water quality zones, recognizing natural deviations outside the 6.5 to 8.5 pH range. In accordance with these changes, the pH criteria for Water Quality Zones 1A through IE (the non-tidal main stem) and 2 through 6 (the tidal main stem and tidal portions of tributaries) will read, ''Between 6.5 and 8.5 inclusive, unless outside this range due to natural conditions.''

The affected sections of the commission's *Water Code and Water Quality Regulations* consist of subsection C.3 of each of sections 3.20.2 through 3.20.6, respectively, for Water Quality Zones 1A through 1E (non-tidal main stem); and sections 3.30.2 through 3.30.6, respectively, for Water Quality Zones 2 through 6 (tidal main stem and tidal portions of tributaries). (The affected sections relating to Water Quality Zones 1A through 1E were incorrectly identified as sections 2.20.2 and 2.20.6 in the Notice of Proposed Rulemaking. Sections 2.20.2 through 2.20.6 of the *Water Code* are part of an unrelated article; no sections numbered 2.20.2 through 2.20.6 exist in the *Water Quality Regulations.*)

The complete text of Resolution No. 2013–9, the *Water Code,* the *Administrative Manual Part III—Water Quality Regulations,* a basis and background document setting forth the technical basis for the amendments, and additional documents concerning pH criteria for interstate non-tidal and tidal reaches of the main stem Delaware River are available on the Commission's Web site, DRBC.net. Copies also may be obtained from the Commission's Secretary and Assistant General Counsel at the telephone number and email address listed above. A charge for printing and mailing may apply.

List of Subjects in 18 CFR Part 410

Incorporation by reference, Water audit, Water pollution control, Water reservoirs, Water supply, Watersheds.

For the reasons set forth in the preamble, the Delaware River Basin Commission amends part 410 of title 18 of the Code of Federal Regulations as follows:

PART 410—BASIN REGULATIONS; WATER CODE AND ADMINISTRATIVE MANUAL—PART III WATER QUALITY REGULATIONS

■ 1. The authority citation for part 410 continues to read:

Authority: Delaware River Basin Compact, 75 Stat. 688.

■ 2. In § 410.1, revise paragraph (c) to read as follows:

§ 410.1 Basin Regulations—Water Code and Administrative Manual—Part III Water Quality Regulations.

* * * * *

(c) Work, services, activities and facilities affecting the conservation, utilization, control, development or management of water resources within the Delaware River Basin are subject to regulations contained within the Delaware River Basin Water Code with Amendments Through December 4, 2013 and the Administrative Manual—Part III Water Quality Regulations with Amendments Through December 4, 2013. Both the Delaware River Basin Water Code and the Administrative Manual—Part III Water Quality Regulations are incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain or inspect copies at the Delaware River Basin Commission (DRBC), 25 State Police Drive, West Trenton, New Jersey 08628–0360, 609–883–9500, *http://www.drbc.net*, 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/code_of_federal_regulations/ibr_locations.html.*

Dated: May 1, 2014.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2014–10459 Filed 5–8–14; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9664]

RIN 1545–BF80

Section 67 Limitations on Estates or Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that provide guidance on which costs incurred by estates or trusts other than grantor trusts (non-grantor trusts) are subject to the 2-percent floor for miscellaneous itemized deductions under section 67(a) of the Internal Revenue Code. These regulations affect estates and non-grantor trusts.

DATES: *Effective Date:* These regulations are effective on May 9, 2014.

Applicability Date: For date of applicability, see § 1.67–4(d).

FOR FURTHER INFORMATION CONTACT: Jennifer N. Keeney, (202) 317–6852 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Income Tax Regulations (26 CFR Part 1) under section 67 of the Internal Revenue Code (Code) by adding § 1.67–4 regarding which costs incurred by an estate or a non-grantor trust are subject to the 2-percent floor for miscellaneous itemized deductions under section 67(a).

Section 67(a) of the Code provides that, for an individual taxpayer, miscellaneous itemized deductions are allowed only to the extent that the aggregate of those deductions exceeds 2 percent of adjusted gross income. Section 67(b) excludes certain itemized deductions from the definition of ''miscellaneous itemized deductions.'' Section 67(e) provides that, for purposes of section 67, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual. However, section 67(e)(1) provides that the deductions for costs paid or incurred in connection with the administration of the estate or trust that would not have been incurred if the property were not held in such estate or trust shall be treated as allowable in arriving at adjusted gross income. Therefore, deductions described in section 67(e)(1) are not subject to the 2-percent floor for miscellaneous itemized deductions under section 67(a).

A notice of proposed rulemaking (REG–128224–06) was published in the **Federal Register** (72 FR 41243) on July 27, 2007 (the 2007 proposed regulations). The 2007 proposed regulations provided that a cost is fully deductible to the extent that the cost is unique to an estate or trust. If a cost is not unique to an estate or trust, such that an individual could have incurred the expense, then that cost was subject to the 2-percent floor. The 2007 proposed regulations also addressed costs subject to the 2-percent floor that are included as part of a comprehensive fee paid to the trustee or executor (bundled fees). Written comments were received in response to the notice of proposed rulemaking. A public hearing was held on November 14, 2007, at which several commentators offered comments on the notice of proposed rulemaking.

On January 16, 2008, the Supreme Court of the United States issued its decision in *Michael J. Knight, Trustee of the William L. Rudkin Testamentary Trust* v. *Commissioner,* 552 U.S. 181, 128 S. Ct. 782 (2008), holding that fees paid to an investment advisor by an estate or non-grantor trust generally are subject to the 2-percent floor for miscellaneous itemized deductions under section 67(a). The Court reached this decision based upon an interpretation of section 67(e) that differed from the 2007 proposed regulations. The Court held that the proper reading of the language in section 67(e), which asks whether the expense ''would not have been incurred if the property were not held in such trust or estate,'' requires an inquiry into whether a hypothetical individual who held the same property outside of a trust ''customarily'' or ''commonly'' would incur such expenses. Expenses that are ''customarily'' or ''commonly'' incurred by individuals are subject to the 2-percent floor.

After consideration of the Court's holding in *Knight,* the Treasury Department and the IRS issued Notice 2008–32 (2008–11 IRB 593) (March 17, 2008) to provide interim guidance on the treatment of bundled fees. Subsequent notices extended the interim guidance. (Notice 2008–116 (2008–52 IRB 1372) (December 29, 2008); Notice 2010–32 (2010–16 IRB 594) (April 19, 2010); Notice 2011–37 (2011–20 IRB 785) (May 16, 2011)). On September 7, 2011, a notice of proposed rulemaking and a notice of public hearing (REG–128224–06) were published in the **Federal Register** (76 FR 55322) (the 2011 proposed regulations) and the 2007 proposed regulations were withdrawn.

A public hearing on the 2011 proposed regulations was scheduled for December 19, 2011, but later was cancelled because no one requested to speak. However, comments responding to the 2011 proposed regulations were received. After consideration of these comments, the 2011 proposed regulations are adopted as revised by this Treasury decision. These final regulations generally retain the provisions of the 2011 proposed regulations with minor modifications.

Summary of Comments and Explanation of Revisions

A. Commonly or Customarily Incurred—In General

The proposed regulations provide that a cost is subject to the 2-percent floor to the extent that it is included in the definition of miscellaneous itemized deductions under section 67(b), is incurred by an estate or non-grantor trust, and commonly or customarily would be incurred by a hypothetical individual holding the same property. To determine whether the cost commonly or customarily would be incurred by a hypothetical individual owning the same property, it is the type of product or service rendered to the estate or non-grantor trust that is determinative. The proposed regulations also provide that costs that do not depend on the identity of the payor (in particular, whether the payor is an individual or, instead, is an estate or trust) are costs that are incurred commonly or customarily by individuals.

One commentator stated that treating costs that do not depend on the identity of the payor as costs that are commonly or customarily incurred in all cases is overly broad, and that such treatment effectively represents a disguised reassertion of the standard rejected by *Knight* of making the 2-percent floor applicable to any expense that could be incurred by an individual. In response to this comment, the final regulations remove the reference to costs that do not depend on the identity of the payor.

B. Ownership Costs

The proposed regulations provide that, for purposes of section 67(e), ownership costs are costs that are commonly or customarily incurred by a hypothetical individual owner of such property. Therefore, ownership costs are subject to the 2-percent floor. The proposed regulations define ownership costs as costs that are chargeable to or incurred by an owner of property simply by reason of being the owner of the property, such as condominium

fees, real estate taxes, insurance premiums, maintenance and lawn services, automobile registration and insurance costs, and partnership costs deemed to be passed through to and reportable by a partner. One commentator suggested that the final regulations adopt a rebuttable presumption that ownership costs are not subject to the 2-percent floor. The final regulations do not adopt this comment because the Treasury Department and the IRS believe that ownership costs are costs that commonly or customarily would be incurred by a hypothetical individual holding the same property, and accordingly, should be subject to the 2-percent floor.

Several commentators stated that the examples used to illustrate ownership costs in the proposed regulations are problematic. First, commentators correctly pointed out that real estate taxes are not a miscellaneous itemized deduction because they are fully deductible under section 62(a)(4) or section 164(a). Second, commentators suggested that the final regulations clarify that costs incurred in connection with a trade or business or for the production of rents or royalties are fully deductible under section 162 or section 62(a)(4) and thus are not miscellaneous deductions. Third, a commentator requested that the final regulations clarify that the partnership costs reportable by a partner are subject to the 2-percent floor only if those costs are miscellaneous itemized deductions under section 67(b). Thus, for example, a partnership cost that is fully deductible is not subject to the 2-percent floor. The final regulations adopt these clarifications.

C. Tax Return Preparation Costs

The proposed regulations provide that the application of the 2-percent floor to the cost of preparing tax returns on behalf of the estate, decedent, or non-grantor trust will depend upon the particular tax return. The proposed regulations provide that all costs of preparing estate and generation-skipping transfer tax returns, fiduciary income tax returns, and the decedent's final individual income tax returns are not subject to the 2-percent floor. However, the proposed regulations also provide that costs of preparing other individual income tax returns, gift tax returns, and tax returns for a sole proprietorship or a retirement plan, for example, are costs commonly and customarily incurred by individuals and thus are subject to the 2-percent floor.

Several commentators pointed out that it would be very rare for a trust to pay for the preparation of the tax return of an individual other than the decedent. In the unlikely event that it did, such a cost would either be a deemed beneficiary distribution or would represent a breach of fiduciary duty. Furthermore, tax preparation fees for sole proprietorships and retirement plans would be fully deductible as business expenses under section 162.

To resolve these ambiguities in the proposed regulations, the final regulations provide an exclusive list of tax return preparation costs that are not subject to the 2-percent floor. Any other tax return preparation cost that is included in the definition of miscellaneous itemized deduction under section 67(b) is subject to the 2-percent floor.

A few commentators suggested that the final regulations should expressly provide that the cost of preparing all gift tax returns should be exempt from the application of the 2-percent floor. However, gifts are made by individuals, and the gift tax returns required to report those gifts are commonly and customarily required to be prepared and filed by or on behalf of individuals. Therefore, the final regulations do not adopt the recommendation to include gift tax returns within the category of returns whose preparation costs are exempt from the 2-percent floor.

D. Investment Advisory Fees

The proposed regulations provide that fees for investment advice (including any related services that would be provided to any individual investor as part of an investment advisory fee) are incurred commonly or customarily by a hypothetical individual investor and, therefore, are subject to the 2-percent floor. The proposed regulations also provide guidance regarding a special type of investment advice discussed by the Supreme Court in *Knight.* The Court noted that it is conceivable ''that a trust may have an unusual investment objective, or may require a specialized balancing of the interests of various parties, such that a reasonable comparison with individual investors would be improper.'' The Court further stated that, ''in such a case, the incremental cost of expert advice beyond what would normally be required for the ordinary taxpayer would not be subject to the 2-percent floor.''

The proposed regulations provide that, to the extent that a portion (if any) of an investment advisory fee exceeds the fee generally charged to an individual investor, and that excess is attributable to an unusual investment objective of the trust or estate or to a specialized balancing of the interests of various parties such that a reasonable comparison with individual investors would be improper, that excess is not subject to the 2-percent floor. The preamble to the proposed regulations explained that individual investors commonly have investment objectives that may require a balancing between investing for income and investing for growth and/or a specialized approach for particular assets. The preamble requested comments on the types of incremental charges, as described in this paragraph, that may be incurred by trusts or estates, as well as a specific description and rationale for any such charges. No response to this request was received, and the final regulations retain this provision as proposed.

E. Appraisal Fees and Certain Other Fiduciary Expenses

One commentator suggested that the final regulations include appraisal fees incurred by an estate or trust as a category of expense that is not subject to the 2-percent floor. Although individuals commonly or customarily would have assets appraised, estates and non-grantor trusts are required to undertake valuations for the maintenance and administration of these entities that an individual would not undertake. For example, Form 5227, ''Split-Interest Trust Information Return'', requires taxpayers to determine the fair market value of the trust's assets for each taxable year.

Accordingly, in response to these comments, the final regulations expressly provide that certain appraisal fees incurred by an estate or non-grantor trust are not subject to the 2-percent floor. Those appraisal fees are for appraisals needed to determine value as of the decedent's date of death (or the alternate valuation date), to determine value for purposes of making distributions, or as otherwise required to properly prepare the estate's or trust's tax returns. Appraisals for these purposes are not customarily obtained by individuals (unlike, for example, appraisals to determine the proper amount of insurance needed on certain property) and thus meet the requirements for exemption from the 2-percent floor under section 67(e).

One commentator requested confirmation of the inapplicability of the 2-percent floor to certain other fiduciary expenses. The final regulations contain such a statement with regard to some examples of fiduciary expenses that are not commonly or customarily incurred by individuals.

F. Bundled Fees

The proposed regulations provide that a bundled fee (generally, a fee for both costs that are subject to the 2-percent floor and costs that are not) must be allocated between those two categories of costs. However, the proposed regulations provide an exception to this allocation requirement for a bundled fee that is not computed on an hourly basis. Specifically, for such a fee, only the portion attributable to investment advice (including any related services that would be provided to any individual investor as part of the investment advisory fee) will be subject to the 2-percent floor. Notwithstanding this exception, payments made to third parties out of the bundled fee that would have been subject to the 2-percent floor if they had been paid directly by the estate or non-grantor trust, and any payments for expenses separately assessed by the fiduciary or other service provider that are commonly or customarily incurred by an individual owner of such property will be subject to the 2-percent floor.

The proposed regulations contain an example to illustrate a type of expense that is separately assessed: an additional fee charged by the fiduciary for managing rental real estate owned by the estate or non-grantor trust. Several commentators correctly noted that the expense in this example is not a miscellaneous itemized deduction, but is instead fully deductible. See sections 62(a)(4), 212, and 611. Therefore, the final regulations delete this example.

Most commentators objected to the requirement that a fiduciary commission be unbundled. They recommended that a single fiduciary commission that is not computed on an hourly basis, or otherwise separately stated, be entirely exempt from the 2-percent floor. The primary reason that commentators gave for this recommendation is the administrative difficulty and burden of the required calculations and recordkeeping. At least one commentator, however, acknowledged that unbundling a fiduciary commission is appropriate to provide the same tax treatment to the same expenses, regardless of how those expenses are billed.

Commentators also challenged the regulatory authority to require this unbundling, arguing that there is no statutory ambiguity with regard to a fiduciary commission and thus no authority to apply the 2-percent floor to any portion of that commission.

The Treasury Department and IRS believe the authority to unbundle rests with the authority to define expenses that ''would not have been incurred if the property were not held in such trust or estate.'' Consistent with the *Knight* decision, these final regulations interpret this statutory exception to the 2-percent floor to capture those expenses that would not commonly or customarily be incurred by an individual. In identifying these expenses, the *Knight* Court specifically recognized that unbundling may be required in the case of investment advisory fees, the costs of which exceed the costs charged to an individual investor and which are incurred either because the investment advice is being rendered to a fiduciary or because of an unusual investment objective or the need for a specialized balancing of interests of various parties. The final regulations adopt this reasoning and, consistent with the *Knight* decision, provide that the portion of such a fee in excess of what would have been charged to an individual investor may be exempt from the 2-percent floor. Based upon the *Knight* decision and the authority to promulgate interpretative regulations, the Treasury Department and IRS believe that the final regulations are within the scope of regulatory authority.

The Treasury Department and IRS also believe that retaining the unbundling requirement in the final regulations is appropriate because it provides equitable tax treatment to similarly situated taxpayers. Taxpayers that pay investment fees to a third-party investment advisor and those that pay investment fees as part of a bundled fee should receive similar tax treatment.

The Treasury Department and IRS also believe that the limitations to the unbundling requirement reduce administrative burdens. For example, a fiduciary fee, an attorney's fee, or an accountant's fee that is not computed on an hourly basis is fully deductible except for (i) amounts allocable to investment advice; (ii) amounts paid out of the bundled fee by the fiduciary to third parties if those amounts would have been subject to the 2-percent floor if they had been paid directly by the non-grantor estate or trust; and (iii) amounts that are separately assessed (in addition to the usual or basic fiduciary fee or commission) by the fiduciary or other service provider that are commonly or customarily incurred by an individual owner of such property. Because the latter two categories relate to amounts that are traceable to separate payments, the Treasury Department and IRS believe that the administrative burden associated with subjecting these amounts to the 2-percent floor is insubstantial.

Furthermore, where amounts are allocable to investment advice but are not traceable to separate payments, the final regulations retain the flexibility of allowing the use of any reasonable method to make the allocation to investment advice. The Treasury Department and the IRS believe that the availability of any reasonable method mitigates administrative burden. However, to provide additional guidance, these final regulations provide non-exclusive factors to further reduce administrative burden for both taxpayers and the IRS.

In the preamble to the proposed regulations, the Treasury Department and the IRS requested comments on the types of methods for making a reasonable allocation to investment advice, including possible factors on which a reasonable allocation is most likely to be based, and on the related substantiation needed to satisfy the reasonable method standard. The Treasury Department and the IRS received only one comment in response to this request, which explained that there is no single standard that could be applied to multiple trusts or even to the same trust in different years.

In finalizing these regulations, the Treasury Department and the IRS reconsidered comments received in response to Notice 2008–32. Although some comments supported a percentage safe harbor, the percentages suggested assumed that all fees that are customarily incurred by individuals (and not just investment advisory fees) would be required to be unbundled. For this reason, the percentages that were suggested are not readily applied to the framework of the final regulations. The final regulations, however, permit the Treasury Department and the IRS to provide safe harbors in future published guidance.

Effective/Applicability Date

The final regulations apply to taxable years beginning on or after May 9, 2014.

Availability of IRS Documents

The IRS notices cited in this preamble are available at *www.irs.gov.*

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these

regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Jennifer N. Keeney, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.67–4 is added to read as follows:

§ 1.67–4 Costs paid or incurred by estates or non-grantor trusts.

(a) *In general.* Section 67(e) provides an exception to the 2-percent floor on miscellaneous itemized deductions for costs that are paid or incurred in connection with the administration of an estate or a trust not described in § 1.67–2T(g)(1)(i) (a non-grantor trust) and that would not have been incurred if the property were not held in such estate or trust. A cost is subject to the 2-percent floor to the extent that it is included in the definition of miscellaneous itemized deductions under section 67(b), is incurred by an estate or non-grantor trust, and commonly or customarily would be incurred by a hypothetical individual holding the same property.

(b) *''Commonly'' or ''Customarily'' Incurred*—(1) *In general.* In analyzing a cost to determine whether it commonly or customarily would be incurred by a hypothetical individual owning the same property, it is the type of product or service rendered to the estate or non-grantor trust in exchange for the cost, rather than the description of the cost of that product or service, that is determinative. In addition to the types of costs described as commonly or customarily incurred by individuals in paragraphs (b)(2), (3), (4), and (5) of this section, costs that are incurred commonly or customarily by individuals also include, for example, costs incurred in defense of a claim against the estate, the decedent, or the non-grantor trust that are unrelated to the existence, validity, or administration of the estate or trust.

(2) *Ownership costs.* Ownership costs are costs that are chargeable to or incurred by an owner of property simply by reason of being the owner of the property. Thus, for purposes of section 67(e), ownership costs are commonly or customarily incurred by a hypothetical individual owner of such property. Such ownership costs include, but are not limited to, partnership costs deemed to be passed through to and reportable by a partner if these costs are defined as miscellaneous itemized deductions pursuant to section 67(b), condominium fees, insurance premiums, maintenance and lawn services, and automobile registration and insurance costs. Other expenses incurred merely by reason of the ownership of property may be fully deductible under other provisions of the Code, such as sections 62(a)(4), 162, or 164(a), which would not be miscellaneous itemized deductions subject to section 67(e).

(3) *Tax preparation fees.* Costs relating to all estate and generation-skipping transfer tax returns, fiduciary income tax returns, and the decedent's final individual income tax returns are not subject to the 2-percent floor. The costs of preparing all other tax returns (for example, gift tax returns) are costs commonly and customarily incurred by individuals and thus are subject to the 2-percent floor.

(4) *Investment advisory fees.* Fees for investment advice (including any related services that would be provided to any individual investor as part of an investment advisory fee) are incurred commonly or customarily by a hypothetical individual investor and therefore are subject to the 2-percent floor. However, certain incremental costs of investment advice beyond the amount that normally would be charged to an individual investor are not subject to the 2-percent floor. For this purpose, such an incremental cost is a special, additional charge that is added solely because the investment advice is rendered to a trust or estate rather than to an individual or attributable to an unusual investment objective or the need for a specialized balancing of the interests of various parties (beyond the usual balancing of the varying interests of current beneficiaries and remaindermen) such that a reasonable comparison with individual investors would be improper. The portion of the investment advisory fees not subject to the 2-percent floor by reason of the preceding sentence is limited to the amount of those fees, if any, that exceeds the fees normally charged to an individual investor.

(5) *Appraisal fees.* Appraisal fees incurred by an estate or a non-grantor trust to determine the fair market value of assets as of the decedent's date of death (or the alternate valuation date), to determine value for purposes of making distributions, or as otherwise required to properly prepare the estate's or trust's tax returns, or a generation-skipping transfer tax return, are not incurred commonly or customarily by an individual and thus are not subject to the 2-percent floor. The cost of appraisals for other purposes (for example, insurance) is commonly or customarily incurred by individuals and is subject to the 2-percent floor.

(6) *Certain Fiduciary Expenses.* Certain other fiduciary expenses are not commonly or customarily incurred by individuals, and thus are not subject to the 2-percent floor. Such expenses include without limitation the following: Probate court fees and costs; fiduciary bond premiums; legal publication costs of notices to creditors or heirs; the cost of certified copies of the decedent's death certificate; and costs related to fiduciary accounts.

(c) *Bundled fees*—(1) *In general.* If an estate or a non-grantor trust pays a single fee, commission, or other expense (such as a fiduciary's commission, attorney's fee, or accountant's fee) for both costs that are subject to the 2-percent floor and costs (in more than a de minimis amount) that are not, then, except to the extent provided otherwise by guidance published in the Internal Revenue Bulletin, the single fee, commission, or other expense (bundled fee) must be allocated, for purposes of computing the adjusted gross income of the estate or non-grantor trust in compliance with section 67(e), between the costs that are subject to the 2-percent floor and those that are not.

(2) *Exception.* If a bundled fee is not computed on an hourly basis, only the portion of that fee that is attributable to investment advice is subject to the 2-percent floor; the remaining portion is not subject to that floor.

(3) *Expenses Not Subject to Allocation.* Out-of-pocket expenses billed to the estate or non-grantor trust are treated as separate from the bundled fee. In addition, payments made from

the bundled fee to third parties that would have been subject to the 2-percent floor if they had been paid directly by the estate or non-grantor trust are subject to the 2-percent floor, as are any fees or expenses separately assessed by the fiduciary or other payee of the bundled fee (in addition to the usual or basic bundled fee) for services rendered to the estate or non-grantor trust that are commonly or customarily incurred by an individual.

(4) *Reasonable Method.* Any reasonable method may be used to allocate a bundled fee between those costs that are subject to the 2-percent floor and those costs that are not, including without limitation the allocation of a portion of a fiduciary commission that is a bundled fee to investment advice. Facts that may be considered in determining whether an allocation is reasonable include, but are not limited to, the percentage of the value of the corpus subject to investment advice, whether a third party advisor would have charged a comparable fee for similar advisory services, and the amount of the fiduciary's attention to the trust or estate that is devoted to investment advice as compared to dealings with beneficiaries and distribution decisions and other fiduciary functions. The reasonable method standard does not apply to determine the portion of the bundled fee attributable to payments made to third parties for expenses subject to the 2-percent floor or to any other separately assessed expense commonly or customarily incurred by an individual, because those payments and expenses are readily identifiable without any discretion on the part of the fiduciary or return preparer.

(d) Effective/*applicability date.* This section applies to taxable years beginning on or after May 9, 2014.

§ 1.67–4T [Removed]

■ **Par. 3.** Section 1.67–4T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: April 1, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–10661 Filed 5–8–14; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AO65

Loan Guaranty: Ability-To-Repay Standards and Qualified Mortgage Definition Under the Truth in Lending Act

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) Loan Guaranty regulations to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, requiring that VA define the types of VA loans that are ''qualified mortgages'' for the purposes of the new Ability to Repay provisions of the Truth in Lending Act. This rule establishes which VA-guaranteed loans are to be considered ''qualified mortgages'' and have either safe harbor protection or the presumption that the borrower is able to repay a loan, in accordance with the new Ability to Repay provisions. The rule does not change VA's regulations or policies with respect to how lenders are to originate mortgages, except to the extent lenders want to make qualified mortgages.

DATES: *Effective Date:* This interim final rule is effective May 9, 2014.

Comment Date: Comments must be received on or before June 9, 2014. While the standard comment period is 60 days, in order for VA to provide thorough responses to all comments and publish the final regulation as soon as possible with a target date of within 90 days of the publication of this interim final rule, we are limiting the period for comments to 30 days. VA believes it is important to publish the final rule soon because of the certainty the final rule will provide veterans and lenders. See below for further explanation.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO65—Loan Guaranty: Ability-to-Repay Standards and Qualified Mortgage Definition under the Truth in Lending Act.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Bell III, Assistant Director for Loan Policy and Valuation (262), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–8786. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, 124 Stat. 1376 (2010), became law on July 21, 2010. The Dodd-Frank Act established as an independent agency the Consumer Financial Protection Bureau (CFPB) and charged it with implementing many reforms to Federal oversight of residential mortgage lending, including a requirement that lenders be able to demonstrate that borrowers are reasonably able to repay their mortgage loans at the time the loans are made. Public Law 111–203, Sec. 1411. As directed by the Dodd-Frank Act, the CFPB has issued rules regarding implementation of the Truth in Lending Act (TILA), 15 U.S.C. 1601, et seq. The CFPB rules became effective January 10, 2014. The CFPB has amended the rules, as explained below, several times since initial publication.

The Dodd-Frank Act also requires various Federal agencies to define which of their loans are qualified mortgages for the purposes of sections 129B and 129C of TILA and authorizes such agencies to exempt streamlined refinances from certain income verification requirements. Public Law 111–203, Secs. 1411 and 1412. In compliance with sections 1411 and 1412 of the Dodd-Frank Act, VA is in this rulemaking defining qualified mortgage to mean any loan guaranteed, insured, or made by VA, with certain limitations on streamlined refinances, also known as Interest Rate Reduction Refinance Loans (IRRRLs). The terms ''streamlined refinance'' and ''IRRRL'' are used interchangeably in this rule. VA is also specifying income verification requirements for IRRRLs.

Note on Comments and Publication of Final Rule

VA believes it is important to publish a final rule promptly after the publication of this interim final rule. Veterans want full assurance that the

home loan benefit will remain easy to utilize, and lenders want the certainty that comes with a final rule. As such, VA will review comments as they are received. Once the comment period closes, VA will exercise all reasonable efforts to publish the final rule as quickly as possible, with a goal of closing out the full rulemaking process within 90 days of publication of this interim final rule.

General Definitions of Qualified Mortgage

Section 1412 of the Dodd-Frank Act amended section 129C of TILA, 15 U.S.C. 1601, et seq., to include a definition of a ''qualified mortgage.'' Public Law 111–203, Sec. 1412. Although the qualified mortgage definition applies generally to loans subject to TILA, a number of Federal agencies, including VA, are required to prescribe rules defining the types of loans they insure, guarantee, or administer, as the case may be, that are qualified mortgages. Id. Such rules may revise, add to, or subtract from the criteria used to define a qualified mortgage under section 129C of TILA, upon a finding that they are consistent with the purposes of TILA's provisions respecting the borrower's ability to repay in sections 129B and 129C. Id.

On January 30, 2013, the CFPB published its revision of Regulation Z, in which, among other things, it established a definition of ''Qualified Mortgage.'' 78 FR 6407. That CFPB final rulemaking also generally prohibits a creditor from making a mortgage loan unless the creditor determines that the consumer will have the ability to repay the loan. Id. at 6415.

The rule further identified two types of qualified mortgages. Id. at 6408. One type enjoys a rebuttable presumption that the creditor making the loan satisfied the borrower's ability-to-repay requirements. Id. With these types of loans, the presumption favors the assertion that the creditor complied with the ability-to-repay requirements unless the borrower proves—based on information that the creditor was aware of at the time the loan was made—that the consumer would be left with insufficient residual income or assets to meet living expenses after paying the mortgage and other debts. Id. The other type, safe harbor qualified mortgages, are those that are considered to have conclusively met all requirements of a qualified mortgage and a borrower's ability to repay a loan. Id.

Subsequent Regulatory Changes to Qualified Mortgage Definition

The issues CFPB must regulate are some of the most complex problems faced in the lending industry today. VA recognizes that CFPB must act nimbly to address myriad issues affecting many facets of the housing finance industry and that, while VA is an important part of the industry, VA's market share is relatively small.

CFPB rules published on January 30, 2013, created a temporary qualified mortgage applicable to VA-guaranteed loans, among other agency guaranteed loans. Under these rules, VA-guaranteed loans could be qualified mortgages even if they did not meet the 43 percent debt-to-income ratio applicable to many other types of qualified mortgages. 78 FR 6617.

CFPB has issued multiple rulemaking documents related to its original final rule, including (1) a concurrent proposal, published on January 30, 2013 (78 FR 6621); (2) a proposed revision to the final rule, published on April 18, 2013 (78 FR 23171); (3) a final rule official interpretation, published on June 12, 2013 (78 FR 35430); (4) a final rule official interpretation, published on July 24, 2013 (FR 78 FR 44686); (5) a final rule amendment, published October 1, 2013 (78 FR 60442); and (6) an interim final rule, published on October 23, 2013 (78 FR 62993).

Some VA stakeholders have expressed uncertainty regarding the impact of these amendments on the requirements for VA-guaranteed loans to be qualified mortgages under CFPB's regulations. For instance, the concurrent proposal published on January 30, 2013, stated that CFPB was proposing to exempt from the ability to repay requirements streamlined refinances made pursuant to a program administered by VA and other Federal agencies. See 78 FR 6623. However, the CFPB did not adopt this exemption in its final rule published on June 12, 2013, stating that the exemption from the ability to repay requirements for streamlined refinances was unnecessary in light of the temporary qualified mortgage provisions. See 78 FR 35471–3. CFPB explained in the preamble to its rule that while it did not believe that an exemption for streamlined refinances was appropriate: ''[Under] the temporary qualified mortgage provisions in § 1026.43(e)(4), for instance, creditors need only comply with the documentation and underwriting requirements established by the respective Federal agencies, and need not apply the 43 percent debt-to-income ratio or follow the documentation and underwriting procedures applicable to the general category of qualified mortgages under § 1026.43(e)(3) and appendix Q.'' 78 FR 35473. The Bureau noted, however, that under § 1026.43(e)(4), a loan that is eligible to be purchased, guaranteed, or insured by one of the Federal agencies (including VA), would still need to meet certain minimum requirements imposed by the Dodd-Frank Act, including the prohibitions on certain ''higher-risk loan terms,'' loan terms exceeding 30 years, or excessive points and fees. Id.

The CFPB published a further amendment on July 24, 2013, revising the temporary qualified mortgage provision applicable to loans eligible for government-sponsored enterprise (GSE) and federal agency purchase, insurance, or guaranty, including VA guaranty. Where the original provision, published on January 30, 2013, required that such a loan be ''eligible to be guaranteed by the U.S. Department of Veterans Affairs,'' 78 FR 6587, the revised provision required that the loan be ''eligible to be guaranteed, *except with regard to matters wholly unrelated to ability to repay,* by the U.S. Department of Veterans Affairs,'' 78 FR 44718 (emphasis added). The amendment also revised the CFPB's official commentary to this provision. As revised, comment 43(e)(4)–4 states that the provision ''requires only that the creditor determine that the loan is eligible (i.e., meets the criteria) for [VA] . . . guarantee . . . at consummation.'' 78 FR 44727. The comment further identifies methods for determining eligibility: ''A valid underwriting recommendation by [an automated underwriting system] that relies on an Agency underwriting tool,'' ''compliance with the standards in the . . . Agency written guide in effect at the time,'' ''a written agreement between the creditor . . . and a[n] . . . Agency'' permitting variations, and ''an individual loan waiver granted by the . . . Agency to the creditor.'' Id. However, ''[i[n using any of the[se] methods . . ., the creditor need not satisfy standards that are wholly unrelated to assessing a consumer's ability to repay that the creditor is required to perform.'' Id. For ease of reading, VA will refer to this change as the ''July Revision.''

In the same rule, CFPB revised Appendix Q. Appendix Q provides the standards by which a creditor must assess a borrower's debts and income to determine whether the borrower's debt-to-income exceeds 43 percent for purposes of the CFPB's general qualified mortgage provision. See 78 FR 6589; 78 FR 44718; see also 12 CFR 1026.43(e)(2)(vi). As revised in the July

amendment, Appendix Q states that ''a creditor may not rely on Agency or GSE guidance to reach a resolution contrary to that provided by the following standards, even if such Agency or GSE guidance specifically addresses the particular type of debt or income . . .'' Id.

Questions About the July Revision, Appendix Q, and Debt-to-Income Ratios

After the publication of the amendments in June and July 2013, some VA stakeholders raised questions about what requirements might apply to VA. These stakeholders had originally believed CFPB's rule would not substantially affect VA's program requirements, but raised concerns to VA regarding the effect of the June and July 2013 publications. Two important areas of concern were income verification requirements for IRRRLs and debt-to-income calculations for originations and refinances other than IRRRLs.

VA has fielded numerous questions related to the July Revision and whether it means all IRRRLs will be subject to income verification requirements. As noted above, the preamble to the CFPB's rule published in June stated that ''[u]nder the temporary qualified mortgage provisions in § 1026.43(e)(4), for instance, creditors need only comply with the documentation and underwriting requirements established by the respective Federal agencies, and need not apply the 43 percent debt-to-income ratio or follow the documentation and underwriting procedures applicable to the general category of qualified mortgages under § 1026.43(e)(3) and appendix Q.'' 78 FR 35473. Also in the preamble to the July rule, CFPB stated that the July Revision was intended ''to make clear that matters wholly unrelated to ability to repay will not be relevant to determination of [qualified mortgage] status.'' 78 FR 44686, July 24, 2013. Lenders have nonetheless informed VA that as long as they have any doubts, they will proceed as if the income verification requirements apply to IRRRLs, even though the Dodd-Frank Act provides for a specific exemption, as do VA regulations. See Public Law 111–203, Sec. 1411; 38 CFR 36.4307. VA guaranteed over 300,000 IRRRLs in fiscal year (FY) 2013. VA estimates that, had lenders been required to verify income for IRRRLs in the same manner that they verify income for purchase-money guaranteed loans, the average closing time for an IRRRL would have taken two to four weeks longer.

In addition, many VA stakeholders have raised concerns about the debt-to-income ratio. According to these stakeholders, one interpretation of the CFPB rule seems to exempt VA loans from the CFPB debt-to-income requirements of 12 CFR 1026.43(e)(2)(vi). Under 12 CFR 1026.43(e)(4), VA guaranteed loans are qualified mortgages with safe harbor protections if they also (i) provide for regular periodic payments, (ii) do not exceed a term of 30 years, and (iii) include points and fees that do not exceed specified amounts. Note: The three requirements summarized here are more fully described at 12 CFR 1026.43(e)(2)(i)–(iii). As debt-to-income ratio requirement is not one of those, the argument is that it does not apply to VA-guaranteed loans. The preamble and official commentary discussed above support this position. Also supporting this position is the small entity compliance guide published by the CFPB. The guide states: ''To meet the Temporary QM definition, loans must be underwritten using the required guidelines of the [GSE/Agency] entities above, including any relevant DTI guidelines. They do *not* have to meet the 43 percent debt-to-income ratio threshold that applies to General QM loans. The creditor does not have to satisfy GSE or agency standards which are wholly unrelated to the credit risk or underwriting of the loan or any standards which apply after the consummation of the loan.'' Ability-to-Repay and Qualified Mortgage Rule Small Entity Compliance Guide at 33, *http://files.consumerfinance.gov/f/201401_cfpb_atr-qm_small-entity-compliance-guide.pdf* (emphasis in original).

Some VA stakeholders have suggested that there might be another interpretation of the CFPB's rules. Since Appendix Q states that a creditor may not rely on Agency guidance to reach a resolution of the appropriate treatment of a specific kind of debt or income contrary to the resolution provided by Appendix Q, some stakeholders have suggested to VA that the 43 percent debt-to-income ratio will apply after all. In FY 2013, there were 95,198 VA-guaranteed loans that exceeded the 43 percent debt-to-income ratio. VA understands that lenders may not make similar loans going forward if the loans are not qualified mortgages with safe harbor protections. Alternatively, the perceived risk of non-qualified mortgage loans may cause investors in the marketplace to artificially deflate the prices they would pay for VA loans, which would lead to lenders increasing their loan prices to veterans to meet that shortfall. This is due in part to VA's maximum 25 percent guaranty, as opposed to the 100 percent guaranty provided by other Federal agencies.

CFPB published another amendment in October 2013. See 78 FR 60382, Oct. 1, 2013. This time the rule removed the July Revision, at least with regard to VA. 78 FR 60442, Oct. 1, 2013. Another amendment was published three weeks later reinstating the July Revision. See 78 FR 62993, Oct. 23, 2013. The amendment explained that the omission of the July Revision was inadvertent and no substantive change was intended. 78 FR 63002, Oct. 23, 2013.

VA has attempted to eliminate the uncertainty by explaining to stakeholders that, in VA's view, neither the July Revision nor Appendix Q changes the way debt-to-income ratio affects the underwriting of VA-guaranteed loans. Some stakeholders continue to advise, however, that the issue goes beyond education or training. They seek legal certainty, and advise that in the absence of the legal certainty they seek, they are concerned whether investors will continue to view VA-guaranteed loans as high-quality investments that warrant premium pricing.

VA does not have authority to state with legal effect the proper interpretation of CFPB's rules. CFPB has the authority to interpret, enforce, and amend the rules CFPB promulgates. Courts and Congress could also have a role in resolving any issues surrounding the merits of the legal interpretations explained above.

As a result, VA's approach in this rule is to define which VA loans satisfy the qualified mortgage requirements, notwithstanding other limitations. In other words, VA may not be able to provide a definitive interpretation of CFPB's rule, but VA can make sure that VA's rule removes stakeholder uncertainties concerning VA loans. Since VA's goal is to ensure that veterans' benefits are delivered without interruption, additional burden, or cost to veterans, VA intends through this interim final rule to quell such concerns by specifying exactly what is required for a VA loan to be considered a qualified mortgage with safe harbor protections.

VA's Interim Final Rule

In this interim final rule, VA is amending 38 CFR 36.4300(b) to establish that almost all VA loans that meet current VA underwriting standards will be safe harbor qualified mortgages with regard to the revised TILA Ability to Repay provisions. In paragraph (b)(1), VA defines safe harbor qualified mortgage as one that meets the Ability-to-Repay requirements of sections 129B

and 129C of TILA regardless of whether the loan might be considered a high cost mortgage transaction as defined by section 103bb of TILA (15 U.S.C. 1602bb). Paragraph (b)(2) states that subject to certain exceptions pertaining to IRRRLs, any guaranteed or insured loan made in compliance with this subpart is a safe harbor qualified mortgage. There are some VA IRRRLs which will be considered rebuttable presumption qualified mortgages instead. Those are described later in this preamble.

Paragraph (b)(3) incorporates without change CFPB's category of exempted transactions, except that VA is omitting reverse mortgages because they are not mortgages that VA guarantees, insures, or makes. Under CFPB's rule, 12 CFR 1026.43(a), exempted transactions are not subject to challenge under the ability-to-pay requirements of TILA (15 U.S.C. 1639C).

With regard to the loans that are subject to the ability-to-repay provisions (i.e., loans other than the type described in § 36.4300(b)(3)), VA and CFPB's definitions of qualified mortgage may differ. To the extent there are differences between CFPB's definition and VA's, VA intends for its definition of qualified mortgage to loans guaranteed, insured, or made by VA to preempt rules that may seem contrary to VA's. This would include those loans which would fit under VA's definition, but not necessarily under the CFPB definition (i.e., negative amortization, documentation requirements for IRRRLs, minimum FICO score documentation, and in one possible legal interpretation, debt-to-income ratios). Congress has authorized VA to deliver veterans' benefits in a way that helps as many veterans as possible. In so doing, VA's statutory framework expressly includes authority for negative amortizing loans under certain circumstances, streamlined refinances that are simply improving a borrower's ability to repay a loan that the Secretary has already guaranteed under more stringent underwriting guidelines, and Secretarial discretion to guarantee loans after taking into consideration the unique circumstances that affect veterans.

Despite some of the differences between VA's definition and CFPB's, VA has made a finding that, for the following reasons, VA's definition is consistent with TILA. Pursuant to 38 U.S.C. 3710, VA already has in place an extensive regulatory framework for determining whether a borrower is a satisfactory credit risk to obtain a loan guaranteed or insured by VA. Specifically, the regulations found at 38 CFR 36.4340 and 36.4313 include credit underwriting standards such as debt-to-income ratios, criteria for evaluating the reliability and stability of the income of a veteran, procedures for ascertaining and verifying the monthly income required by the veteran to meet the anticipated loan payment terms, residual income standards, allowable fees and charges to be paid at closing, and document retention requirements for lenders.

VA's Underwriting Standards for Qualified Mortgages

VA's current underwriting standards for guaranteed loans are consistent with, if not prototypical for, the generally applicable definition of qualified mortgage in TILA. VA's rules already require full underwriting of all origination loans such as purchase money loans and refinances other than IRRRLs. By statute, the maturity of a VA-guaranteed loan at the time of origination shall not be more than thirty years and thirty-two days. See 38 U.S.C. 3703(d)(1). VA requires that loans generally be amortized in equal periodic payments that are substantially equal. See 38 CFR 36.4310. VA requires that discount points be reasonable as determined by the Secretary of Veterans Affairs. See 38 CFR 36.4313(d)(7)(ii)(C). These requirements would seem to correspond to those in CFPB's rule at 12 CFR 1026.43(e)(2)(i)–(iii).

Also, as with CFPB's rule, VA's rule already requires lenders to verify assets, employment, credit reports, and the accuracy of all other information provided in support of a purchase money origination loan or a refinance that is not an IRRRL. See 38 CFR 36.4340(j). VA regulates allowable fees and charges that may be charged to or paid by a veteran borrower. See 38 CFR 36.4313. VA has a structure in place for determining acceptable debt-to-income ratio. See 38 CFR 36.4340(c). It should be noted, too, that in addition to all of these requirements, VA has had a longstanding requirement for residual income to ensure that the borrower has sufficient income to cover family living expenses after meeting monthly mortgage and debt obligations. See 38 CFR 36.4340(e).

Where VA's rule differs somewhat from CFPB's is that VA must also balance credit underwriting with its mission of serving veterans. For instance, VA makes room for limited underwriting exceptions when a debt-to-income ratio might not provide a complete picture of a borrower's ability to repay a loan. See 38 CFR 36.4340(c). VA also permits underwriters to make judgment calls based on a veteran's unique circumstances, such as when recently discharged veterans have a limited credit history. See 38 CFR 36.4340(g). A key tenet of the VA Home Loan program is the allowance it provides to underwriters to review a veteran's entire loan profile and consider all compensating factors in order to determine the credit worthiness of the veteran. It is not one characteristic alone that reveals whether a veteran maintains the ability to repay a loan, but the culmination of all characteristics in a veteran's profile. Veterans show a high degree of borrowing responsibility as a population, which is borne out by the fact that VA's loans performed better than even conventional loans during the peak of the financial crisis. According to the Mortgage Bankers Association National Delinquency Survey, as of the second quarter 2013 VA has held the lowest foreclosure rate for the past 22 quarters and the lowest seriously delinquent rate for 15 of the past 18 quarters when compared to prime, subprime, and Federal Housing Administration (FHA) loans.

Accordingly, this rule amends 38 CFR 36.4300 by designating as safe harbor qualified mortgages all purchase money origination loans and refinances other than certain IRRRLs guaranteed or insured by VA. Such a designation helps to assure veterans that they can continue using their benefits to obtain loans on favorable terms, while also easing any liability concerns expressed by lenders making VA-guaranteed loans and any marketplace concerns about the stability of investing in VA-guaranteed loans.

Qualified Mortgage Status for VA Direct Loans

In addition to designating qualified mortgage status for VA-guaranteed and VA-insured loans, this rulemaking is designating as a qualified mortgage any loan that VA makes directly to a borrower. One such type of loan, authorized in 38 U.S.C. 3711, is typically made to recipients of a Specially Adapted Housing grant. Another type, authorized in 38 U.S.C. 3761, is made to Native American veterans who live on trust lands. A third, which VA calls a vendee loan, is authorized in 38 U.S.C. 3720 and 3733, and is made to purchasers of properties VA acquires as a result of foreclosures in the guaranteed loan program. Given that each of these types of loans is required to meet either the same or substantially similar standards as those prescribed for the guaranteed program, there is no reason to categorize them

differently for the purposes of a borrower's ability to repay them.

Accordingly, VA is amending 38 CFR 36.4500 by stating that all VA direct loans, Native American direct loans, and vendee loans are safe harbor qualified mortgages for the purposes of sections 129B and 129C of TILA. VA is using the same definition of safe harbor qualified mortgage as in § 36.4300(b)(1). We also amend the section heading and include the authority citation to 15 U.S.C. 1639C(b)(3)(B)(ii) and 38 U.S.C. 3710 for new § 36.4500(c). As a conforming amendment, VA is revising § 36.4501 to define ''Vendee loan'' as a loan made by the Secretary for the purpose of financing the purchase of a property acquired pursuant to chapter 37 of title 38, United States Code. We also include the authority citation to 38 U.S.C. 3720 and 3733.

We are redesignating current paragraph (c) of § 36.4500 as paragraph (d) and also make a few conforming changes to include headings for 38 CFR 36.4500(a), (b), and newly redesignated paragraph (d) so that they are consistent with the format of newly added paragraph (c). Each paragraph will now have its own heading as follows: ''Applicability to direct loans'' for paragraph (a); ''Applicability to direct loans to Native Americans'' for paragraph (b); ''Safe harbor qualified mortgage'' for paragraph (c); and ''Restatement'' for paragraph (d).

Safe Harbor Versus Rebuttable Presumption Qualified Mortgages—IRRRLs

While all VA IRRRLs will be considered qualified mortgages, not all will be safe harbor qualified mortgages. The ones that are not safe harbor qualified mortgages, meaning that they cannot conclusively meet the Ability-to-Repay requirements, are qualified mortgages entitled to a presumption that they meet the Ability-to-Repay requirements of the Dodd-Frank Act. Unlike a safe harbor qualified mortgage, a rebuttable presumption qualified mortgage provides the borrower with the opportunity to argue that the lender did not make a good faith determination that the borrower would have a reasonable ability to repay the loan. (Provided a loan meets VA underwriting standards and complies with the requirements of 38 CFR 36.4300–36.4393, inclusive, it will be a VA guaranteed loan regardless of whether it is considered a safe harbor qualified mortgage or a rebuttable presumption qualified mortgage or neither under TILA.)

In order for an IRRRL to be considered a safe harbor qualified mortgage, the loan must meet all of the requirements of 36.4300(c)(1): (i) The loan being refinanced was originated at least 6 months before the new loan's closing date, and the veteran has not been more than 30 days past due during the 6 months preceding the new loan's closing date; (ii) the recoupment period for all allowable fees and charges (see 38 CFR 36.4313) financed as part of the loan or paid at closing does not exceed thirty-six (36) months; and (iv) all other VA requirements for guaranteeing an IRRRL are met.

The purpose of an IRRRL is to place veterans into a better financial position by (i) reducing their interest rate in effect lowering their payment, (ii) reducing the term of the loan which would reduce the total of payments on the loan, or (iii) reducing their concern for market fluctuations by converting a loan from an ARM to a fixed rate. In establishing a ''cooling off'' period and recoupment requirement, VA intends to keep the tenets of the IRRRL program strong by ensuring that veterans who obtain an IRRRL are placed in a better financial position. VA believes that a veteran who has recently undergone the rigorous underwriting process associated with loan origination, and who is still within six months of obtaining the loan, should give him or herself time to understand the benefits of the original loan. If a veteran is experiencing financial hardships or other concerns during the first six months of the loan, VA has alternative means to help the veteran navigate through those issues outside of an IRRRL. The recoupment period helps disclose to the veteran the true costs associated with refinancing a loan. In FY 2013, 308,332 IRRRLs were originated and 12,900 (4%) loans would have failed to meet the seasoning requirement in this rule. Currently, data is not available to address the number of files in FY 2013 that would be affected by the 36 month recoupment requirement.

A proposed IRRRL that does not meet the seasoning and recoupment requirements of section 36.4300(c)(1) is still considered a qualified mortgage, but it will not have the safe harbor protection. Instead, it will only be considered a qualified mortgage with the presumption that a borrower has the ability to repay the loan. VA believes that a veteran should be able to take advantage of any opportunity that puts the veteran in a better financial situation. To make it effectively impossible for a veteran to refinance a loan solely because a veteran has not been in the home for the prescribed period or because the recoupment might fall just short of the requirement seems overly restrictive. At the same time, VA believes that lenders and borrowers should proceed with caution in such circumstances and understand that there is some risk associated with these sorts of loans. As such, VA has determined that the various interests are best balanced by designating such loans as qualified mortgages, but only to the extent that they provide a presumption of the borrower's ability to repay.

A proposed IRRRL that does not meet the requirements for exemption of income verification, as explained below, must receive prior approval from VA to be guaranteed. If VA grants approval, the IRRRL will satisfy the requirements of a qualified mortgage with the presumption that the borrower is able to repay the loan. Safe harbor protections will only apply to such an IRRRL if it also meets the seasoning and recoupment requirements.

In the rule text we also include the authority citation to 15 U.S.C. 1639C(b)(3)(B)(ii) and 38 U.S.C. 3710 for new § 36.4300(c)(1) and make a few conforming changes. The conforming changes redesignate current paragraph (b) of 38 CFR 36.4300 as paragraph (e), and add headings for 38 CFR 36.4300(a) and newly redesignated paragraph (e) so that they are consistent with the format of newly added paragraphs (b) thru (d). Each paragraph will now have its own heading as follows: ''Applicability to guaranteed loans'' for paragraph (a); ''Safe harbor qualified mortgage'' for paragraph (b); ''Interest rate reduction refinancing loans (IRRRLs)'' for paragraph (c); ''Effect of indemnification on qualified mortgage status'' for paragraph (d); and ''Restatement'' for paragraph (e).

IRRRL Income Verification Requirements

VA is exercising its authority under section 1411 of the Dodd-Frank Act to exempt IRRRLs from many of the income verification requirements of TILA. In 2009, when Congress began deliberating the requirements associated with income verification, the bills introduced to address the issues did not include an exemption for VA IRRRLs. See H.R. 1728 EH, 111th Congress (2009–2010); H.R. 4173 RFS, 111th Congress (2009–2010). By 2010 when the Dodd-Frank Act was passed, the law expressly allowed VA to exclude its IRRRLs from income verification requirements. Congress worked closely with VA in drafting the final section 1411 to ensure that the majority of veterans who wanted to take advantage of the IRRRL program would be able to continue to do so.

An IRRRL can only be made if it is to refinance a loan that VA has already guaranteed. 38 U.S.C. 3710(a)(8). As explained above, all VA-guaranteed loans must meet VA's strict underwriting standards at origination. Loan proceeds from an IRRRL can only be used to pay off the original principal balance and to finance closing costs; the veteran cannot receive cash back. See 38 U.S.C. 3710(e)(1)(C).

Pursuant to 38 U.S.C. 3710(e)(2), an IRRRL is guaranteed without regard to the amount of outstanding entitlement available for use by the veteran, and the amount of such entitlement is not charged as a result of a guaranty provided for an IRRRL. The IRRRL is deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced. In other words, for the purposes of the benefit, the IRRRL is essentially the same loan as the original, the key difference being that the veteran should be in a better financial position than before. The veteran is either paying a lower interest rate, meaning a reduced monthly payment, or the veteran is in a fixed-rate loan and no longer subject to market fluctuations associated with adjustable rate mortgages. If the veteran could afford the original loan, then the idea is that the IRRRL should be even more affordable.

As explained above, CFPB originally proposed that VA streamlined refinancing would be exempt from CFPB's income verification requirements. In response to the rule, most commenters supported the proposed exemption. 78 FR 35472. One consumer advocate group feared, however, that the exemption would lead to serial refinancing and equity-stripping, usually affecting those consumers who are the most vulnerable. Id.

The consumer advocate's comment highlighted a possible vulnerability in the IRRRL program. Some borrowers are easily enticed into refinancing their loans simply by understanding that the refinance can lead to two months without making a mortgage payment; the current month of the refinance and a second month due to the interest financed into the new loan. Other borrowers become fixated on a lower interest rate provided by an IRRRL without understanding that they might not ever recoup their investment of closing costs. That is why VA has defined safe harbor qualified mortgage to exclude IRRRLs that put a veteran at risk of equity-stripping. By classifying such an IRRRL as a rebuttable presumption qualified mortgage rather than a safe harbor qualified mortgage, VA is providing a disincentive for lenders to make these sorts of loans. Nevertheless, as shown above, VA estimates that only four percent of its IRRRLs guaranteed in FY 2013 would have failed to meet the proposed seasoning requirement.

VA believes it is unfair to negate the income verification exemption when it seems only to help the overwhelming majority of veterans who obtain an IRRRL. VA estimates that if the exemption were not protected, the closing time for an IRRRL would be delayed on average for two to four weeks. Lenders have expressed concern that time and costs associated with internal income verification procedures (e.g., hiring processors and underwriters to request the verification and review its contents) would affect the borrower negatively in price and closing time delays. VA does not have the means to track the exact costs or delays, but lenders have indicated those additional timeframes and enhanced process procedures if income verification was required.

Accordingly, in new § 36.4340(b)(2), VA is exempting streamlined refinances from income verification requirements as long as the following Dodd-Frank Act conditions are met:

(i) The veteran is not 30 days or more past due on the loan being refinanced;

(ii) The proposed streamlined refinance does not increase the principal balance outstanding on the prior existing residential mortgage loan, except to the extent of fees and charges allowed by VA;

(iii) Total points and fees payable in connection with the proposed streamlined refinance loan are in accordance with 12 CFR 1026.32, will not exceed 3 percent of the total new loan amount, and are in compliance with VA's allowable fees and charges found at 38 CFR 36.4313;

(iv) The interest rate on the proposed streamlined refinance is lower than the interest rate on the loan being refinanced, unless the borrower is refinancing from an adjustable rate to a fixed-rate loan, under guidelines that VA has established;

(v) The proposed streamlined refinance is subject to a payment schedule that will fully amortize the IRRRL in accordance with VA regulations;

(vi) The terms of the proposed streamlined refinance do not result in a balloon payment, as defined in TILA; and

(vii) Both the residential mortgage loan being refinanced and the proposed streamlined refinance satisfy all other VA requirements.

If a streamlined refinancing does not satisfy all seven of the criteria, above, the lender must verify the income in accordance with standards set forth in VA's regulation at 38 CFR 36.4340 and with those that are generally applicable under CFPB's regulations on TILA.

VA's goal through this rulemaking is to protect the integrity of the Home Loan program and provide veterans an assurance that they are truly improving their financial position when proceeding with an IRRRL. The seasoning and recoupment requirements discussed above, as well as the income verification exemption provided when certain criteria are met, all serve to further this goal.

In addition, VA is redesignating current paragraph (b) of § 36.4340 as paragraph (b)(1) and adding a new paragraph (b)(2). We are also including an authority citation to 15 U.S.C. 1639C(a)(5) and 38 U.S.C. 3710 for new § 36.4340(b)(2). In current § 36.4340(a), the reference to § 36.4807 is revised to refer to § 36.4307. The reference to § 36.4807 was a typographical error.

Indemnification Agreements and Qualified Mortgage Status

Pursuant to 38 U.S.C. 3710(g)(4), VA is authorized to seek civil penalties if VA determines a lender has knowingly and willfully made a false certification with regard to compliance with VA's credit information and loan processing standards. It is important to note that this sort of violation does not necessarily mean fraud. If criminal fraud is suspected, VA will notify the Office of Inspector General. 38 CFR 1.201. Sometimes during an audit of a lender VA does not find fraud but does find a loan that was so egregiously underwritten that VA believes the penalties might be applicable. As an alternative to the penalties, VA may agree, pursuant to 38 U.S.C. 3720, to a compromise and accept the lender's indemnification agreement.

With this rule, VA is adopting a standard similar to the Department of Housing and Urban Development (HUD) with regard to indemnification agreements. HUD, in its final rule published December 11, 2013, clarified that ''an indemnification demand or resolution of a demand that relates to whether the loan satisfied relevant eligibility and underwriting requirements at time of consummation may result from facts that could allow a change in qualified mortgage status, but the existence of an indemnification does not per se remove qualified mortgage status.'' 78 FR 75220–75221, Dec. 11, 2013. VA is adopting, § 36.4300(d), the same language as HUD

for VA-guaranteed loans that are subject to indemnification agreements.

Consultation With CFPB

Section 1412 of the Dodd-Frank Act directs VA to consult with CFPB regarding this rulemaking. Accordingly, on May 6, 2013, VA submitted a draft of this interim final rulemaking to the CFPB Office of Regulation. CFPB attorneys raised a number of suggestions for revising the preamble language to this document, but indicated that they did not object to the content or intent of this interim final rule. CFPB's suggestions have been incorporated into the text of the preamble. In January of 2014, CFPB reviewed the rule and made additional suggestions. We have incorporated those suggestions into this interim final rule, and rely on this consultation as a further finding that this rule is consistent with the requirements of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for advance notice and opportunity for public comment and good cause to publish this rule with an immediate effective date. VA is issuing this rulemaking as an interim final rule. VA sees an urgent need to clarify for veterans, lenders, and investors the applicability and potential effect of the qualified mortgage requirements on VA's programs. VA understands that while our interpretation is such that under CFPB's Temporary Qualified Mortgage (TQM) rules, VA would have been exempt from the debt-to-income ratio rule and the points and fees rule, some lenders have expressed a different interpretation of this rule. VA has been advised by the industry that many lenders may not make loans that are not considered ''qualified mortgages.'' Additionally, stakeholders have voiced concerns that the uncertainty surrounding the applicability of TQM for VA loans could cause upheaval in the delivery of benefits to veterans. This type of uncertainty may lead investors to decrease the prices they will pay, causing lenders to increase the prices they charge veterans and affecting a veteran's ability to obtain mortgages.

VA has identified 95,198 of its purchase and cash-out refinance loans guaranteed in FY 2013 that would have exceeded the debt-to-income ratio of 43 percent under CFPB's rule. Though VA cannot predict how many loans would not have been made had CFPB's rule been in place and lenders not interpreted TQM to exclude VA from the debt-to-income ratio rule, up to 95,198 veterans would not have been able to obtain a VA home loan or would have been subject to higher costs. VA has examined its FY 2013 loan data and identified 4,734 loans whose interest rates exceeded the national Average Prime Offer Rate (APOR) by the CFPB standard of 150 basis points. Applying CFPB's high-interest rate loan provisions to VA, without VA's rule in place, 4,734 veterans may not have been able to obtain a VA home loan or would have been subject to higher loan costs. Consequently, VA believes an interim final rule is necessary to re-stabilize the market for VA loans and to assure program participants, especially those who are veterans, that VA's programs are not undergoing large-scale changes.

VA has also been advised that, without the explicit statements issued under this rule, veterans could see the costs of VA loans increase, particularly with regard to IRRRLs, as much out of uncertainty as any concrete requirement imposed by TILA rules. VA has identified a total of 308,332 IRRRLS guaranteed in FY 2013 that would not have met CFPB's income verification requirements. Assuming that some of these loans would not have been made had CFPB's verification requirements been applicable, up to 308,332 veterans would not have been able to refinance their home loan or would have been subject to higher loan costs.

VA also is concerned that investors will demur from purchasing mortgage backed securities of VA-guaranteed loans due to perceived issues regarding what constitutes ''safe harbor'' without issuance of formal guidance on the qualified mortgage rules from VA. Issuing this rule will help to remove these perceptions and allow veterans to continue to utilize the benefit they have earned without bearing the brunt of increased pricing and limited availability of the VA product. Veterans, lenders, and investors have expressed concern over the applicability and potential effect of CFPB's qualified mortgage definition on the VA Home Loan program. VA has engaged in an extensive drafting process to assure that this rulemaking comprehensively addresses and eases the concerns expressed by these stakeholders.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by OMB, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and the rule may be an economically significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This interim final rule contains no provisions constituting a collection of information under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, applies only to rules for which an agency is required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b) or any other law. 5 U.S.C. 603(a). The RFA does not apply to this rulemaking because VA has found good cause to publish this rule without notice and comment pursuant to 5 U.S.C. 553(b).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.114, Veterans Housing—Guaranteed and Insured Loans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on October 28, 2013, for publication.

List of Subjects in 38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Dated: May 5, 2014.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, VA is amending 38 CFR part 36 as follows:

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501 and as otherwise noted.

■ 2. Amend § 36.4300 by:
■ a. Revising the section heading.
■ b. Adding a heading to paragraph (a).
■ c. Redesignating paragraph (b) as paragraph (e).
■ d. Adding new paragraphs (b) through (d).
■ e. Adding a heading to newly redesignated paragraph (e).

The revision and additions read as follows:

§ 36.4300 Applicability and qualified mortgage status.

(a) *Applicability to guaranteed loans.* * * *

(b) *Safe harbor qualified mortgage.* (1) *Defined.* A safe harbor qualified mortgage meets the Ability-to-Repay requirements of sections 129B and 129C of the Truth-in-Lending Act (TILA) regardless of whether the loan might be considered a high cost mortgage transaction as defined by section 103bb of TILA (15 U.S.C. 1602bb).

(2) *General.* Subject to paragraphs (c) and (d) of this section, any guaranteed or insured loan made in compliance with this subpart is a safe harbor qualified mortgage.

(3) *Exempted transactions.* The following loans are not subject to challenge under the ability-to-repay requirements of the Truth-in-Lending Act (15 U.S.C. 1639C).

(i) A temporary or ''bridge'' loan with a term of 12 months or less, such as a loan to finance the purchase of a new dwelling where the consumer plans to sell a current dwelling within 12 months or a loan to finance the initial construction of a dwelling;

(ii) A construction phase of 12 months or less of a construction-to-permanent loan;

(iii) An extension of credit made pursuant to a program administered by a Housing Finance Agency, as defined under 24 CFR 266.5;

(iv) An extension of credit made by:

(A) A creditor designated as a Community Development Financial Institution, as defined under 12 CFR 1805.104(h);

(B) A creditor designated as a Downpayment Assistance through Secondary Financing Provider, pursuant to 24 CFR 200.194(a), operating in accordance with regulations prescribed by the U.S. Department of Housing and Urban Development applicable to such persons;

(C) A creditor designated as a Community Housing Development Organization provided that the creditor has entered into a commitment with a participating jurisdiction and is undertaking a project under the HOME program, pursuant to the provisions of 24 CFR 92.300(a), and as the terms community housing development organization, commitment, participating jurisdiction, and project are defined under 24 CFR 92.2; or

(D) A creditor with a tax exemption ruling or determination letter from the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3); 26 CFR 1.501(c)(3)–(1), provided that:

(*1*) During the calendar year preceding receipt of the consumer's application, the creditor extended credit secured by a dwelling no more than 200 times;

(*2*) During the calendar year preceding receipt of the consumer's application, the creditor extended credit secured by a dwelling only to consumers with income that did not exceed the low- and moderate-income household limit as established pursuant to section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(20)) and amended from time to time by the U.S. Department of Housing and Urban Development, pursuant to 24 CFR 570.3;

(*3*) The extension of credit is to a consumer with income that does not exceed the household limit specified in 12 CFR 1026.43(a)(3); and

(*4*) The creditor determines, in accordance with written procedures, that the consumer has a reasonable ability to repay the extension of credit.

(v) An extension of credit made pursuant to a program authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211; 5219);

(c) *Interest rate reduction refinancing loans (IRRRLs).* (1) *Safe harbor.* A streamlined refinance loan made pursuant to 38 U.S.C. 3710(a)(8) and (e) is a safe harbor qualified mortgage, as defined in paragraph (b) of this section, if all of the following conditions are met:

(i) The loan being refinanced was originated at least 6 months before the date of the new loan's closing date, and the veteran has not been more than 30 days past due during such 6-month period;

(ii) The recoupment period for all fees and charges financed as part of the loan or paid at closing does not exceed thirty-six (36) months;

(iii) The streamlined refinance loan is either exempt from income verification requirements pursuant to 38 CFR 36.4307 or the refinance loan complies with other income verification requirements pursuant to 38 CFR 36.4340, as well as the Truth-in-Lending Act (15 U.S.C. 1639C) and its implementing regulations; and

(iv) All other applicable requirements of this subpart are met.

(Authority: 15 U.S.C. 1639C(b)(3)(B)(ii), 38 U.S.C. 3710)

(2) *Rebuttable presumption.* A streamlined refinance that does not meet all of the requirements of safe harbor in paragraph (c)(1), is a qualified mortgage for which there is a presumption that the borrower had the ability to repay the loan at the time of consummation, if such streamlined refinance, at the time of consummation,

satisfies the requirements of (c)(1)(iii) and (iv) of this section.

(d) *Effect of indemnification on qualified mortgage status.* An indemnification demand or resolution of a demand that relates to whether the loan satisfied relevant eligibility and underwriting requirements at the time of consummation may result from facts that could allow a change to qualified mortgage status, but the existence of an indemnification does not per se remove qualified mortgage status.

(Authority: 15 U.S.C. 1639C(b)(3)(B)(ii), 38 U.S.C. 3710, 3720)

(e) *Restatement.* * * *

* * * * *

■ 3. Amend § 36.4340 by:
■ a. Revising paragraph (a).
■ b. Redesignating paragraph (b) as paragraph (b)(1).
■ c. Adding a new paragraph (b)(2).

The revision and addition read as follows:

§ 36.4340 Underwriting standards, processing procedures, lender responsibility, and lender certification.

(a) *Use of standards.* The standards contained in paragraphs (c) through (j) of this section will be used to determine whether the veteran's present and anticipated income and expenses, and credit history, are satisfactory. These standards do not apply to loans guaranteed pursuant to 38 U.S.C. 3710(a)(8) except for cases where the Secretary is required to approve the loan in advance under § 36.4307.

(b)(1) * * *

(2) *Exemption from income verification for certain refinance loans.* Notwithstanding paragraphs (a) and (b)(1) of this section, a streamlined refinance loan to be guaranteed pursuant to 38 U.S.C. 3710(a)(8) and (e) is exempt from income verification requirements of the Truth-in-Lending Act (15 U.S.C. 1639C) and its implementing regulations only if all of the following conditions are met:

(i) The veteran is not 30 days or more past due on the prior existing residential mortgage loan;

(ii) The proposed streamlined refinance loan would not increase the principal balance outstanding on the prior existing residential mortgage loan, except to the extent of fees and charges allowed by VA;

(iii) Total points and fees payable in connection with the proposed streamlined refinance loan are in accordance with 12 CFR 1026.32, will not exceed 3 percent of the total new loan amount, and are in compliance with VA's allowable fees and charges found at 38 CFR 36.4313;

(iv) The interest rate on the proposed streamlined refinance loan will be lower than the interest rate on the original loan, unless the borrower is refinancing from an adjustable rate to a fixed-rate loan, under guidelines that VA has established;

(v) The proposed streamlined refinance loan will be subject to a payment schedule that will fully amortize the IRRRL in accordance with VA regulations;

(vi) The terms of the proposed streamlined refinance loan will not result in a balloon payment, as defined in TILA; and

(vii) Both the residential mortgage loan being refinanced and the proposed streamlined refinance loan satisfy all other VA requirements.

(Authority: 15 U.S.C. 1639C(a)(5), 38 U.S.C. 3710)

* * * * *

■ 4. Amend § 36.4500 by:
■ a. Revising the section heading.
■ b. Adding a heading to paragraph (a).
■ c. Adding a heading to paragraph (b).
■ d. Redesignating paragraph (c) as paragraph (d).
■ e. Adding a new paragraph (c).
■ f. Adding a heading to newly redesignated paragraph (d).

The revision and additions read as follows:

§ 36.4500 Applicability and qualified mortgage status.

(a) *Applicability to direct loans.* * * *

(b) *Applicability to direct loans to Native Americans.* * * *

(c) *Safe harbor qualified mortgage.* (1) *Defined.* A safe harbor qualified mortgage meets the Ability-to-Repay requirements of sections 129B and 129C of the Truth-in-Lending Act (TILA) regardless of whether the loan might be considered a high cost mortgage transaction as defined by section 103bb of TILA (15 U.S.C. 1602bb).

(2) *Applicability of safe harbor qualified mortgage.* All VA direct loans made pursuant to 38 U.S.C. 3711, Native American Direct Loans made pursuant to 38 U.S.C. 3761, et seq., and vendee loans made pursuant to 38 U.S.C. 3720 and 3733 are safe harbor qualified mortgages.

(Authority: 15 U.S.C. 1639C(b)(3)(B)(ii), 38 U.S.C. 3710)

(d) *Restatement.* * * *

* * * * *

■ 5. In § 36.4501, add the term ''Vendee loan'' immediately after the definition of ''Trust land'' to read as follows:

§ 36.4501 Definitions.

* * * * *

Vendee loan means a loan made by the Secretary for the purpose of financing the purchase of a property acquired pursuant to chapter 37 of title 38, United States Code.

(Authority: 38 U.S.C. 3720, 3733)

* * * * *

[FR Doc. 2014–10600 Filed 5–8–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0707; FRL–9910–54-Region 10]

Revision to the Washington State Implementation Plan; Update to the Solid Fuel Burning Devices Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted by the Washington State Department of Ecology (Ecology) on January 30, 2014. The SIP submission contains revisions to Washington's solid fuel burning device rules to control fine particulate matter ($PM_{2.5}$) from residential wood combustion. The updated regulations reflect Washington State statutory changes made in 2012, setting revised $PM_{2.5}$ trigger levels for impaired air quality burn bans and setting criteria for prohibiting solid fuel burning devices that are not certified. The submission also contains updates to the regulations to improve the clarity of the language.

DATES: *Effective Date:* This final rule is effective June 9, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2013–0707. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Programs Unit, Office of Air Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to

view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, it is intended to refer to the EPA.

Table of Contents

I. Background Information
II. Response to Comments
III. Final Action
IV. Statutory and Executive Orders Review

I. Background Information

An explanation of the Clean Air Act requirements and implementing regulations that are met by this SIP submittal, a detailed explanation of the revisions, and the EPA's reasons for approving it were provided in the notice of proposed rulemaking published on March 4, 2014, and will not be restated here (79 FR 12136). On March 25, 2014, the EPA received one comment via the *www.regulations.gov* Web site.

II. Response to Comments

Comment: ''Wood stoves are now designed to re-burn the smoke and get 98 percent of particle matter out of the air. By more complete and efficient burning, the heat derived from wood is maximized and the particle matter is minimized. In a metro city, an inefficient stove or fireplace will cause neighbors to get upset at the smoke from using such a unit. If a smoke reburning unit is used, the smoke is considerably less and with less particles there is less irritation and problems for neighbors. I suggest that any reburning stove or fireplace be exempted from any such rules.''

Response: Under section 110 of the Clean Air Act states are responsible for developing regulations and control measures to address air pollution for incorporation into the SIP. The EPA's role is to evaluate these state choices to determine if the revisions meet the requirements of the Clean Air Act. To the extent that the commenter wants to influence these state choices, the comments are best submitted during the state public comment period rather than as part of the EPA's approval or disapproval process. The EPA has determined that Washington's January 30, 2014 submittal meets all Clean Air Act requirements for approval. The EPA provided a copy of the comment to Ecology for consideration during future state rulemaking, but is otherwise taking no further action on the comment.

III. Final Action

The EPA is approving Washington's SIP revision submitted on January 30, 2014. Specifically, the EPA is approving and incorporating by reference into the SIP the rules shown in the Table below. We have made the determination that this action is consistent with section 110 of the Clean Air Act.

APPROVED RULES

Agency	Citation (WAC)	Title	State effective date	Submitted
Ecology	173–433–010	Purpose	02/23/14	01/30/14
Ecology	173–433–020	Applicability	02/23/14	01/30/14
Ecology	173–433–030	Definitions	02/23/14	01/30/14
Ecology	173–433–100	Emission Performance Standards	02/23/14	01/30/14
Ecology	173–433–110	Opacity Standards	02/23/14	01/30/14
Ecology	173–433–120	Prohibited Fuel Types	02/23/14	01/30/14
Ecology	173–433–140	Criteria for Impaired Air Quality Burn Bans	02/23/14	01/30/14
Ecology	173–433–150	Restrictions on the Operation of Solid Fuel Burning Devices	02/23/14	01/30/14
Ecology	173–433–155	Criteria for Prohibiting the Use of Solid Fuel Burning Devices that Are Not Certified.	02/23/14	01/30/14

IV. Statutory and Executive Orders Review

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the rule neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of section 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated September 3, 2013, and to all other

tribes located in Washington State in letters dated December 24, 2013. The EPA did not receive a request for consultation.

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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Incorporation by reference, and Reporting and recordkeeping requirements.

Dated: April 15, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

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

Subpart WW—Washington

■ 2. Section 52.2470 is amended in paragraph (c) Table 1—Washington Department of Ecology Regulations by:

■ a. Revising the heading ''Washington Administrative Code, Chapter 173–433—Solid Fuel Burning Device Standards'' to read ''Washington Administrative Code, Chapter 173–433—Solid Fuel Burning Devices'';

■ b. Revising entries 173–433–010 through 173–433–120;

■ c. Revising entries 173–433–140 and 173–433–150;

■ d. Adding in numerical order entry 173–433–155.

The revisions and additions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Washington Administrative Code, Chapter 173–433—Solid Fuel Burning Devices				
173–433–010	Purpose	02/23/14	05/09/14 [Insert page number where the document begins].	
173–433–020	Applicability	02/23/14	05/09/14 [Insert page number where the document begins].	
173–433–030	Definitions	02/23/14	05/09/14 [Insert page number where the document begins].	
173–433–100	Emission Performance Standards	02/23/14	05/09/14 [Insert page number where the document begins].	
173–433–110	Opacity Standards	02/23/14	05/09/14 [Insert page number where the document begins].	
173–433–120	Prohibited Fuel Types	02/23/14	05/09/14 [Insert page number where the document begins].	
*	*	*	*	*
173–433–140	Criteria for Impaired Air Quality Burn Bans	02/23/14	05/09/14 [Insert page number where the document begins].	
173–433–150	Restrictions on the Operation of Solid Fuel Burning Devices.	02/23/14	05/09/14 [Insert page number where the document begins].	
173–433–155	Criteria for Prohibiting the Use of Solid Fuel Burning Devices that Are Not Certified.	02/23/14	05/09/14 [Insert page number where the document begins].	
*	*	*	*	*

* * * * *

[FR Doc. 2014–10581 Filed 5–8–14; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Part 1172

RIN 3136–AA33

Nondiscrimination on the Basis of Age in Federally Assisted Programs or Activities

AGENCY: National Endowment for the Humanities.

ACTION: Final rule.

SUMMARY: In this final rule, the National Endowment for the Humanities (NEH) is issuing Age Discrimination Act of 1975 (the Act or the Age Act) regulations. These regulations implement provisions of the Act and the general, government-wide age discrimination regulations promulgated by the United States Department of Health and Human Services (HHS).

These regulations are designed to guide the actions of recipients of Federal financial assistance from NEH and incorporate the basic standards set forth in the general, government-wide regulations for determining what constitutes age discrimination. These regulations also discuss the responsibilities of NEH recipients and the investigations, conciliation, and enforcement procedures NEH has been using and will continue to use to ensure compliance with the Act.

DATES: The final rule will be effective June 9, 2014.

FOR FURTHER INFORMATION CONTACT: Mara Campbell, Office of the General Counsel, NEH, at 202–606–8322, 202–606–8282 (TDD), or *mcampbell@neh.gov*.

SUPPLEMENTARY INFORMATION:

General Information

The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.,* (the Act or the Age Act), prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act, which applies to persons of all ages, also contains certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.

The Act however, does not cover employment discrimination on the basis of age, which is addressed by a different statute, the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.,* (ADEA). The ADEA applies specifically to employment practices and programs, both in the public and private sectors, and only applies to persons who are age forty and over. Complaints of employment discrimination based on age by recipients of Federal financial assistance are subject to the ADEA—and not the Act or these regulations—and should instead be filed with the Equal Employment Opportunity Commission (EEOC) (29 CFR part 1626).

Rulemaking History

The Act required the former Department of Health, Education and Welfare (HEW) to issue general, government-wide regulations setting standards to be followed by all Federal agencies implementing the Act. These government-wide regulations, issued on June 12, 1979 and codified at 45 CFR part 90, require each agency to publish agency-specific regulations implementing the Act and to submit such final agency regulations to HEW (now HHS) before publication in the **Federal Register**. (*See* 45 CFR 90.31).

The Act became effective on July 1, 1979—the effective date of HEW's final government-wide regulations—and NEH has enforced the provisions of the Act since that time.

NEH first proposed agency-specific regulations implementing the Act on October 4, 1979 (44 FR 57130), but did not publish the final regulations. As a practical matter, however, the absence of such regulations has not affected NEH's enforcement of prohibitions against discrimination on the basis of age in programs or activities receiving financial assistance from NEH.

Since a significant amount of time had passed, and because regulatory development guidelines had changed, NEH began the regulatory process anew and published a proposed rule, including a full regulatory analysis under the Administrative Procedure Act, in the **Federal Register** on May 15, 2013 (78 FR 28569). The public comment period ended on July 15, 2013, and the only comments NEH received were from the EEOC.

Comments From EEOC

The majority of the EEOC's comments were intended to address potential confusion among the employment community and employees who may be unaware that the Age Act and the ADEA are separate statutes with different purposes, procedures, and remedies. In order to address this concern, NEH created a new ''General Information'' section under the **SUPPLEMENTARY INFORMATION** heading. This new section provides information on the ADEA and how it differs from the Age Act.

In addition to inserting this general overview, NEH amended specific sections of the rule to more clearly distinguish the two Acts:

Section 1172.1 has been amended to state that complaints of employment discrimination based on age by recipients of Federal financial assistance are subject to the ADEA and should be filed administratively with the EEOC.

Section 1172.2(b) has been amended to include subsection (3) which states that these regulations do not in any way affect any rights or responsibilities under the ADEA, the EEOC's regulations under the ADEA, or any statements of policy promulgated by EEOC under the ADEA.

Section 1172.3 has been amended to include a definition of the ADEA.

HHS Review

As part of the clearance process required by the government-wide Age Act regulations, NEH submitted its draft final rule to HHS for review prior to publication. In response to this review, NEH updated the following sections:

Section 1172.12 has been amended to include subsection (e) which states that any age distinction issued by NEH in a regulation is presumed to be necessary to achieve a statutory objective, notwithstanding the provisions of § 1172.12(a).

Sections 1172.24 and 1172.33 have been amended to replace the word ''must'' with ''shall.''

Section 1172.33(a) has been amended to include the words, ''Unless the age distinction complained of is clearly within an exception,'' at the beginning of the sentence. Additionally, the second sentence of subpart (b) has been deleted.

Sections 1172.33(c) and 1124.34(a)(1) have been amended to replace the word ''settlement'' with ''mediation.''

Section 1172.36(d) has been amended to include subsection (3) which states that deferrals will be limited to the particular recipient and particular program or activity.

Additional Changes

In addition to the changes noted above, NEH updated the following section of the final rule:

Section 1172.2(b) has been amended to delete the words ''any program or activity receiving Federal financial assistance under the Workforce Investment Act of 1998 (29 U.S.C. 9201 *et seq.*)'' as Congress eliminated this

exception in the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277.

Finally, HHS's government-wide regulations require that each agency publish an appendix to its Age Act regulations listing all age distinctions which appear in federal statutes and regulations and affect the agency's program of financial assistance. A review of National Foundation on the Arts and Humanities Act of 1965, 20 U.S.C. 951 *et seq.,* and NEH's regulations reveals no statutory age distinctions used by NEH in the administration of agency programs.

Overview of the Final Rule

NEH has designed this rule to fulfill its statutory and regulatory obligations to issue a regulation implementing the Act that conforms to the government-wide regulations at 45 CFR part 90. NEH's rule is divided into four parts: Subpart A—General; Subpart B—Standards for Determining Age Discrimination; Subpart C—Responsibilities of NEH Recipients; and Subpart D—Investigation, Conciliation, and Enforcement Procedures.

Subpart A—General

Subpart A explains the purpose of these regulations, which is to set out NEH's policies and procedures in accordance with the Act and the government-wide regulations. These regulations apply to any program or activity receiving Federal financial assistance from NEH. Subpart A also defines terms used in the regulations, many of which are identical to the definitions in the government-wide regulations. The definition of the term ''recipient'' points out the inapplicability of these regulations to assistance programs administered directly by the Federal government to beneficiaries. With respect to direct assistance programs, the regulations may apply whenever direct aid is provided to an individual on conditions that the aid is spent in providing services or benefits to others. Further, because the Act contains several exceptions which limit the general prohibition against age discrimination, the regulations provide definitions for two terms that are essential to understanding two of those exceptions: ''normal operation'' and ''statutory objective.''

Subpart B—Standards for Determining Age Discrimination

Subpart B sets out the standards NEH uses for determining illegal age discrimination, which are based on the government-wide regulations. The regulations also establish a four-part test for a specific age distinction to satisfy the ''normal operation'' or ''statutory objective'' requirement for a recipient to use an age-based distinction in a program or activity receiving Federal financial assistance. NEH will use this four-part test to scrutinize age distinctions, if any, which are imposed in NEH-assisted programs, but which are not explicitly authorized by a Federal, State or local statute. NEH recipients are also permitted to take an action otherwise prohibited by the Act if the action is based on ''reasonable factors other than age,'' but only if the factor bears a direct and substantial relationship to the program's normal operation or to the achievement of a statutory objective.

Subpart C—Responsibilities of NEH Recipients

Subpart C sets forth the duties of NEH recipients. NEH recipients are responsible for ensuring that their programs and activities are in compliance with the Act and NEH regulations. Where an NEH recipient passes on financial assistance to subrecipients, the recipient must notify subrecipients of their obligations under the regulations. Under these regulations, NEH could require a recipient or subrecipient to complete a written self-evaluation of its compliance with the Act and these regulations. The self-evaluation must be kept on file for three years from its effective date and made available to the public upon request.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

Subpart D establishes the procedures for investigation, conciliation, and enforcement of the Act, and closely follows the procedural requirements included in the government-wide age discrimination regulations. Mediation is the first step in the complaint process. NEH will refer all complaints of discrimination under the Act to the Federal agency designated by HHS to manage the mediation process. Complainants and NEH recipients shall participate in the effort to reach a mutually satisfactory settlement. Mediation may last no more than sixty (60) days from the date NEH first receives the complaint. NEH will investigate any complaints that are unresolved after mediation or are reopened because the mediation agreement is violated. Finally, these regulations permit NEH to withhold funds and disburse them to an appropriate alternate recipient, if the alternate has demonstrated the ability to comply with these regulations and to achieve the goals of the National Foundation on the Arts and the Humanities Act of 1965.

Regulatory Procedures

Executive Order 12866, Regulatory Review

NEH has determined that the rule is not a ''significant regulatory action'' under Executive Order 12866 because it will not: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, the rule is not subject to Office of Management and Budget (OMB) review.

Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), the Chairman of NEH has certified that this rule will not have a significant economic impact on a substantial number of small entities. In making this determination, NEH used the definition of *small entity* set forth in the RFA: (1) a small business, as defined by the Small Business Administration (SBA) in 13 CFR part 121.201; (2) a small governmental jurisdiction, which is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization, which is any non-profit enterprise that is independently owned and operated and is not dominant in its field. Some NEH grant programs support humanities projects developed by small, independently-owned non-profits, such as museums, libraries, and other cultural organizations. NEH funds approximately 75–100 small non-profits each year, which accounts for less than ten percent of NEH's annual funding.

However, the rule, if promulgated in final form, will not impose any additional requirements on these small entities because it will not substantively change existing requirements, but will

merely clarify such duties for entities receiving financial assistance from NEH. The requirements prohibiting age discrimination by recipients of Federal financial assistance contained in the Act and the government-wide regulations have been in effect since 1975. The rule only formalizes those existing requirements for NEH recipients.

Small Business Regulatory Enforcement Fairness Act of 1996

NEH has determined that the rule is not a ''major rule'' as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), as amended, Pub. L. 104–121 (5 U.S.C. 804). This rule will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4 (2 U.S.C. 1501 *et seq.*), does not apply to the rule because it does not apply to regulatory actions that establish or enforce statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap or disability. Further, the rule contains no ''Federal mandate'' under Title II of UMRA because UMRA excludes from the definitions of ''Federal intergovernmental mandate'' and ''Federal private sector mandate'' duties that arise from conditions of Federal assistance and duties that arise from participation in a voluntary Federal program. Congress mandated in the Act the establishment of these agency-specific regulations to enforce the prohibition of discrimination on the basis of age in programs or activities receiving Federal financial assistance. These regulations do not apply to any program or activity unless it applies for and receives financial assistance from NEH. Application for, and receipt of, NEH assistance is entirely voluntary. In addition, NEH has determined that the rule will not significantly or uniquely affect small governments. These regulations apply uniformly to all organizational recipients of NEH financial assistance.

Paperwork Reduction Act

NEH has determined that the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* does not apply because the rule does not impose any new information collection requirements that require OMB approval. Section 3518(c)(1)(B) of the PRA exempts from OMB approval, collections of information ''during the conduct of . . . (ii) an administrative action or investigation involving an agency against specific individuals or entities.'' These regulations provide NEH with discretionary authority to require information from recipients as part of an investigation, thereby eliminating any PRA concerns, because it is discretionary and tied to NEH's authority to investigate. Further, the rule provides that individuals ''may file'' complaints and requires that recipients provide notice to subrecipients of their obligations under the Act and the regulations, neither of which involve a ''collection of information'' under the PRA.

Congressional Review Act

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. NEH will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective June 9, 2014.

List of Subjects in 45 CFR Part 1172

Administrative practice and procedure, Age discrimination, Civil rights, Grant programs, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, NEH is amending 45 CFR chapter XI, subchapter D, by adding part 1172 as follows:

PART 1172—NONDISCRIMINATION ON THE BASIS OF AGE IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

Subpart A—General

Sec.
1172.1 Purpose.
1172.2 Application.
1172.3 Definitions.

Subpart B—Standards for Determining Age Discrimination

1172.11 Rules against age discrimination.
1172.12 Exceptions to the rules against age discrimination.
1172.13 Burden of proof.

Subpart C—Responsibilities of NEH Recipients

1172.21 General responsibilities.
1172.22 Notice to subrecipients.
1172.23 Self-evaluation.
1172.24 Information requirements.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

1172.31 Compliance reviews.
1172.32 Complaints.
1172.33 Mediation.
1172.34 Investigation.
1172.35 Prohibition against intimidation or retaliation.
1172.36 Enforcement procedure.
1172.37 Hearings, decisions, post-termination proceedings.
1172.38 Remedial action by recipients.
1172.39 Alternate funds disbursal procedure.
1172.40 Exhaustion of administrative remedies.

Authority: 42 U.S.C. 6101–6107; 45 CFR 90.

Subpart A—General

§ 1172.1 Purpose.

The purpose of this part is to set out the National Endowment for the Humanities' (NEH) policies and procedures for implementing the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.,* (the Act or the Age Act). The Act is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs or activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and the regulations in this part. The regulations in this part are based upon the general, government-wide age discrimination regulations issued by the United States Department of Health and Human Services (HHS) at 45 CFR part 90.

Complaints of employment discrimination based on age may be subject to the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.,* (ADEA) and should be filed administratively with the Equal Employment Opportunity Commission (EEOC) (29 CFR part 1626).

§ 1172.2 Application.

(a) The Act and the regulations in this part apply to each recipient and to any

program or activity receiving financial assistance from the NEH.

(b) The Act does not apply to:

(1) Any age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age;

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or with respect to any labor-management joint apprenticeship training program.

(3) The rights or responsibilities of any person or party pursuant to the ADEA, the EEOC regulations under the ADEA, or any statements of policy promulgated by the EEOC under the ADEA.

§ 1172.3 Definitions.

As used in this part, the term:

Act means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.* (Pub. L. 94–135).

Action means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

Age means how old a person is, or the number of elapsed years from the date of a person's birth.

ADEA means the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.* (Pub. L. 90–202).

Age distinction means any action using age or an age-related term.

Age-related term means a word or words which necessarily imply a particular age or range of ages (for example, *children, adult, older persons,* but not *student*).

Agency means a Federal department or agency that is empowered to extend financial assistance.

Chairman means the Chairman of the National Endowment for the Humanities.

Federal financial assistance means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which NEH provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

Normal operation means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

Program or activity means all of the operations of:

(1) (i) A department, agency, special purpose district, or other instrumentality of a State or local government, or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2) (i) A college, university, or other postsecondary institution, or a public system of higher education, or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3) (i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole, or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3) of this definition, any part of which is extended Federal financial assistance.

Recipient means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

Secretary means the Secretary of the Department of Health and Human Services.

Statutory objective means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

Subrecipient means any of the entities in the definition of recipient to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in the regulations in this part.

United States means the fifty states, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Age Discrimination

§ 1172.11 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 1172.12.

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) *Specific rules.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list of discriminatory actions.

§ 1172.12 Exceptions to the rules against age discrimination.

(a) *Normal operation or statutory objective of any program or activity.* A recipient may take an action otherwise prohibited by § 1172.11 if the action reasonably takes into account age as a

factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(1) Age is used as a measure or approximation of one or more other characteristics;

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual basis.

(b) *Reasonable factors other than age.* A recipient may take an action otherwise prohibited by § 1172.11 which is based on a reasonable factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a reasonable factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

(c) *Affirmative action by recipient.* Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects or conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(d) *Special benefits for children and the elderly.* If a recipient operating a program or activity provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of § 1172.12(a).

(e) *Age distinctions in NEH regulations.* Any age distinction in a regulation issued by NEH is presumed to be necessary to the achievement of a statutory objective of the program or activity to which the regulation applies, notwithstanding the provisions of § 1172.12(a).

§ 1172.13 Burden of proof.

The recipient of Federal financial assistance bears the burden of proving that an age distinction or other action falls within the exceptions outlined in § 1172.12.

Subpart C—Responsibilities of NEH Recipients

§ 1172.21 General responsibilities.

A recipient has responsibility to ensure that its programs or activities are in compliance with the Act and the regulations in this part and to take steps to eliminate violations of the Act and the regulations in this part. A recipient also has responsibility to maintain records, provide information, and afford NEH access to its records to the extent NEH finds necessary to determine whether the recipient is in compliance with the Act and the regulations in this part.

§ 1172.22 Notice to subrecipients.

Where a recipient passes on Federal financial assistance from NEH to subrecipients, the recipient must provide the subrecipients with written notice of their obligations under the Act and the regulations in this part. Each recipient must also make necessary information available to its beneficiaries in order to inform them about the protections against discrimination provided by the Act and the regulations in this part.

§ 1172.23 Self-evaluation.

As part of a compliance review under § 1172.31 or a complaint investigation under § 1172.34, NEH may require a recipient employing the equivalent of fifteen (15) or more full time employees to complete a written self-evaluation, in a manner specified by NEH, of any age distinction imposed in its program or activity receiving Federal financial assistance. A recipient must take corrective and remedial action whenever a self-evaluation indicates a violation of the Act, and the recipient must make the self-evaluation available upon request to NEH and to the public for a period of three (3) years following its completion.

§ 1172.24 Information requirements.

Each recipient shall keep records containing information necessary for NEH to determine whether the recipient is in compliance with the Act and the regulations in this part, and shall provide any such records to NEH upon request and in the preferred format specified by NEH. Each recipient shall also permit reasonable access by NEH to its books, records, accounts, and other facilities and sources of information, to the extent necessary for NEH to determine whether the recipient is in compliance with the Act and this part.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 1172.31 Compliance reviews.

(a) NEH may conduct compliance reviews, pre-award reviews, and other similar procedures in order to investigate and correct violations of the Act and the regulations in this part. NEH may conduct these reviews even in the absence of a complaint against the recipient. Reviews may be as comprehensive as necessary to determine whether a recipient is in compliance with the Act and this part.

(b) If a compliance review or pre-award review indicates a violation of the Act and the regulations in this part, NEH will attempt to contact the recipient and achieve the recipient's voluntary compliance. If the recipient does not comply voluntarily, NEH may pursue enforcement efforts as described in § 1172.36.

§ 1172.32 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with NEH, alleging discrimination prohibited by the Act and the regulations in this part based on an action occurring on or after July 1, 1979. A complainant must file a complaint in writing within one hundred eighty (180) days from the date that the complainant first had knowledge of the alleged act of discrimination. However, for good cause, NEH may extend this time limit. NEH will consider the date a complaint is filed as the date when the complaint is sufficient to be processed.

(b) Complaints must include a written and signed statement identifying the parties involved, describing the alleged violation, and stating the date on which the complainant first had knowledge of the alleged violation.

(c) NEH will attempt to facilitate the filing of complaints wherever possible, including taking the following measures, as appropriate:

(1) Widely disseminating information regarding the obligations of recipients under the Act and this part,

(2) Permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint,

(3) Notifying the complainant and the recipient (or their representatives) of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure, and/or

(4) Notifying the complainant and the recipient (or their representatives) of their right to contact NEH for information and assistance regarding the complaint resolution process.

(d) NEH will return any complaint that is unsigned or that is not within NEH's jurisdiction for any other reason, and NEH will provide an explanation for the return.

§ 1172.33 Mediation.

(a) *Referral of complaints for mediation.* Unless the age distinction complained of is clearly within an exception, NEH will promptly refer all complaints that fall within the jurisdiction of the regulations in this part, and that contain all information necessary for further processing, to the Mediation Agency designated by the Secretary of the Department of Health and Human Services.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement, or for the mediator to make an informed judgment that an agreement is impossible.

(c) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, the mediator shall prepare a mediation agreement in writing, to be signed by the complainant and recipient, and send a copy of the signed agreement to NEH. NEH will take no further action based on that complaint unless the complainant or the recipient has failed to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process, and no mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) If the complainant and recipient do not reach a mutually satisfactory resolution during mediation within sixty (60) days after NEH receives the complaint, the mediator shall return the complaint to NEH for investigation. The mediator may return a complaint at any time before the end of the sixty-day period if it appears that the complaint cannot be resolved through mediation or if an agreement is reached. The mediator may extend this sixty-day period, provided NEH concurs, for not more than thirty (30) days, if the mediator determines that resolution is likely to occur within such period.

§ 1172.34 Investigation.

(a) *Initial investigation.* (1) NEH will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(i) As part of this initial investigation, NEH will use informal fact-finding methods, including joint or separate discussions with the complainant and the recipient to establish the facts, and, if possible, resolve the complaint to the mutual satisfaction of the parties. NEH may seek the assistance of any involved State agency.

(ii) NEH will put any settlement agreement in writing and have it signed by the parties and NEH. The settlement is not a finding of discrimination against a recipient.

(2) The settlement shall not affect the operation of any other enforcement effort of NEH, including compliance reviews and investigation of other complaints which may involve the recipient.

(b) *Formal investigation and finding.* If NEH cannot resolve the complaint during the initial investigation, it will complete the investigation of the complaint and make a formal finding. If the formal investigation indicates a violation of the Act or the regulations in this part, NEH will attempt to achieve voluntary compliance. If NEH cannot obtain voluntary compliance, it will begin appropriate enforcement action as provided in § 1172.36.

§ 1172.35 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who attempts to assert a right protected by the Act or this part, or cooperates in any mediation, investigation, hearing, or other part of NEH's investigation, conciliation, and enforcement process.

§ 1172.36 Enforcement procedure.

(a) NEH may enforce the Act and the regulations in this part through:

(1) Termination of a recipient's Federal financial assistance under the program or activity involved where the recipient has violated the Act or the regulations in this part. Prior to such termination, a recipient must have the opportunity for a hearing on record before an administrative law judge who must determine that a violation has occurred. Therefore, NEH will not terminate a recipient's Federal financial assistance in a case that has been settled in mediation, or prior to a hearing, unless the case is reopened because of a violation of the settlement agreement.

(2) Any other means authorized by law, including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or the regulations in this part.

(ii) Use of any requirement of, or referral to, any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or this part.

(b) NEH will limit any termination under § 1172.36(a)(1) to the particular recipient and particular program or activity, or portion thereof, that NEH finds in violation of the Act or the regulations in this part. NEH will not base its decision to terminate on any findings with respect to any other program or activity of the recipient that does not receive Federal financial assistance from NEH.

(c) NEH will not take action under § 1172.36(a) until:

(1) The Chairman has advised the recipient of its failure to comply with the Act or the regulations in this part, and that NEH has determined that voluntary compliance cannot be obtained, and

(2) Thirty (30) days have elapsed after the Chairman has sent a written report of the circumstances and grounds of the action to the Congressional Committee(s) having legislative jurisdiction over the program or activity involved. The Chairman will file such report whenever it takes action under § 1172.36(a).

(d) NEH also may defer granting new Federal financial assistance to a recipient when a hearing under § 1172.36(a)(1) is initiated.

(1) New Federal financial assistance includes all assistance for which NEH requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance does not include assistance approved prior to the beginning of a termination hearing under § 1172.36(a)(1), or increases in funding as a result of changed computation of formula awards.

(2) NEH will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 1172.36(a)(1). NEH will not continue a deferral for more than sixty (60) days unless a hearing has begun within that time, or the time for beginning the hearing has been extended by mutual written consent of the recipient and NEH. NEH will not continue a deferral for more than thirty (30) days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) NEH will limit any deferral to the particular recipient and particular program or activity, or portion thereof, that NEH finds in violation of the Act or the regulations in this part. NEH will not base the deferral decision any finding with respect to any other program or activity of the recipient that does not receive Federal financial assistance from NEH.

§ 1172.37 Hearings, decisions, post-termination proceedings.

Certain NEH procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to NEH enforcement of the regulations in this part. They are found at 45 CFR chapter XI, subchapter A, 1110.9 through 1110.11.

§ 1172.38 Remedial action by recipients.

Where NEH finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that NEH may require to overcome the effects of discrimination. If another recipient exercises control over the recipient that has discriminated, NEH may require both recipients to take remedial action.

§ 1172.39 Alternate funds disbursal procedure.

When NEH withholds funds from a recipient under the regulations in this part, the Chairman may disburse the withheld funds directly to an alternate recipient otherwise eligible for NEH support. NEH will require any alternate recipient to demonstrate the ability to comply with the regulations in this part and to achieve the goals of the National Foundation on the Arts and the Humanities Act of 1965, Pub. L. 89–209 (20 U.S.C. 951)—the Federal statute authorizing the Federal financial assistance.

§ 1172.40 Exhaustion of administrative remedies.

(a) A complainant may file a civil action under the Act and the regulations in this part following the exhaustion of administrative remedies. Administrative remedies are exhausted if one hundred eighty (180) days have elapsed since the complainant filed the complaint and NEH has made no finding with regard to the complaint, or NEH issues any finding in favor of the recipient.

(b) If either of the conditions set forth in § 1172.40(a) is satisfied, NEH will:

(1) Promptly advise the complainant of this fact,

(2) Advise the complainant of his or her right, to bring a civil action for injunctive relief, and

(3) Inform the complainant:

(i) That a civil action can only be brought in a United States district court for the district in which the recipient is found or transacts business,

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint,

(iii) That before commencing the action, the complainant must give thirty (30) days' notice by registered mail to the Secretary, the Attorney General of the United States, the Chairman, and the recipient,

(iv) That the notice must state the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and, whether or not attorney's fees are demanded in the event the complainant prevails, and

(v) That no action may be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

Michael McDonald,

General Counsel.

[FR Doc. 2014–10644 Filed 5–8–14; 8:45 am]

BILLING CODE 7536–01–P

Proposed Rules

Federal Register
Vol. 79, No. 90
Friday, May 9, 2014

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005 and 1007

[Docket No. AO–388–A17 and AO–366–A46; DA–05–06–B]

Milk in the Appalachian and Southeast Marketing Areas; Termination of Proceeding

Correction

In proposed rule document 2014–10033, appearing on pages 25032 through 25033 in the issue of Friday, May 2, 2014, make the following correction:

On page 25032, in the first column, in the **DATES** section, ''May 5, 2013'' should read ''May 5, 2014''.

[FR Doc. C1–2014–10033 Filed 5–8–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

10 CFR Part 429

[Docket No. EERE–2013–BT–NOC–0005]

Appliance Standards and Rulemaking Federal Advisory Committee: Notice of Open Teleconference/Webinar

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

ACTION: Notice of open meeting and teleconference/webinar.

SUMMARY: This notice announces a meeting of the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC). The Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770, requires that agencies publish notice of an advisory committee meeting in the **Federal Register**.

DATES: Friday, June 6, 2014 from 1:00 p.m.–5:00 p.m. (EST).

ADDRESSES: U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585.

For individuals that wish to attend by webinar, please register at—*https://www1.gotomeeting.com/register/938465121.* After registering you will receive an email with the appropriate link to join the meeting on June 6 and the necessary call-in information.

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, ASRAC Designated Federal Officer, U.S. Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy, 950 L'Enfant Plaza SW., Washington, DC 20024. Email: *asrac@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and recommendations to the Energy Department on the development of standards and test procedures for residential appliances and commercial equipment, certification and enforcement of standards, and product labeling.

Tentative Agenda: (Subject to change; final agenda will be posted at *http://www.appliancestandards.energy.gov*):

- Update on Commercial and Industrial Pumps Working Group's efforts
- Discussion regarding commercial labeling.
- Discussion of other topics where ASRAC can assist the Appliance and Equipment Standards Program

Public Participation: Members of the public are welcome to observe the business of the meeting and, if time allows, may make oral statements during the specified period for public comment. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, email *asrac@ee.doe.gov.* In the email, please indicate your name, organization (if appropriate), citizenship, and contact information. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise ASRAC staff as soon as possible by emailing *asrac@ee.doe.gov* to initiate the necessary procedures. Anyone attending the meeting will be required to present a government photo identification, such as a passport, driver's license, or government identification. Due to the required security screening upon entry, individuals attending should arrive early to allow for the extra time needed.

Members of the public will be heard in the order in which they sign up for the Public Comment Period. Time allotted per speaker will depend on the number of individuals who wish to speak but will not exceed five minutes. Reasonable provision will be made to include the scheduled oral statements on the agenda. The co-chairs of the Committee will make every effort to hear the views of all interested parties and to facilitate the orderly conduct of business.

Participation in the meeting is not a prerequisite for submission of written comments. ASRAC invites written comments from all interested parties. Any comments submitted must identify the ASRAC, and provide docket number EERE–2013–BT–NOC–0005. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ASRAC@ee.doe.gov.* Include docket number EERE–2013–BT–NOC–0005 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at *www.regulations.gov*, including **Federal Register** notices, public meeting attendee lists, webinar attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov index.* However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The Secretary of Energy has approved publication of today's notice of proposed rulemaking.

Issued in Washington, DC, on May 2, 2014.

Kathleen B. Hogan,

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

[FR Doc. 2014–10689 Filed 5–8–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2014–BT–TP–0014]

RIN 1904–AD22

Energy Conservation Program for Consumer Products: Test Procedure for Portable Air Conditioners

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

ACTION: Notice of data availability; request for comment.

SUMMARY: In a notice of proposed determination (NOPD) published on July 5, 2013, the U.S. Department of Energy (DOE) tentatively determined that portable air conditioners (ACs) qualify as a covered product under Part B of Title III of the Energy Policy and Conservation Act (EPCA), as amended. To assist in a final determination and to consider approaches for a future DOE test procedure for these products, should DOE determine that portable ACs are covered products, DOE conducted investigative testing to evaluate industry test procedures that could be used to measure cooling capacity and energy use for portable ACs. In today's notice, DOE discusses various industry test procedures and presents results from its investigative testing that evaluated existing methodologies and alternate approaches adapted from these methodologies for portable ACs. DOE requests comment and additional information regarding the testing and results presented in this NODA. DOE also encourages interested parties to provide comment on any alternate approaches for testing portable ACs and information that may improve the analysis.

DATES: DOE will accept comments, data, and information regarding this notice of data availability (NODA) submitted no later than June 9, 2014.

ADDRESSES: Any comments submitted must identify the Notice of Data Availability for Portable Air Conditioners, and provide docket number EERE–2014–BT–TP–0014 and/or RIN 1904–AD22. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments.

2. *Email: PortableAC2014TP0014@ee.doe.gov*. Include docket EERE–2014–BT–TP–0014 and/or RIN 1904–AD22 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. *Telephone:* (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov*, including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-TP-0014*. This Web page contains a link to the docket for this notice on the *www.regulations.gov site*. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Building Technology Office, EE–5B, 950 L'Enfant Plaza SW., Room 603, Washington, DC 20585–0121. Telephone: 202–586–0371. Email: *Bryan.Berringer@ee.doe.gov*.

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–71, 1000 Independence Ave. SW., Washington, DC 20585–0121. Telephone: 202–586–2902; Email: *Sarah.Butler@hq.doe.gov*.

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I. Authority and Background

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163, (42 U.S.C. 6291–6309, as codified), sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances (hereinafter referred to as ''covered products'').[2] In addition to specifying a list of covered products, EPCA contains provisions that enable the Secretary of Energy to classify additional types of consumer products as covered products. For a given product to be classified as a covered product, the Secretary must determine that:

(1) Classifying the product as a covered product is necessary for the purposes of EPCA; and

(2) The average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (kWh) per year. (42 U.S.C. 6292(b)(1)).

In order to prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) for covered products added pursuant to 42 U.S.C. 6292(b)(1), the Secretary must also determine that:

(1) The average household energy use of the products has exceeded 150 kWh per household for any 12-month period ending before such determination;

(2) The aggregate household energy use of the products has exceeded 4.2 terawatt-hours (TWh) for any such 12-month period;

(3) Substantial improvement in energy efficiency is technologically feasible; and

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the American Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

(4) Application of a labeling rule under 42 U.S.C. 6294 is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1)).

On July 5, 2013, DOE issued a notice of proposed determination (NOPD) of coverage (hereinafter referred to as the ''July 2013 NOPD''), in which DOE announced that it tentatively determined that portable ACs meet the criteria for covered products. In reaching this tentative determination, DOE found that classifying products of such type as covered products is necessary or appropriate to carry out the purposes of EPCA, and the average U.S. household energy use for portable ACs is likely to exceed 100 kWh per year. 78 FR 40403–07.

In response to the July 2013 NOPD, DOE received comments from interested parties on several topics, including appropriate test procedures for portable ACs that DOE should consider if it issues a final determination that classifies portable ACs as covered products. Consumer Reports recommended that portable ACs be tested similar to, and performance compared with, room ACs because they are seen by consumers as comparable products that perform nearly identical functions. (Consumer Reports, No. 2 at p. 2).[3] In addition, the Appliance Standards Awareness Project (ASAP), American Council for an Energy-Efficient Economy (ACEEE), Consumers Union (CU), Natural Resources Defense Council (NRDC), and Northwest Energy Efficiency Alliance (NEEA), (hereinafter referred to as the ''Joint Commenters''), commented that any portable AC test procedure must facilitate a realistic comparison with room ACs, and that a portable AC test procedure must reflect actual installation and operation to determine a meaningful and applicable cooling capacity and Energy Efficiency Ratio (EER). (Joint Commenters, No. 4 at p. 2).

The Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SCGC), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE), (hereinafter referred to as the ''California IOUs''), commented that based on Consumer Reports' testing, the published ratings for portable ACs may underestimate actual performance in the field by approximately 50 percent. The California IOUs recommended establishing a standardized test procedure to ensure that representations of portable AC energy use would better reflect actual usage and be more meaningful for consumers making purchasing decisions. (California IOUs, No. 5 at p. 3)

The Association of Home Appliance Manufacturers (AHAM) commented that a DOE test procedure would ensure that all manufacturers test and rate their products according to the same test procedure. AHAM also suggested that DOE incorporate current test procedures by reference, particularly the version of AHAM's portable AC test procedure which is currently under development to harmonize with the Canadian Standards Association (CSA) test procedure. AHAM commented that DOE should work with Natural Resources Canada (NRCan) and CSA to harmonize the U.S. and Canadian test procedures for portable ACs. (AHAM, No. 6 at pp. 2–4)

DOE agrees that a DOE test procedure for portable ACs would provide consistency and clarity for representations of energy use of these products. DOE is evaluating available industry test procedures to determine whether their methodologies are suitable for incorporation in a future DOE test procedure, should DOE determine that portable ACs are a covered product.

II. Discussion

In the July 2013 NOPD, DOE proposed defining a portable AC as ''a consumer product, other than a 'packaged terminal air conditioner,' which is powered by a single-phase electric current and which is an encased assembly designed as a portable unit that may rest on the floor or other elevated surface for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and heating.'' 78 FR 40403, 40404 (Jul. 5, 2013). The most common type of portable AC configuration in the United States utilizes a single condenser air exhaust duct that removes heat to the unconditioned space. Other configurations include dual-duct, which intakes and exhausts unconditioned air to cool the condenser and remove moisture, and spot coolers, which have no ducting on the condenser side and may utilize small directional ducts on the evaporator exhaust.

In response to comments from interested parties, DOE conducted testing to determine typical portable AC cooling capacities and energy efficiencies based on the existing industry test methods and to investigate their applicability to a possible DOE test procedure for portable ACs. DOE is aware of three test procedures that measure portable AC performance and that are applicable to products sold in North America.

(1) American National Standards Institute (ANSI)/AHAM PAC–1–2009 ''Portable Air Conditioners''[4] (ANSI/AHAM PAC–1–2009) specifies cooling mode testing conducted in accordance with ANSI/American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 37–2005 ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment'' (ANSI/ASHRAE Standard 37–2005).[5] The metrics incorporated in ANSI/AHAM PAC–1–2009 include cooling capacity and EER for the following configurations: Single-Duct, Dual-Duct, Spot Cooling, and Water Cooled Condenser.

(2) CSA C370–2013 ''Cooling Performance of Portable Air Conditioners''[6] (CSA C370) is harmonized with ANSI/AHAM PAC–1–2009, and thus also incorporates testing provisions from ANSI/ASHRAE Standard 37, although it specifies the later 2009 version.

(3) ANSI/ASHRAE Standard 128–2011 ''Method of Rating Unitary Spot Air Conditioners'' (ANSI/ASHRAE Standard 128–2011) is adapted from the previous 2009 version of CSA C370. It too references ANSI/ASHRAE Standard 37–2009. The previous version of ANSI/ASHRAE Standard 128, published in 2001, is required by California regulations to be used to certify spot cooler performance for such products sold in that State. A key difference between ANSI/ASHRAE Standard 128–2011 and ANSI/ASHRAE Standard 128–2001 is that the older version specifies a higher indoor ambient testing

[3] A notation in the form ''Consumer Reports, No. 2 at p. 2'' identifies a written comment: (1) Made by Consumer Reports; (2) recorded in document number 2 that is filed in the docket of the portable AC determination of coverage rulemaking (Docket No. EERE–2013–BT–STD–0033) and available for review at *www.regulations.gov;* and (3) which appears on page 2 of document number 2.

[4] ANSI/AHAM test procedures are available for purchase online at: *www.aham.org.*

[5] ANSI/ASHRAE Standard 37 was updated in 2009. DOE reviewed the 2005 and 2009 versions and concluded there would be no measurable difference in portable AC results obtained from each. Therefore, DOE utilized ANSI/ASHRAE Standard 37–2009 when testing according to ANSI/AHAM PAC–1–2009. ANSI/ASHRAE test procedures are available for purchase online at: *www.techstreet.com.*

[6] CSA test procedures are available for purchase online at: *www.csagroup.org.*

temperature, which increases measured cooling capacity and EER.

DOE found no significant differences that would provide varying results among the AHAM, CSA, and ASHRAE test procedures. In reviewing the current versions of these test procedures, DOE observed that each measures cooling capacity and EER based on an air enthalpy approach that measures the airflow rate, dry-bulb temperature, and water vapor content of air at the inlet and outlet of the indoor (evaporator) side. In addition, for air-cooled portable ACs with cooling capacities less than 135,000 British thermal units per hour (Btu/h), which include the products that are the subject of today's notice, the indoor air enthalpy results must be validated by additionally measuring cooling capacity by either an outdoor air enthalpy method or a compressor calibration method. In its testing, DOE selected the outdoor air enthalpy method to minimize its test burden because that approach only requires additional metering components, similar to those used for the indoor air enthalpy method. The compressor calibration method requires monitoring refrigerant conditions with additional equipment that was not available at the time in the test laboratory. DOE expects that using either approach would produce equivalent results because the compressor calibration approach measures the heat transferred to the refrigerant from the evaporator side and the outdoor air enthalpy approach measures that same heat when it is transferred from the refrigerant and rejected at the condenser side.

DOE conducted initial testing according to ANSI/AHAM PAC–1–2009 to establish baseline cooling capacities and efficiencies of the test units according to the existing industry test procedures. As noted previously, although ANSI/AHAM PAC–1–2009 references ANSI/ASHRAE Standard 37–2005, DOE determined there were no differences in the relevant provisions between this version and the current version, ANSI/ASHRAE Standard 37–2009.[7] DOE, therefore, used ANSI/ASHRAE Standard 37–2009 for all testing according to ANSI/AHAM PAC–1–2009.

In addition, DOE reviewed information suggesting that certain operational factors not addressed in existing test procedures could have a significant effect on portable AC performance. For example, a Consumer Reports buying guide indicates that units tested as part of a field study delivered only half of the rated cooling capacity.[8] DOE observed that when condenser air is drawn from the conditioned space and exhausted to the unconditioned space, a pressure gradient is created that results in replacement air infiltrating into the conditioned space. If this infiltration air is drawn from unconditioned locations, including possibly directly from outdoors through leaky windows or mounting brackets, the net cooling capacity and EER of the portable AC would be reduced. DOE notes that this air infiltration likely has the largest effect on the performance of single-duct units because these units intake all condenser air from the conditioned space. Dual-duct units may intake a portion of condenser air from the conditioned space; the remainder, which may be all of the condenser air, is drawn from outdoors through the condenser inlet duct. If air infiltration is not accounted for, testing may suggest that a single-duct unit would perform better than a dual-duct unit with comparable components. Single-duct units utilize lower-temperature air from the conditioned space to cool the condenser and it would appear that these units are able to operate more efficiently than equivalent dual-duct units.

Portable AC performance may also be reduced due to the heat transfer to the room through leaks in the product case and manufacturer-provided ducting that is not addressed in current test procedures. The portable AC and all associated equipment are located in the conditioned space and the ducting is typically flexible plastic with no additional insulation. Further, the connection between the duct and the case and the connection between the duct and the manufacturer-supplied window fixture may not be tightly sealed, allowing some condenser-side air to leak into the room. Finally, DOE observed that mixing may occur between the condenser air exhaust and intake for dual-duct units because the window fixtures typically locate the air intake and exhaust connections adjacent to one another, allowing some of the hotter exhaust air to potentially short-circuit and enter the intake duct.

To investigate the contribution of these operational factors on the apparent reduction in cooling capacity observed for units in the field, DOE compared the results of ANSI/AHAM PAC–1–2009 testing with the results of additional testing using a test room calorimeter approach based on ANSI/ASHRAE Standard 16–1983 (RA 99), ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners'' (ANSI/ASHRAE Standard 16–1983), with certain modifications as explained below to allow testing of portable ACs. The room calorimeter approach would allow DOE to determine the cooling capacity and associated EER of a portable AC that accounts for any air infiltration effects and heat transfer to the conditioned space through gaps in the product case and seams in the duct connections. Values of these performance metrics measured accordingly may more accurately reflect real-world portable AC operation. In this test series, DOE also investigated cooling capacity and EER as a function of the infiltration air temperature for single-duct and dual-duct units, and the effect of condenser exhaust air entrainment at the intake for dual-duct portable ACs.

The following sections detail the units in DOE's test sample, the baseline test results obtained using ANSI/AHAM PAC–1–2009, and the results from the investigative tests using the modified ANSI/ASHRAE Standard 16–1983 to estimate the effects of infiltration air, case and duct heat transfer, and condenser duct air mixing.

A. Test Units

For its portable AC testing, DOE selected a sample of units that are representative of products and configurations currently available on the U.S. market. The test sample included four single-duct, two dual-duct, and two spot-cooling portable ACs, covering a range of rated cooling capacities (8,000–13,500 Btu/h) and EERs (7.0–11.2 Btu per watt-hour (Btu/Wh)). Because DOE does not currently require manufacturers to certify portable ACs to any energy conservation standards, manufacturers may advertise or market their products using any available test procedure. For models that are included in the California Energy Commission (CEC) product database and that are sold in California, however, manufacturers must report cooling capacity and EER according to ANSI/ASHRAE Standard 128–2001. DOE notes that the cooling capacities and EERs obtained from using ANSI/ASHRAE Standard 128–2001 are higher than those obtained using the current ANSI/ASHRAE Standard 128–

[7] Both versions of ANSI/ASHRAE Standard 37 are available for purchase online at: *www.techstreet.com.*

[8] Consumer Reports, *Buying Advice: Portable Air Conditioners,* June 20, 2008. Available online at: *www.consumerreports.org/cro/news/2008/06/buying-advice-portable-air-conditioners/index.htm.*

2011, primarily due to higher temperature evaporator inlet air.[9]

Due to the consistent method of reporting, DOE selected units for its test sample largely from cooling capacities and EERs listed in the CEC product database. Where values were not available in the CEC product database, DOE utilized information from manufacturer literature to inform its selection. However, due to the difference in testing temperature, DOE expected that these values would differ from the cooling capacities and EERs that would be obtained using any one of the three industry test methods. The eight test units and their key features are presented in Table II.1, with cooling capacity expressed in Btu/h and EER expressed in Btu/Wh. DOE included two spot coolers in the test sample that, unlike the majority of spot coolers which are designed for commercial applications, have supply power requirements that would allow them to be used in residential applications.

TABLE II.1—PORTABLE AIR CONDITIONER TEST UNITS AND FEATURES

Test unit	Duct type	Rated cooling capacity (Btu/h)	Rated EER (Btu/Wh)
SD1	Single	8,000	7.0
SD2	Single	9,500	9.6
SD3	Single	12,000	8.7
SD4	Single	13,000	9.7
DD1	Dual	9,500	9.4
DD2	Dual	13,000	8.9
SC1	Spot Cooler	10,000	10.1
SC2	Spot Cooler	13,500	11.2

B. Baseline Testing

DOE performed testing according to ANSI/AHAM PAC–1–2009 to determine baseline performance when using the industry standards. ANSI/AHAM PAC–1–2009 requires two-chamber air enthalpy testing for single-duct and dual-duct units, and a single-chamber setup for spot coolers. For each ducted configuration, the portable AC and any associated ducting is located entirely within a chamber held at ''indoor'' standard rating conditions at the evaporator inlet of 80 degrees Fahrenheit (°F) dry-bulb temperature and 67 °F wet-bulb temperature, which correspond to 51-percent relative humidity. For the condenser side exhaust on single-duct and dual-duct units, the manufacturer-supplied or manufacturer-specified flexible ducting connects the unit under test to a separate test chamber maintained at ''outdoor'' standard rating conditions. The outdoor conditions specify 95 °F dry-bulb temperature[10] and 75 °F wet-bulb temperature (40-percent relative humidity) at the condenser inlet for dual-duct units. The outdoor conditions for single-duct units, however, are not explicitly specified. ANSI/AHAM PAC–1–2009 only requires that the condenser inlet conditions, which would be set by air intake from the indoor side chamber, be maintained at 80 °F dry-bulb temperature and 67 °F wet-bulb temperature. Because the single-duct condenser air is discharged to the outdoor side with no intake air from that location, DOE does not believe that the results obtained using ANSI/AHAM PAC–1–2009 would be measurably affected by the conditions in the outdoor side chamber. Nonetheless, for consistency with the testing of dual-duct units, DOE chose to maintain the outdoor side conditions, measured near to the condenser exhaust but not close enough to be affected by that airflow, at 95 °F dry-bulb temperature and 75 °F wet-bulb temperature. For spot coolers, ANSI/AHAM PAC–1–2009 specifies testing the unit in a chamber maintained at the outdoor standard rating conditions of 95 °F dry-bulb temperature and 75 °F wet-bulb temperature.

Section 6.1 of ANSI/AHAM PAC–1–2009, ''Method of Test,'' instructs that the details of testing are as specified in ANSI/ASHRAE Standard 37–2005, with references in Section 8.5.1 of ANSI/ASHRAE Standard 37–2005 to the indoor side (the cooling, or evaporator, side) of the portable AC under test and references to the outdoor side (the heat rejection, or condenser, side). No additional instructions regarding the specific provisions to use in ANSI/ASHRAE Standard 37–2005 are included. As discussed previously, DOE utilized the latest version of ANSI/ASHRAE Standard 37, published in 2009. The following paragraphs describe the clauses from ANSI/ASHRAE Standard 37–2009 that DOE decided were appropriate for conducting its baseline tests.

The test apparatus (*i.e.,* ducts, air flow-measurement nozzle, and additional instrumentation) were adjusted according to Section 8.6, ''Additional Requirements for the Outdoor Air Enthalpy Method,'' of ANSI/ASHRAE Standard 37–2009, which ensures that air flow rate and static pressure in the condenser exhaust air stream, and condenser inlet air stream for dual-duct units, are representative of actual installations. The test room conditioning apparatus and the units under test were then operated until steady-state performance was achieved according to the specified test tolerances in Section 8.7, ''Test Procedure for Cooling Capacity Tests,'' of ANSI/ASHRAE Standard 37–2009. Airflow rate, dry-bulb temperature, and water vapor content were recorded to evaluate cooling capacity at equal intervals that spanned five minutes or less until readings over one-half hour were within the same tolerances, as required by that section.

These collected data were then used to calculate total, sensible, and latent indoor cooling capacity based on the equations in Section 7.3.3, ''Cooling

[9] ANSI/ASHRAE Standard 128–2011 specifies 80.6 degrees Fahrenheit (°F) dry-bulb temperature and 66.2 °F wet-bulb temperature for the standard rating conditions for the evaporator inlet of dual-duct portable ACs and both the evaporator and condenser inlets of single-duct units. It also specifies standard rating conditions of 95 °F dry-bulb temperature and 75.2 °F wet-bulb temperature for the condenser inlet side of dual-duct portable ACs and both the evaporator and condenser inlets of spot coolers. ANSI/ASHRAE Standard 128–2001 specified 95 °F dry-bulb temperature and 83 °F wet-bulb temperature for the standard rating conditions for both the evaporator and condenser inlets of all portable ACs, including spot coolers.

[10] Table 3 of ANSI/AHAM PAC–1–2009, which specifies standard rating conditions, lists a dry-bulb temperature of 94 °F and a wet-bulb temperature of 75 °F for single-duct and dual-duct portable ACs. DOE expects this to be a typographical error, and that the correct dry-bulb temperature is 95 °F.

Calculations,'' of ANSI/ASHRAE Standard 37–2009. This section provides calculations to determine indoor cooling capacity based on both the indoor and outdoor air enthalpy methods. As described in Section 7.3.3.3 of ANSI/ASHRAE Standard 37–2009, the indoor air enthalpy cooling capacity calculation was adjusted for heat transferred from the surface of the duct(s) to the conditioned space. DOE estimated a convective heat transfer coefficient of 4 Btu/h per square foot per °F, based on a midpoint of values for forced convection and free convection as recommended by the test laboratory for this specific test and setup. Four thermocouples were placed in a grid on the surface of the condenser duct(s). The heat transfer was determined by multiplying the estimated heat transfer coefficient by the surface area of each component and by the average temperature difference between the duct surface and test chamber air.

Although ANSI/AHAM PAC–1–2009 specifies that the evaporator circulating fan heat shall be included in the total cooling capacity, DOE did not meter the fan power for testing. Rather, for ducted units, DOE estimated the heat transferred to the conditioned space based on the temperature differential between the case surfaces and the indoor room, with measurements and calculations similar to those used for the ducts. This estimate was made by placing four thermocouples on each surface of the case and measuring the surface area to determine the heat transfer. This approach directly estimates the heating contribution of all internal components within the case to the cooling capacity, while making no assumption regarding whether the heat from individual components is transferred to the cooling or heat rejection side. Although ANSI/AHAM PAC–1–2009 requires the evaporator circulating fan heat be addressed in the cooling capacity for all portable ACs including spot coolers, DOE decided not to include case heat transfer for spot coolers because these units reject all heat directly to the space where the unit sits. That rejected heat does not impact the cooling provided by the unit to the specific conditioned spot.

Section 10.1.2 of ANSI/ASHRAE Standard 37–2009 requires that the calculated indoor cooling capacities from each method shall agree within 6.0 percent for a valid test. From the calculated cooling capacity, DOE determined the associated EER consistent with the definitions in Sections 3.8 to 3.10 and ratings requirements in Sections 5.3 to 5.5 of ANSI/AHAM PAC–1–2009. Table II.2 shows the results of the baseline testing for all test units according to ANSI/AHAM PAC–1–2009.

TABLE II.2—BASELINE TEST RESULTS

Test unit	Cooling capacity (Btu/h)			EER (Btu/Wh)		
	Rated	Baseline	Reduction (%)	Rated	Baseline	Reduction (%)
SD1	8,000	5,842.7	27.0	7.0	6.84	2.3
SD2	9,500	6,599.8	30.5	9.6	7.41	22.8
SD3	12,000	10,947.6	8.8	8.7	7.47	14.1
SD4	13,000	9,505.6	26.9	9.7	6.59	32.0
DD1	9,500	8,597.2	9.5	9.4	7.41	21.2
DD2	13,000	7,211.2	44.5	8.9	5.50	38.2
SC1	10,000	10,225.7	−2.3	10.1	9.62	4.7
SC2	13,500	10,774.7	20.19	11.2	6.72	39.9

For all units, the tested cooling capacity and EER were on average 19 percent and 21 percent lower, respectively, when compared with the rated values. However, the difference between tested and rated cooling capacity ranged from an increase of 2.3 percent to a decrease of over 44 percent, while the tested EERs showed a reduction from 2.3 to 40 percent compared to the rated values. DOE notes that cooling capacity and EER for single-duct units were lower on average than the rated values by 23 and 18 percent, respectively; the cooling capacity and EER for dual-duct units were lower on average by 27 and 30 percent, respectively; and the cooling capacity and EER for spot coolers were lower on average by 9 and 22 percent, respectively. Although the results were generally consistent for the different product types, DOE notes that these data are based on a small sample of test units, and a larger sample may provide more representative trends for each configuration.

Due to lack of information available regarding typical spot cooler operating locations and conditions, DOE also tested the two spot coolers at reduced ambient conditions consistent with the ''indoor'' conditions for single-duct and dual-duct units, at 80 °F dry-bulb temperature and 67 °F wet-bulb temperature. The test results at both conditions and percent reductions in cooling capacity and EER at the indoor conditions are shown in Table II.3.

TABLE II.3—BASELINE SPOT COOLER PERFORMANCE AT REDUCED CONDITIONS

Test unit	Cooling capacity (Btu/h)			EER (Btu/Wh)		
	Baseline 95/75 °F	Indoor 80/67 °F	Reduction (%)	Baseline 95/75 °F	Indoor 80/67 °F	Reduction (%)
SC1	10,225.7	10,061.9	1.60	9.62	10.80	−12.28
SC2	10,774.7	9,557.5	11.30	6.72	6.68	0.64

DOE notes that the SC1 test unit tested within 3 percent of its rated cooling capacity and within 7 percent of its rated EER for both tests. The tested cooling capacity and EER for the SC2 test unit were within 12 percent of the

tested values at the baseline test conditions, but still roughly 30 percent and 40 percent, respectively, below the rated values.

Issue 1. DOE seeks comment on the suitability of current industry standards for a potential DOE portable AC test procedure; specifically:

(1) ANSI/AHAM PAC–1–2009;

(2) ANSI/ASHRAE Standard 128–2001, which although not current is required for reporting in California;

(3) ANSI/ASHRAE Standard 128–2011; and

(4) CSA C370–13.

Issue 2. DOE seeks comment on whether the metrics for cooling capacity and EER as determined in these industry test procedures measure representative performance of the different portable AC product types (*i.e.,* single-duct, dual-duct, and spot cooler).

Issue 3. DOE seeks comment on the approach used to estimate case and duct heat transfer to the conditioned space.

C. Investigative Testing

1. Calorimeter Approach

In response to the comments mentioned previously, suggesting a testing approach for portable ACs comparable to that for room ACs, and to further investigate heat transfer effects not currently captured in available portable AC test procedures, DOE conducted testing according to a room calorimeter approach adapted from ANSI/ASHRAE Standard 16–1983. DOE tested all of the single-duct and dual-duct units in its test sample by this approach, which used two test chambers, one maintained at the indoor conditions and the other adjusted to maintain the outdoor conditions as specified below. Rather than installing the test unit in the wall between the indoor and outdoor test rooms, as for a room AC, the portable AC under test was located within the indoor test room with the condenser duct(s) interfacing with the outdoor test room by means of the manufacturer-supplied or manufacturer-recommended mounting fixture. Unless otherwise noted, no sealing other than that recommended in manufacturer instructions was made at the duct connections or around the mounting fixture during the tests.

DOE used a pressure-equalizing device placed between the indoor chamber and outdoor chamber to maintain a static pressure differential of less than 0.005 inches of water between the chambers throughout testing, as specified in Section 4.2.3 of ANSI/ASHRAE Standard 16–1983. Consistent with the ambient conditions required by ANSI/AHAM PAC–1–2009, DOE maintained the indoor conditions at 80 °F dry-bulb and 67 °F wet-bulb (51-percent relative humidity) and the outdoor conditions at 95 °F dry-bulb and 75 °F wet-bulb (40-percent relative humidity). For some units, significant infiltration air flow from the outdoor chamber to the indoor chamber was required to maintain the required static pressure differential between the two test chambers. The calorimeter approach consisted of monitoring all energy consumed by the indoor chamber components to maintain the required ambient conditions while the portable AC under test operated continuously at its maximum fan speed. Following a period of no less than 1 hour with stabilized conditions under continuous portable AC operation, the data of a subsequent 1-hour stable period were analyzed to sum all heating and cooling contributions to the indoor chamber, including: Chamber cooling, heat transferred through the chamber wall, air circulation fans, dehumidifiers, humidifiers, and scales. These instruments, conditioning equipment, and heat transfer components were all necessary to maintain the indoor chamber conditions throughout testing. The net indoor chamber cooling was recorded as the portable AC's cooling capacity. This approach encompasses all cooling and heating effects generated by the portable AC, including air infiltration effects that are not captured or estimated by the air enthalpy approach.

For the first set of calorimeter tests, the test units were installed with the manufacturer-provided ducting, duct attachment collar, and mounting fixture. This was done in order to include the impacts of heat transfer from the ducts and air leaks in the duct connections and mounting fixture, in addition to heat leakage through the case and infiltration air. Table II.4 shows the measured net cooling capacities and EERs for single-duct and dual-duct units tested according to the calorimeter approach when the infiltration air dry-bulb temperature was 95 °F. The results are compared to rated values.

TABLE II.4—CALORIMETER APPROACH RESULTS

Test unit	Cooling capacity (Btu/h)			EER (Btu/Wh)		
	Rated	Calorimeter	Reduction (%)	Rated	Calorimeter	Reduction (%)
SD1	8,000	−470.8	105.9	7.0	−0.54	107.7
SD2	9,500	−641.4	106.8	9.6	−0.70	107.3
SD3	12,000	3475.5	71.0	8.7	2.30	73.5
SD4	13,000	1841.4	85.8	9.7	1.34	86.2
DD1	9,500	3379.9	64.4	9.4	2.89	69.2
DD2	13,000	3442.4	73.5	8.9	2.60	70.8

DOE notes the significant difference between the rated cooling capacity and the results measured according to the calorimeter approach for both single-duct and dual-duct units. As expected, due to the larger effect of air infiltration, the difference was greater for single-duct units than for dual-duct ones. On average for single-duct units, cooling capacity was reduced by 92.4 percent and EER was reduced by 93.7 percent. For single-duct units SD1 and SD2, however, the net effects captured by the calorimeter approach resulted in negative cooling capacities; that is, there was overall heating in the indoor-side chamber. For dual-duct units, the average reductions in cooling capacity and EER were 69 percent and 70 percent, respectively.

As discussed previously, the calorimeter approach requires monitoring the energy consumption of all heating and cooling components required to maintain stable chamber conditions, while accounting for the heat transferred between the indoor and outdoor chambers. To quantify the combined impact of the heat transfer from leaks in the case and ducts and the enthalpy added from the infiltration air, DOE compared these calorimeter test results with the baseline results, as shown in Table II.5.

TABLE II.5—COMPARISON OF BASELINE RESULTS AND CALORIMETER APPROACH RESULTS

Test unit	Cooling Capacity (Btu/h)			EER (Btu/Wh)		
	Baseline	Calorimeter	Reduction (%)	Baseline	Calorimeter	Reduction (%)
SD1	5,842.7	−470.8	108.1	6.84	−0.54	107.9
SD2	6,599.8	−641.4	109.7	7.41	−0.70	109.4
SD3	10,947.6	3475.5	68.3	7.47	2.30	69.2
SD4	9,505.6	1841.4	80.6	6.59	1.34	79.7
DD1	8,597.2	3379.9	60.7	7.41	2.89	60.9
DD2	7,211.2	3442.4	52.3	5.50	2.60	52.7

The percent reduction from baseline results to those measured using the calorimeter approach range from 52 percent to over 100 percent for both cooling capacity and EER.

Issue 4. DOE requests feedback on the applicability of the calorimeter approach for measuring the performance of portable ACs, and the associated testing burden.

Issue 5. DOE seeks comment on other possible testing methods or alternate approaches to measure representative portable AC performance.

DOE performed additional investigative testing to quantify the individual impacts on performance due to each of the factors discussed previously in this section of today's notice. The test setup, approach, and data collected for each of these investigations is presented below.

2. Duct Heat Loss and Leakage

To quantify the heat transfer to the conditioned space through the minimally insulated condenser duct(s) and from any leaks at the duct connections or mounting fixture, DOE repeated the calorimeter testing with insulation surrounding the condenser ducts to benchmark results without this heat transfer. DOE used insulation having a nominal R value of 6 (in units of hours-°F-square feet per Btu), with seams around the duct, adapter, and mounting bracket sealed with tape to minimize air leakage. To determine duct losses and air leakage effects, DOE compared results from these tests to the results from the initial calorimeter approach tests with no insulation, as shown in Table II.6.

TABLE II.6—DUCT LOSS AND AIR LEAKAGE EFFECTS

Test unit	Cooling capacity (Btu/h)			EER (Btu/Wh)		
	Uninsulated	Insulated	Change*	Uninsulated	Insulated	Change*
SD1	−470.8	−5.0	465.8	−0.54	−0.006	0.54
SD2	−641.4	−32.3	609.0	−0.70	−0.035	0.66
SD3	3475.5	4,091.8	616.3	2.30	2.723	0.42
SD4	1841.4	3,024.8	1,183.4	1.34	2.17	0.83
DD1	3379.9	4,682.0	1,302.1	2.89	3.94	1.04
DD2	3442.4	4,209.4	767.0	2.60	3.14	0.53

* Change in performance in the table above may not align with the performance values listed due to rounding considerations.

For all units in the test sample, insulating the ducts and sealing any potential leak locations improved the measured cooling capacity and EER results; however, the magnitude of the change varied from unit to unit.

Issue 6. DOE requests feedback on the potential performance impacts related to all components of duct heat losses, and whether and how a test procedure should account for them.

3. Infiltration Air

DOE investigated the impacts of air infiltration from outside the conditioned space in which the portable AC is located due to the negative pressure induced as condenser air is exhausted to the outdoor space. Although this effect is most pronounced for single-duct units, which draw all of their condenser air from within the conditioned space, dual-duct units may also draw a portion of their condenser air from the conditioned space.

a. Infiltration Air Flowrate

DOE estimated the infiltration air flow rate as equal to the condenser exhaust flow rate to the outdoor chamber minus any condenser intake flow rate from the outdoor chamber. DOE concluded, based on review of the test chamber configurations, that air leakage from the outdoor chamber to locations other than the indoor chamber was negligible. The net flow rate into the outdoor chamber was thus estimated to entirely be transferred into the indoor chamber through the pressure regulating apparatus during calorimeter testing. For accurate measurement of condenser air flow rates, the inlet and outlet air flow rates were measured during baseline testing using the duct instrumentation necessary for the air enthalpy method.

For a single-duct unit, the air balance equation results in the infiltration air flow rate being equal to the condenser exhaust air flow rate. For dual-duct units, the condenser exhaust duct flow rate may be higher than the inlet duct flow rate. This is due to some intake air being drawn from the indoor chamber via louvers or leakage through the case, duct connections, or between the evaporator and condenser sections. The estimated infiltration air flow rate for all single-duct and dual-duct units in DOE's test sample are presented in Table II.7.

TABLE II.7—INFILTRATION AIR FLOW RATE

Test unit	Condenser outlet air flow rate (CFM)	Condenser inlet air flow rate (CFM) *	Net Infiltration air flow rate (CFM)
SD1	268.0	N/A	268.0
SD2	262.6	N/A	262.6
SD3	285.5	N/A	285.5
SD4	254.3	N/A	254.3
DD1	271.9	170.8	101.1
DD2	214.8	128.1	86.8

* Condenser inlet air flow rate is only applicable for dual-duct units.

b. Effect of Infiltration Air Temperature

In its initial calorimeter test, DOE maintained the outdoor test chamber conditions at 95 °F dry-bulb temperature and 75 °F wet-bulb temperature. Infiltration air was provided by means of a pressure-regulated connection between the outdoor and indoor test chambers, thereby resulting in infiltration air at those temperatures. Such conditions would be representative of outdoor air being drawn directly into the conditioned space to replace any condenser inlet air from that same conditioned space. However, it is possible that some or all of the replacement air is drawn from a location other than the outdoors directly, such as a basement, attic, garage, or a space that is conditioned by other equipment. Because varying infiltration air temperature would have a significant impact on cooling capacity and EER when using the calorimeter test method, and because DOE was unable to identify information on a representative infiltration air temperature and relative humidity, DOE performed calorimeter testing over a range of dry-bulb temperatures for the infiltration air that spanned 78 °F to 95 °F, all at the 40-percent relative humidity specified at the 95 °F condition. DOE selected conditions at 87 °F and 82 °F dry-bulb temperature based on outdoor test conditions among those specified for cooling mode tests in the ANSI/Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 210/240–2008, ''Performance Rating of Unitary Air-Conditioning & Air-Source Heat Pump Equipment.'' The 78 °F test condition was selected based on the lowest temperature maintainable by the third-party test laboratory conducting testing.[11] Dual-duct units were not tested at this lowest-temperature test condition because DOE estimated that infiltration effects are not as significant for dual-duct units as they are for single-duct units and therefore did not warrant additional testing.

DOE tested two single-duct and two dual-duct units at the infiltration air conditions shown in Table II.8.

TABLE II.8—INFILTRATION AIR TEMPERATURE TEST SERIES

Infiltration air test series	Infiltration air temperature (dry/wet bulb)	Single-duct	Dual-duct
Test 1	95 °F/75 °F	SD2, SD4	DD1, DD2
Test 2	87 °F/69 °F	SD2, SD4	DD1, DD2
Test 3	82 °F/65 °F	SD2, SD4	DD1, DD2
Test 4	78 °F/62 °F	SD2, SD4	N/A

Infiltration air conditions at the lower end of the tested temperature range were similar to the ambient conditions being maintained in the indoor test chamber, and therefore would result in the smallest air infiltration effect on the measurement of cooling capacity and EER. Test results obtained under those conditions could potentially be similar to those obtained by the use of the current industry test procedures, after accounting for case and duct heat losses.

Table II.9 shows the cooling capacity and EER results for single-duct and dual-duct units at the various infiltration temperatures.

TABLE II.9—COOLING CAPACITY AND EER AT VARYING INFILTRATION AIR TEMPERATURE

Test unit	Cooling capacity (Btu/h)				EER (Btu/Wh)			
	Test 1 (95/75 °F)	Test 2 (87/69 °F)	Test 3 (82/65 °F)	Test 4 (78/62 °F)	Test 1 (95/75 °F)	Test 2 (87/69 °F)	Test 3 (82/65 °F)	Test 4 (78/62 °F)
SD2	−614.4	4,048.3	7,039.5	9,584.0	−0.70	4.51	7.88	10.66
SD4	1,841.4	7,808.2	10,468.9	12,247.4	1.34	5.47	7.51	9.00
DD1	3,379.9	6,268.8	7,801.0	N/A	2.89	5.53	7.07	N/A
DD2	3,442.4	6,396.1	8,147.3	N/A	2.60	4.99	6.40	N/A

These results confirm that single-duct unit performance as determined using the calorimeter approach is highly dependent on infiltration air temperature. The dual-duct units tested also showed significant variation of

[11] The lowest maintainable temperature varied depending upon the test unit's capacity and air flow configuration. The 78 °F dry-bulb test condition was selected as the lowest maintainable condition for all units in the test sample.

performance with infiltration air temperature because of the portion of condenser air that is drawn from the indoor chamber. Table II.10 lists the calorimeter test results at each infiltration air temperature as a percentage of the results obtained during baseline testing. At temperatures representative of many likely real-world infiltration air temperatures, it can be seen that the actual performance of portable ACs may be substantially lower than values obtained using the air enthalpy method would suggest.

TABLE II.10—COMPARISON OF BASELINE AND CALORIMETER TESTING FOR VARYING INFILTRATION AIR

Test unit	Calorimeter cooling capacity as a percentage of baseline capacity (%)				Calorimeter EER as a percentage of baseline EER (%)			
	Test 1 (95/75 °F)	Test 2 (87/69 °F)	Test 3 (82/65 °F)	Test 4 (78/62 °F)	Test 1 (95/75 °F)	Test 2 (87/69 °F)	Test 3 (82/65 °F)	Test 4 (78/62 °F)
SD2	−9.7	61.30	106.7	145.2	−9.4	60.9	106.3	143.8
SD4	19.4	82.1	110.1	128.8	20.3	83.0	113.9	136.5
DD1	39.3	72.9	90.7	N/A	39.1	74.7	95.4	N/A
DD2	47.7	88.7	113.0	N/A	47.3	90.6	116.2	N/A

DOE notes that the test results with infiltration air at 82 °F dry-bulb temperature and 65 °F wet-bulb temperature were most similar to the baseline tests conducted according to the air enthalpy method.

DOE next quantified the total heat added to the room by the infiltration air at each reduced temperature test. DOE used the following equation to calculate the sensible heat contribution of the infiltration air as:

$$Q_s = \frac{\left(\frac{V \times \delta}{1+\omega}\right) \times \left[(c_{p_da} \times \Delta T) + \omega \times (c_{p_{wv}} \times \Delta T)\right]}{60}$$

Where:

Q_s is the sensible heat added to the room by infiltration air, in Btu/h,

V is the volumetric flow rate of infiltration air, in cubic feet per minute (cfm),

δ is the density of the air mixture, in pounds mass per cubic feet (lb_m/ft^3),

c_{p_da} is the specific heat of dry air, in Btu/lb_m-°F,

ω is the humidity ratio, in pounds mass of water vapor per pounds of dry air,

c_{p_wv} is the specific heat of water vapor, in Btu/lb_m-°F,

60 is the conversion factor from minutes to hours, and

ΔT is the difference between the infiltration air and indoor chamber dry-bulb temperatures, in °F.

DOE used the following equation for the latent heat contribution of the infiltration air:

$$Q_l = \frac{\left(\frac{V \times \delta}{1+\omega}\right) \times (\omega \times h_{fg})}{60}$$

Where:

Q_l is the latent heat added to the room by infiltration air, in Btu/h,

V is the volumetric flow rate of infiltration air, in cfm,

δ is the density of the air mixture, in lb_m/ft^3,

ω is the humidity ratio, in pounds mass of water vapor per pounds of dry air,

60 is the conversion factor from minutes to hours, and

h_{fg} is the latent heat of vaporization for water vapor, in Btu/lb_m.

The total heat contribution of the infiltration air is the sum of the sensible and latent heat. Table II.11 presents results for the total heat input from the infiltration air at various temperatures for each test unit, along with a comparison to the baseline cooling capacity.

TABLE II.11—HEAT INPUT FROM INFILTRATION AIR

Test unit	Total heat transferred (Btu/h)			Heat transferred as a percentage of baseline cooling capacity (%)		
	Test 1 (95/75 °F)	Test 2 (87/69 °F)	Test 3* (82/65 °F)	Test 1 (95/75 °F)	Test 2 (87/69 °F)	Test 3 (82/65 °F)
SD2	6,391.6	885.7	−2,294.0	96.8	13.4	−34.8
SD4	5,523.5	587.0	−2,263.9	58.1	6.2	−23.8
DD1	2,070.5	327.0	−679.9	24.1	3.8	−7.9
DD2	1,707.4	259.5	−576.8	23.7	3.6	−8.0

*DOE notes that at an infiltration air dry-bulb temperature slightly higher than the indoor 80 °F dry-bulb standard test condition, a net cooling effect is achieved because the latent heat of the infiltration air is less than the latent heat of the indoor test condition.

Table II.11 shows that infiltration air heat input is significant, almost 97 percent for one single-duct unit, when compared with the overall cooling capacity measured with current industry test procedures that do not address this heating effect. As expected, infiltration air at higher temperatures has a larger impact on performance than at lower temperatures, and is therefore a larger percentage of the baseline cooling capacity.

Issue 7. DOE seeks comment on whether infiltration air should be accounted for as part of a future DOE test procedure for portable ACs, should DOE determine to include portable ACs as a covered product, and if so, what test method would be appropriate to account for the infiltration air.

Issue 8. DOE seeks comment and information on whether the current industry standard outdoor air conditions of 95 °F dry-bulb temperature and 75 °F wet-bulb temperature are representative for real-world infiltration air, and if not, on what would be representative infiltration air temperatures.

Issue 9. DOE requests feedback on the effects of heat input from infiltration air and the performance differences that are observed between the results of testing according to the air enthalpy approach and the calorimeter approach.

4. Mixing Between the Condenser Inlet and Exhaust for Dual-Duct Portable Air Conditioners

The current industry test procedures specify the condenser inlet conditions for single-duct and dual-duct portable ACs, but do not address potential air mixing between the condenser inlet and exhaust air streams for the dual-duct configuration. Manufacturers typically provide a single mounting fixture for both the condenser inlet and exhaust ducts to minimize installation time and optimize the use of window space. However, this approach typically positions the condenser inlet and exhaust directly adjacent to one another. During operation when installed in the field, short-circuiting may occur between some of the condenser exhaust air (typically above 110 °F) and the outdoor ambient air (95 °F according to current industry test procedures). Elevated condenser inlet air temperature reduces the efficiency of the refrigeration system because it limits the ability of the condenser to reject heat from the conditioned space.

To investigate the effects of potential condenser inlet and exhaust mixing, DOE tested both dual-duct units according to two different approaches for maintaining the outdoor room conditions. The first approach was to maintain the overall outdoor chamber conditions at 95 °F dry-bulb temperature and 75 °F wet-bulb temperature as measured at the infiltration air inlet, allowing for mixing of condenser inlet and outlet air and thereby possibly increasing the condenser inlet temperature. Additionally, DOE notes that test chamber dimensions resulted in the duct fixture being located approximately four feet from the opposite wall of the outdoor chamber, which would likely be a worst-case configuration in terms of condenser air mixing for real-world installations.

The second approach was to monitor the condenser inlet dry-bulb and wet-bulb temperatures and adjust the chamber conditions to maintain the 95 °F/75 °F conditions at that location. Condenser exhaust and inlet air mixing would result in a lower temperature being maintained in the outdoor chamber.

Table II.12 shows the condenser inlet air and infiltration air dry-bulb temperatures when testing the two dual-duct units according to both test approaches. DOE tested each unit in two different configurations, once with manufacturer provided ducting and the second time with sealed and insulated ducts as described in section II.C.2 of today's notice.

TABLE II.12—CONDENSER MIXING EFFECTS ON AIR FLOW TEMPERATURES

Test units	Infiltration air at 95 °F		Condenser inlet air at 95 °F	
	Condenser inlet (°F)	Infiltration air (°F)	Condenser inlet (°F)	Infiltration air (°F)
DD1 Uninsulated	95.5	95.1	94.8	94.3
DD1 Insulated	95.9	95.0	95.0	94.1
DD2 Uninsulated	95.1	95.1	95.0	95.0
DD2 Insulated	95.0	94.6	95.3	95.0

As shown in Table II.12 the difference between the condenser inlet air temperature and infiltration air temperature for both test approaches is at most 0.9 °F, regardless of duct heat losses. These results indicated that there was minimal mixing between the condenser exhaust and inlet air flows. Further confirming this observation were data for cooling capacity and EER shown in Table II.13, also showing that the difference between the two test approaches was minimal.

TABLE II.13—CONDENSER MIXING EFFECTS ON PERFORMANCE

Test units	Infiltration air at 95 °F		Condenser inlet air at 95 °F		Percent change	
	Cooling capacity (Btu/h)	EER (Btu/Wh)	Cooling capacity (Btu/h)	EER (Btu/Wh)	Cooling capacity (%)	EER (%)
DD1 Uninsulated	3,379.9	2.89	3,447.7	2.96	2.01	2.18
DD1 Insulated	4,682.0	3.94	4,640.1	3.93	−0.90	−0.23
DD2 Uninsulated	3,442.4	2.60	3,413.8	2.58	−0.83	−1.02
DD2 Insulated	4,209.4	3.14	4,242.5	3.16	0.79	0.90

* Percent reduction in the table above may not align with the performance values listed due to rounding considerations.

Issue 10. DOE requests feedback regarding measures that should be considered in a portable AC test procedure to address any condenser exhaust air and inlet air mixing in dual-duct units.

D. Alternate Testing Approach

Based on the investigative testing, DOE considered whether another approach that utilizes the existing test procedures with numerical adjustments for infiltration air would accurately reflect portable AC performance. As described above in section II.C.3.b of this notice, DOE calculated the infiltration heat effects from the air flow rate and humidity ratio of the infiltration air. Subtracting the

infiltration air heat from the cooling capacity as determined by the baseline test could be close enough to results obtained from the calorimeter method to provide a representative measure of portable AC performance. Table II.14 displays the cooling capacity as determined by combining the estimated infiltration air heat transfer with the baseline results, and the cooling capacity as determined by the calorimeter method.

TABLE II.14—ALTERNATE TESTING APPROACH PERFORMANCE

Test Unit	Cooling capacity (Btu/h)			EER (Btu/Wh)		
	Calorimeter	Baseline—infiltration air	Increase (%)	Calorimeter	Baseline—infiltration air	Increase (%)
SD1	−470.8	−878.4	−86.6	−0.54	−1.03	−90.0
SD2	−641.4	208.2	132.5	−0.70	0.23	133.5
SD3	3475.5	4,032.9	16.0	2.30	2.75	19.5
SD4	1841.4	3,982.1	116.3	1.34	2.76	106.1
DD1	3379.9	6,526.7	93.1	2.89	5.62	94.3
DD2	3442.4	5,503.8	59.9	2.60	4.20	61.5

The data in Table II.14 indicate that there is no consistent difference between the two test approaches. The increase in cooling capacity from the calorimeter approach to the alternate approach for single-duct units ranged between negative 87 percent and over 133 percent, while the two dual-duct units in the test sample had a smaller range in cooling capacity change, from 60 to 93 percent. A larger sample size may further show the trends for difference unit configurations.

Issue 11. DOE welcomes comment on this alternate testing approach, and in particular on the testing burden associated with it.

E. Additional Issues On Which DOE Seeks Comment

Should DOE issue a final determination that portable ACs are a covered product, DOE may prescribe test procedures and energy conservation standards for portable ACs. As part of that effort, DOE may propose a new portable AC test procedure. In addition to the specific issues discussed above for which DOE is seeking comment, DOE welcomes comment on any aspect of this NODA and is also interested in receiving comments and views from interested parties on the following issues:

Issue 12. DOE welcomes general comments about the various investigative test approaches DOE conducted as discussed and presented above in this notice, including whether any of these approaches are currently utilized by manufacturers and test facilities. DOE also welcomes comment on any testing methodologies appropriate for consideration as an alternative to the industry accepted methodologies and those performed by DOE.

Issue 13. DOE requests data on the repeatability and reproducibility of such testing methods. DOE also welcomes additional data on the repeatability and reproducibility of testing results using the test methods presented in this notice.

The purpose of this NODA is to solicit feedback from industry, manufacturers, academia, consumer groups, efficiency advocates, government agencies, and other interested parties on issues related to a potential DOE portable AC test procedure. DOE is specifically interested in information and additional data on the current industry test procedures for portable ACs and alternate test approaches discussed in today's notice. Respondents are advised that DOE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this NODA. Responses to this NODA do not bind DOE to any further actions related to this topic.

III. Public Participation

DOE is interested in receiving comments on all aspects of the data and analysis presented in the NODA and supporting documentation that can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/79*.

Submission of Comments

DOE will accept comments, data, and information regarding this notice no later than the date provided in the **DATES** section at the beginning of this notice. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via www.regulations.gov. The *www.regulations.gov* Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

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Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC on May 5, 2014.

Kathleen B. Hogan,

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

[FR Doc. 2014–10692 Filed 5–8–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2013–BT–NOC–0039]

Appliance Standards and Rulemaking Federal Advisory Committee: Notice of Open Teleconference/Webinar for the Commercial and Industrial Pumps Working Group

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

ACTION: Notice of open Teleconference/Webinar.

SUMMARY: This document announces an open teleconference/webinar of the Commercial and Industrial Pumps Working Group (Pumps Working Group). The purpose of the Pumps Working Group is to discuss and, if possible, reach consensus on a proposed rule for the energy efficiency of commercial and industrial pumps, as authorized by the Energy Policy and Conservation Act of 1975, as amended.

DATES: Wednesday, May 14, 2014 from 1:00 p.m.–3:00 p.m. (EDT).

ADDRESSES: You may register for the webinar at *https://www1.gotomeeting.com/register/956419984.*

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, ASRAC Designated Federal Officer, Program Manager for Appliance Standards and Building Codes, U.S. Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy, 950 L'Enfant Plaza SW., Washington, DC 20024. Email: *asrac@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To update members of the Pumps Working Group on analysis conducted in support of negotiations on potential energy efficiency standards for commercial and industrial pumps and to gather comments from the working group members and from the public.

Tentative Agenda:

- Update on energy efficiency standards economic and engineering analysis.
- Discussion of potential measurement metric.

Public Participation: Members of the public are welcome to observe the business of the webinar and, if time allows, may make oral statements during the specified period for public comment. To participate in the webinar and/or to make oral statements regarding any of the items on the agenda, email *asrac@ee.doe.gov.* In the email, please indicate your name, organization (if appropriate), citizenship, and contact information. Members of the public will be heard in the order in which they sign up for the Public Comment Period. Time allotted per speaker will depend on the number of individuals who wish to speak but will not exceed five minutes. Reasonable provision will be made to include the scheduled oral statements on the agenda. The co-chairs of the Committee will make every effort to hear the views of all interested parties and to facilitate the orderly conduct of business.

Participation in the webinar is not a prerequisite for submission of written comments. ASRAC invites written comments from all interested parties. Any comments submitted must identify the ASRAC, and provide docket number EERE–2013–BT–NOC–0039. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ASRAC@ee.doe.gov.* Include docket number EERE–2013–BT–NOC–0039 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting and webinar attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The Secretary of Energy has approved publication of today's document.

Issued in Washington, DC, on May 5, 2014.

Kathleen B. Hogan,

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

[FR Doc. 2014–10731 Filed 5–8–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0282; Directorate Identifier 2012–NM–168–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2006–0707, for certain A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R variant F airplanes (collectively called A300–600 series airplanes). AD 2006–0707 requires modifying nine bolt holes in the vertical flange of the center spar sealing angles. Since we issued AD 2006–0707, we have received reports that fatigue and damage tolerance analyses show that the inspection threshold and interval must be reduced to allow timely detection of cracks. This proposed AD would continue to require modification of bolt holes in the vertical flange of the center spar sealing angles, and any applicable related investigative and corrective actions. This proposed AD would also require inspections for cracks, a modification by cold expansion of the center spar sealing angles, replacement of both sealing angles and cold expansion of the attachment holes if necessary, and post-repair repetitive inspections and corrective actions if necessary. We are proposing this AD to prevent crack formation in the sealing angles, which could rupture the sealing angle and lead to subsequent crack formation in the bottom skin of the wing, and result in reduced structural integrity of the center spar section of the wing.

DATES: We must receive comments on this proposed AD by June 23, 2014.

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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0282; 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 Operations 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

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–2014–0282; Directorate Identifier 2012–NM–168–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On March 15, 2006, we issued AD 2006–07–07, Amendment 39–14534 (71 FR 16206, March 21, 2006). A correction of that AD was published in the **Federal Register** on April 21, 2006 (71 FR 20530). That AD required actions intended to address an unsafe condition on certain Airbus Model A300–600 series airplanes.

Since we issued AD 2006–07–07, Amendment 39–14534 (71 FR 16206, March 21, 2006), we have received a report that additional actions are needed to address the unsafe condition. In addition, airplanes have been added to applicability. The applicability of AD 2006–0707 excluded airplanes on which Airbus Modification 8609 was incorporated. We have determined that those airplanes must be inspected to address the unsafe condition. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2012–

0194, dated September 25, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Fatigue testing applied to a test airframe confirmed the initiation of cracks on the sealing angles of the centre spar, adjacent to rib 8, which could lead to the rupture of the sealing angles and the subsequent crack initiation in the bottom skin of the wing.

This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.

To address this unsafe condition, DGAC [French Civil Aviation Authority] France issued to require inspection of centre spar sealing angles adjacent to pylon rear attachment fittings of Left Hand (LH) and Right Hand (RH) wings.

Early cracks reported on an in-service aeroplane prompted Airbus to conduct additional investigations. Based on the results, DGAC France issued AD 2003–290 (later revised), which superseded DGAC France AD 91–253–128(B), to require modification of the affected aeroplanes as specified in Airbus Service Bulletin (SB) A300–57–6033 (Airbus Mod 8609), as well as post-modification repetitive inspections.

Since DGAC France AD 2003–290(B)R1 was issued, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed in order to substantiate the second A300–600 Extended Service Goal (ESG2) exercise. The results of these analyses have shown that the inspection threshold and interval must be reduced to allow timely detection of cracks on the sealing angles of the centre spar, adjacent to rib 8.

For the reasons described above, this new [EASA] AD retains the requirements of DGAC France AD 2003–290(B) R1, which is superseded, and requires the accomplishment instructions at the new thresholds and intervals given by Revision 07 of Airbus Service Bulletin (SB) A300–57–6027.

The required actions also include repetitive high frequency eddy current (HFEC) inspections of the center spar sealing angles adjacent to the pylon re attachment fitting for cracks, modifying the airplane by cold expansion of the center spar sealing angles outboard of rib 8 if necessary, replacing both of the forward and aft sealing angles with new sealing angles and cold expanding the attachment holes if necessary, and doing post-repair repetitive inspections and corrective actions if necessary. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0282.

Depending on the airplane configuration and airplane utilization, the compliance times are as follows:

- For normal range operations, the initial compliance time for the new actions ranges between 9,000 flight cycles and 19,500 flight cycles, or within 18,600 flight hours and 40,300 flight hours. The grace period for the action is within 1,700 flight cycles, or within 3,500 flight hours.
- For short range operations, the initial compliance time for the new actions ranges between 10,600 flight cycles and 23,000 flight cycles, or within 15,900 flight hours and 34,500 flight hours. The grace period for the action is within 2,000 flight cycles, or within 3,000 flight hours.
- For normal range operations, the repetitive interval for the inspection is 5,100 flight cycles or 10,500 flight hours.
- For short-range operations, the repetitive interval for the inspection is 6,000 flight cycles or 9,000 flight hours.

Relevant Service Information

Airbus has issued Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011, and Service Bulletin A300–57–6033, Revision 02, dated September 19, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

In many FAA transport ADs, when the service information specifies to contact the manufacturer for further instructions if certain discrepancies are found, we typically include in the AD a requirement to accomplish the action using a method approved by either the FAA or the State of Design Authority (or its delegated agent).

We have recently been notified that certain laws in other countries do not allow such delegation of authority, but some countries do recognize design approval organizations. In addition, we have become aware that some U.S. operators have used repair instructions that were previously approved by a State of Design Authority or a Design Approval Holder (DAH) as a method of compliance with this provision in FAA ADs. Frequently, in these cases, the previously approved repair instructions come from the airplane structural repair manual or the DAH repair approval statements that were not specifically developed to address the unsafe condition corrected by the AD. Using repair instructions that were not specifically approved for a particular AD creates the potential for doing repairs that were not developed to address the unsafe condition identified by the MCAI AD, the FAA AD, or the applicable service information, which could result in the unsafe condition not being fully corrected.

To prevent the use of repairs that were not specifically developed to correct the unsafe condition, this proposed AD would require that the repair approval specifically refer to the FAA AD. This change is intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we use the phrase ''its delegated agent, or by the DAH with State of Design Authority design organization approval, as applicable'' in this proposed AD to refer to an DAH authorized to approve required repairs for this proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 21 products of U.S. registry.

The actions that are required by AD 2006–07–07, Amendment 39–14534 (71 FR 16206, March 21, 2006), and retained in this proposed AD take about 25 work-hours per product, at an average labor rate of $85 per work hour. Required parts cost about $1,249 per product. Based on these figures, the estimated cost of the currently required actions is $2,374 per product.

We estimate that it would take about 8 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $14,280, or $680 per product.

In addition, we estimate that any necessary follow-on actions would take about 42 work-hours and require parts costing $10,000, for a cost of $13,570 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2006–07–07, Amendment 39–14534 (71 FR 16206, March 21, 2006); (corrected April 21, 2006 (71 FR 20530)), and adding the following new AD:

Airbus: Docket No. FAA–2014–0282; Directorate Identifier 2012–NM–168–AD.

(a) Comments Due Date

We must receive comments by June 23, 2014.

(b) Affected ADs

This AD supersedes AD 2006–07–07, Amendment 39–14534 (71 FR 16206, March 21, 2006); (corrected April 21, 2006 (71 FR 20530)).

(c) Applicability

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, and B4–622, B4–605R and B4–622R airplanes, Model A300 F4–605R and F4–622R airplanes, and Model A300 C4–605R Variant F airplanes, certificated in any category, except those on which Airbus Modification 8608 is incorporated.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by reports that fatigue and damage tolerance analyses shows that the inspection threshold and interval must be reduced to allow timely detection of cracks on the sealing angles of the center spar, adjacent to rib 8. We are issuing this AD to prevent crack formation in the sealing angles; such cracks could rupture the sealing angle and lead to subsequent crack formation in the bottom skin of the wing, and resultant reduced structural integrity of the center spar section of the wing.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Retained Modification

This paragraph restates the requirements of paragraph (f) of AD 2006–07–07, Amendment 39–14534 (71 FR 16206, March 21, 2006). For A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R variant F airplanes (collectively called A300–600 series airplanes); except those on which Airbus Modification 8608 or 8609 is incorporated: Within 500 flight cycles after April 17, 2006 (the effective date of AD 2006–07–07, Amendment 39–14534, modify nine bolt holes in the vertical flange of the center spar sealing angles outboard of rib 8, adjacent to the pylon attachment fitting, and do any applicable related investigative and corrective actions before further flight; by doing all the actions in and in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6033, Revision 01, dated December 18, 2003. If any crack is found during the related investigative action: Before further flight, repair in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6027, Revision 06, dated March 2, 2005.

(h) Retained No Reporting Required

This paragraph restates the reporting information of paragraph (g) of AD 2006–07–07, Amendment 39–14534 (71 FR 16206, March 21, 2006). Although Airbus Service Bulletin A300–57–6033, Revision 01, dated December 18, 2003, specifies to report crack findings to the manufacturer, this AD does not include that requirement.

(i) New Requirement of this AD: Inspection and Modification

For all airplanes, at the applicable time specified in paragraph (j) of this AD, accomplish the actions specified in paragraphs (i)(1) and (i)(2) of this AD concurrently. Repeat the inspection required by paragraph (i)(1) of this AD thereafter at intervals not to exceed the values as specified in the ''Repeat Interval'' column in Table 1 or Table 2 of Airbus A300–57–6027, Revision 07, dated June 6, 2011, as applicable to the airplane configuration and utilization; except as required by paragraph (m)(3) of this AD.

(1) Do a high frequency eddy current (HFEC) inspection of the center spar sealing angles adjacent to the pylon re-attachment fitting for cracks, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011.

(2) Unless already done: Modify the airplane by cold expansion of the center spar sealing angles outboard of Rib 8, adjacent to the pylon rear attachment fitting, including doing the eddy current inspections for cracks of the bolt holes, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6033, Revision 02, dated September 19, 2011.

(j) Initial Compliance Times

At the later of the times specified in paragraph (j)(1) and (j)(2) of this AD, except as required by paragraph (m) of this AD, do the actions required by paragraph (i) of this AD.

(1) At the applicable compliance time specified in Table 1 and Table 2 in the ''Threshold Inspection,'' column in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011.

(2) At the applicable compliance time specified in Table 1 and Table 2 in the ''Grace Period,'' column in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011.

(k) New Requirement of This AD: Corrective Action

If, during any inspection required by paragraph (i)(1) or (i)(2) of this AD, any crack is found: Before further flight, repair the crack by replacing both of the forward and aft sealing angles with new sealing angles and cold expansion of the attachment holes, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011. The corrective actions, as required by this paragraph, does not constitute as a terminating action for the repetitive inspections in paragraph (i)(1) of this AD.

(l) New Requirement of This AD: Post Modification Actions

After modification of the airplane, as specified in Airbus Service Bulletin A300–

57–6027, Revision 07, dated June 6, 2011: Within 3 months after the effective date of this AD, or before further flight after doing the modification, whichever occurs later, contact the FAA, ANM–116, Transport Airplane Directorate, or EASA (or its delegated agent, or the Design Approval Holder (DAH) with EASA design organization approval, as applicable) for repetitive post-repair inspections and corrective actions, and do those actions.

(m) Exceptions to the Service Bulletin

(1) Where Note 01 and Note 02 of paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011, specifies to contact Airbus for inspection requirements, this AD requires, at the applicable compliance time specified in Table 1 and Table 2 in the ''Grace Period,'' column in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011, to repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or European Aviation Safety Agency (EASA) (or its delegated agent, or the Design Approval Holder (DAH) with EASA design organization approval, as applicable). For a repair method to be approved, the repair approval must specifically refer to this AD.

(2) Where the Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011 specifies a compliance time in Table 1 and Table 2 in the ''Grace Period,'' column in paragraph 1.E., ''Compliance,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(3) Where Table 1 and Table 2 in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011, specifies a choice between flight cycle or flight hours, this AD requires a compliance time within the specified flight cycles or flight hours, whichever occurs first.

(4) Where Table 1 and Table 2 in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011, specifies pre-modification 8609, this AD requires compliance within the compliance time specified in the ''Threshold Inspection'' column. Those compliance times are flight cycles or flight hours since new.

(5) Where Table 1 and Table 2 in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–57–6027, Revision 07, dated June 6, 2011, specifies any post modification or repair, this AD requires compliance within the compliance time specified in the ''Threshold Inspection'' column. Those compliance times are flight cycles or flight hours since accomplishing the modification or repair.

(n) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (i)(1) of this AD, if those actions were performed before the effective date of this AD using the service information in paragraph (n)(i) through (n)(iii) of this AD.

(i) Airbus Service Bulletin A300–57–6027, Revision 04, dated August 4, 1999.

(ii) Airbus Service Bulletin A300–57–6027, Revision 05, dated November 21, 2002.

(iii) Airbus Service Bulletin A300–57–6027, Revision 06, dated March 2, 2005.

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously for AD 98–18–02, Amendment 39–10718 (63 FR 45689, August 27, 1998), are approved as AMOCs for the corresponding provisions in paragraph (g) of this AD.

(3) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2012–0194, dated September 25, 2012, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0282.

(2) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 2, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–10682 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 130403324–4310–02]

RIN 0648–BC94

Boundary Expansion of Thunder Bay National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Amendment to proposed rule; request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) hereby amends a proposed rule published on June 14, 2013. The June 14, 2013 proposed rule sought to expand the boundary of Thunder Bay National Marine Sanctuary (TBNMS or sanctuary) and revise the corresponding sanctuary terms of designation. This rule focuses specifically on modifying the proposed boundary of the sanctuary, addressing questions and concerns on ballasting operations within the proposed expansion area, and clarifying the correlation between TBNMS regulations and Indian tribal fishing activities. NOAA is soliciting public comment only on the amendments in this proposed rule. Previously submitted public comments need not be resubmitted.

DATES: Comments will be considered if received by June 9, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NOS–2012–0077, by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NOS-2012-0077*, click the ''Comment Now!'' icon, complete the required fields and enter or attach your comments.
- Mail: Submit written comments to Thunder Bay National Marine Sanctuary, 500 W. Fletcher, Alpena, Michigan 49707, Attn: Jeff Gray, Superintendent.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NOAA. All comments received are a part of the public record and will be posted for public viewing on *www.regulations.gov* without change.

All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments. If you are submitting electronic comments and wish to remain anonymous, enter ''N/A'' in the required fields. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Jeff Gray, Superintendent, Thunder Bay National Marine Sanctuary at 989–356–8805 ext. 12 or *jeff.gray@noaa.gov*.

Copies of the amended proposed rule and related material can be downloaded or viewed on the Internet at *www.regulations.gov* (search for docket # NOAA–NOS–2012–0077) or at *http://thunderbay.noaa.gov*. Copies can also be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

I. Background

The National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 et seq.) authorizes the Secretary of Commerce (Secretary) to designate and protect as a national marine sanctuary areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to NOAA's Office of National Marine Sanctuaries (ONMS). The primary objective of the NMSA is to protect sanctuary resources.

NOAA designated Thunder Bay National Marine Sanctuary in October 2000 (65 FR 39042). The existing sanctuary boundary encompasses approximately 448 square miles of waters, submerged lands, and underwater cultural resources located in northwestern Lake Huron, adjacent to one of the most treacherous stretches of water within the Great Lakes system. The port of Alpena is included within the current boundary of the sanctuary. The sanctuary is located entirely in state waters, off the northeast coast of Michigan's Lower Peninsula, and is jointly managed by NOAA and the State of Michigan under the umbrella of a 2002 Memorandum of Agreement (December 2002). The primary purpose of the sanctuary is to provide comprehensive, long-term protection for the nationally-significant collection of underwater cultural resources (i.e., historical shipwrecks and maritime heritage sites) found within the area. To date, 45 shipwrecks are protected within the sanctuary. These shipwrecks and related maritime heritage sites in and around Thunder Bay represent a microcosm of Great Lakes maritime history spanning well over 150 years.

II. Original Notice of Proposed Rulemaking

On June 14, 2013, NOAA published in the **Federal Register** notice of a proposed rule (78 FR 35776) and availability of an accompanying draft environmental impact statement (DEIS) (78 FR 35928). As proposed, the rule would increase the geographic size of the sanctuary from 448 square miles to 4,300 square miles and more than double the number of nationally significant shipwrecks that are protected under the NMSA. The proposed boundary would extend from Alcona County, Michigan to Presque Isle County, Michigan, include selected submerged maritime heritage resources in Cheboygan and Mackinaw counties, and run east to the United States/Canada international boundary. The proposed expansion also includes the ports at Rogers City and Presque Isle, as shown in a map of the area at *http://thunderbay.noaa.gov/management/expansion.html*.

Three public meetings on the proposed rule were held in July 2013 in Michigan, and the public comment period was extended on three separate occasions, eventually closing on December 19, 2013 (78 FR 49700, 64186 and 73112). NOAA extended the comment period to gather more information from stakeholders and consult with the U.S. Coast Guard (USCG) and U.S. Environmental Protection Agency (EPA), both of whom have regulations that apply to national marine sanctuaries. In response to public comments and information received, NOAA has decided to amend the proposed rule and provide additional time for the public to submit comments on the proposed amendments.

III. Summary of Changes to the Proposed Rule

This proposed rulemaking would:

A. Propose a new boundary for the sanctuary that would not include the ports at Rogers City, Presque Isle, and Alpena;

B. Address questions and concerns related to ballasting in the expanded sanctuary; and

C. Clarify and update TBNMS regulations pertaining to treaty fishing rights of area Indian tribes.

A. Sanctuary Boundary

NOAA received several comments on the proposed rule regarding the inclusion of the ports at Rogers City (also recognized as Calcite Quarry, Carmeuse), Presque Isle (also recognized as Stoneport Quarry), and Alpena (also recognized as LaFarge North America) within the proposed revised boundaries of TBNMS. In particular, the Governor of Michigan, the Lake Carriers' Association, the Canadian Shipowners Association, the Shipping Federation of Canada, local government officials, other commercial interests, and members of the general public requested these ports not be included within the boundary to avoid any limitation or prohibition on port operations ''critical to the local, regional, and national economies.'' (A map of this expanded area, including the exclusion of the ports mentioned above, can be found on the TBNMS Web site at *http://thunderbay.noaa.gov/management/expansion.html*.)

In response to these concerns, and because NOAA knows of no nationally significant maritime resources within these port areas, NOAA proposes to not include the ports at Rogers City, Presque Isle, and Alpena within the TBNMS boundary.

B. Ballasting Within the Proposed Sanctuary Expansion

The Great Lakes shipping industry also expressed concern that the proposed TBNMS expansion would limit or prohibit ballasting operations for vessels transiting the sanctuary, given USCG and EPA requirements that require certain vessels equipped with ballast tanks to ''avoid the discharge and uptake of ballast water in areas within, or that may directly affect marine sanctuaries, marine preserves, marine parks, or coral reefs.'' NOAA appreciates and applauds the current management efforts implemented by both USCG and EPA in mitigating negative environmental effects from ballasting both within, and outside of, the Great Lakes. NOAA also appreciates the critical role ballasting plays in the operation of vessels operating within the Great Lakes, especially with regard to safety.

According to many commenters, the uptake and discharge of ballast may occur while transiting the sanctuary ''in response to weather conditions, to accommodate a port call, enter a restricted channel, or as part of routine operations known as trimming''. To illustrate when ballasting might be performed in response to weather conditions, one commenter explained:

''Ballast is used to lower a vessel deeper into the water and by doing so stabilize the vessel so there is less exposure of a vessel's profile to the winds.''

Another commenter highlighted the importance of ballast ''trimming'' by explaining a vessel may take on ballast water ''to slow its speed and eventually come to a complete stop as it approaches a port and eventually reaches the dock.'' Yet another commenter noted ''The 'trimming' process involves the adjustment of levels of ballast water in the vessel for reasons that involve the safety, stability, and efficiency of the vessel. Some have analogized the trimming of a vessel to the necessary and important operational adjustments that an airline pilot makes as [the pilot] flies and lands an airplane.''

Consistent with these comments, the Great Lakes shipping industry requested NOAA clarify, by the adoption of regulatory text or otherwise, that the uptake and discharge of ballast water in the sanctuary while transiting the lake is permissible, even in light of USCG and EPA requirements regarding the avoidance of ballast in areas such as national marine sanctuaries. NOAA has seriously considered this request, and has consulted with the USCG, EPA, and stakeholders to inform its decision-making. Based on information in the written comments, other literature on Great Lakes ballasting, and input from USCG and EPA on their respective requirements (which continues in effect) NOAA believes ballasting operations, to include safety and to control or maintain trim, draught or stability of the vessel, are consistent with the maritime heritage protection mission of the TBNMS, and therefore, are an allowable activity within the proposed boundaries of the sanctuary.

C. Indian Tribal Rights

NOAA proposes to amend the TBNMS regulations in order to clarify that the exercise of Indian treaty fishing rights are not modified, altered, or in any way affected by the proposed boundary expansion. In particular, NOAA plans to add and define the term ''treaty fishing rights'' to the TBNMS definitions at 15 CFR 922.191. The definition was specifically suggested during tribal consultations undertaken pursuant to E.O. 13175 with the Chippewa Ottawa Resource Authority (CORA) which represents all 1,836 treaty fishing tribes and contained in several written public comments received from a federally-recognized Indian tribe and an interested tribal resource agency. The purpose of the definition is to clarify that the term ''treaty fishing rights'' refers to those rights reserved in the 1836 Treaty of Washington and in subsequent related court decisions because the tribes believe the existing TBNMS regulations are ambiguous. This definition would not replace, but would rather complement, the existing definition of ''traditional fishing'' which also refers to the 1836 Treaty of Washington currently codified in 15 CFR 922.191.

In addition, based on the comments received during tribal consultation and during the comments received during the comment period, NOAA is amending 15 CFR 922.197 to ease concerns raised by the federally-recognized tribes that sanctuary expansion potentially undercuts its treaty fishing rights. Under 15 CFR 922.193(b), NOAA already states that members of a federally-recognized Indian tribe may exercise treaty-secured rights without regards to the regulations that apply to TBNMS, as long as these rights are authorized by the tribe by regulation, license, or permit. This provision was added to the final regulations promulgating the sanctuary designation in 2000 in response to comments from federally-recognized Indian tribes. However, NOAA believes that by adding a statement to a separate section of the TBNMS regulations at 15 CFR 922.197 the action would provide further assurance and clarification to the tribes that treaty fishing rights would not be adversely impacted by sanctuary expansion.

IV. Summary of Proposed Changes to the Sanctuary Terms of Designation

Section 304(a)(4) of the NMSA requires that the terms of designation for national marine sanctuaries include: (1) The geographic area included within the Sanctuary; (2) the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value; and (3) the types of activities subject to regulation by NOAA to protect those characteristics. This section also specifies that the terms of the designation may be modified only by the same procedures by which the original designation is made.

On June 14, 2013, NOAA proposed to make changes to the TBNMS terms of designation, which were previously published in the **Federal Register** on June 22, 2000 (65 FR 39042). The changes sought to: (1) Change the geographic size and description of the sanctuary in Article II ''Description of the Area''; (2) change the description of the nationally significant characteristics of the sanctuary identified in Article III ''Characteristics of the Area That Give It Particular Value''; and (3) amend Article V ''Effect on Other Regulations, Leases, Permits, Licenses, and Rights'' to reflect the new organization within NOAA. While no new changes are being made to the modifications of Articles III and V as proposed in 78 FR 35776, Article II is being further modified to reflect the changes made in this amended proposed rule.

Article II of the revised terms of designation is proposed to read as follows (new text in brackets):

[. . .]

Article II. Description of the Area

The Thunder Bay National Marine Sanctuary and Underwater Preserve consists of an area of approximately 4,300 square miles of waters of Lake Huron and the submerged lands thereunder, over, around, and under the underwater cultural resources in Thunder Bay. The boundaries form a polygon by extending along the ordinary high water mark of the Michigan shoreline from approximately the northern and southern boundaries of Presque Isle and Alcona counties, respectively, cutting across the mouths of rivers and streams, [excluding the harbors at Alpena, Rogers City and Presque Isle,] and lakeward from those points along latitude lines to the U.S./Canada international boundary. A more detailed description of the boundary and a list of coordinates are set forth in the regulations for the sanctuary at 15 CFR part 922 subpart R.

[. . .]

END OF TERMS OF DESIGNATION

V. Classification

A. National Environmental Policy Act

Under the National Environmental Policy Act (NEPA) (43 U.S.C. 4321 *et seq.*) and the Council on Environmental Quality's (CEQ) regulations implementing NEPA, an agency is required to prepare a supplemental environmental impact statement (EIS) if ''(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.'' 40 CFR 1502.9(c).

Federal courts have upheld agencies' decisions not to supplement where the relevant environmental impacts of the proposed change have been fully considered. In so holding, federal courts have interpreted the ''substantial change'' provision of the CEQ regulations to require agencies to issue a supplement if the changes will impact the environment ''in a significant manner * * * not already considered by the federal agency.'' *Ark. Wildlife Fed'n* v. *U.S. Army Corps of Engineers,* 431 F.3d 1096, 1102 (8th Cir. 2005)

(quoting *Airport Impact Relief, Inc.* v. *Wykle,* 192 F.3d 197, 204 (1st Cir. 1999)). Under applicable case law, a change is considered ''substantial'' under the regulations only if ''it presents a 'seriously different picture of the environmental impact' '' than that previously considered. *Id.* (quoting *South Trenton Residents Against 29* v. *Fed. Highway Admin.,* 176 F.3d 658, 663 (3d Cir. 1999)). In addition to asking whether the agency has fully considered the environmental impact of the proposed change, federal courts have also asked whether the change is '' 'qualitatively within the spectrum of alternatives that were discussed' in a prior [EIS].'' *In re Operation of the Missouri River System Litigation,* 516 F.3d at 693 (quoting *Dubois* v. *U.S. Dep't of Agric.,* 102 F.3d 1273, 1292 (1st Cir. 1996)). This language first appeared in a 1981 CEQ guidance document, commonly referred to as the CEQ ''Forty Questions.'' See Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 FR 18026, 18035 (1981).

In this instance, NOAA has decided that a supplemental NEPA analysis is not required for this proposed amended rule because the draft environmental impact statement (DEIS) presented the public with a comprehensive analysis of the spectrum of environmental impacts. Specifically, the DEIS, made available to the public in June 2013 (78 FR 35928), analyzed three regulatory alternatives for this proposed rulemaking. The alternatives included a non-action alternative, an alternative that would barely double the geographic size of the proposed expanded sanctuary, and the preferred alternative which would increase the geographic size of the sanctuary from 448 square miles to 4,300 square miles and more than double the number of national significant historic shipwrecks that are protected under the NMSA. Based on the evaluation of the alternatives, NOAA determined that no significant adverse impacts to resources and the human environment are expected if the preferred alternative is adopted. Instead, long-term beneficial impacts were anticipated if the proposed action is implemented.

Copies of the DEIS are available at the address and Web site listed in the **ADDRESSES** section of this proposed rule. NOAA will analyze the comments that have been previously received on the DEIS when the final rule and FEIS are prepared and issued. NOAA also invites the public to provide additional comments on the DEIS.

B. Executive Order 12866: Regulatory Impact

This proposed rule has been determined to be not significant within the meaning of Executive Order 12866.

C. Executive Order 13132: Federalism Assessment

NOAA has concluded this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Concurrent with the development of this proposed rule, NOAA invited the Chippewa Ottawa Resource Authority (CORA) to participate in government-to-government consultation. CORA gathers representatives from the Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, Little Traverse Bay Bands of Odawa Indians, Sault Ste. Marie Tribe of Chippewa Indians under its mantle. NOAA plans to continue collaboration with the CORA and invite each individual tribe to government-to-government consultation. Consultation under E.O. 13175 resulted in the publication of this amended proposed rule and is expected to be completed before the publication of the final rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended and codified at 5 U.S.C. 601 *et seq.,* requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (*5 U.S.C. 553*) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency (or his or her designee) certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that original proposed rule would not have a significant impact on a substantial number of small entities. The rationale for that certification was set forth in the preamble (78 FR 35776; Jun. 14, 2013). This rule proposes to modify the proposed boundary of the sanctuary, address questions and concerns on ballasting operations within the proposed expansion area, and clarify the correlation between TBNMS regulations and Indian tribal fishing activities. The only substantive regulatory change made in this amended proposed rule is the change to the proposed sanctuary boundary that would not include the ports of Alpena, Rogers City and Presque Isle. Current operations in those three ports would not be affected with the absence or presence of sanctuary regulations; therefore, no economic impact, significant or otherwise, is expected to result from these proposed changes. There is no substantive regulatory change from the original proposed rule on the topics of ballasting operations within the proposed expansion area and of the correlation between TBNMS regulations and Indian tribal fishing activities; therefore, no economic impact is expected to result from these either. In conclusion, the provisions contained in this amended proposed rule do not change the original determination that this rule will not result in a significant economic impact on a substantial number of small entities.

F. Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) which has been approved by the Office of Management and Budget (OMB) under control number 0648–0141. As explained in the original proposed rule published at 78 FR 35776 (Jun. 14, 2013), the public reporting burden for national marine sanctuary general permits is estimated to average 1 hour 30 minutes per response, 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 rulemaking would not appreciably change the average annual number of respondents on a national level or the reporting burden for this information requirement. Therefore, NOAA has determined that the proposed regulations do not necessitate a modification to its information collection approval by the Office of Management and Budget under the Paperwork Reduction Act.

G. National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA; Pub. L. 89–665; 16 U.S.C. 470 et seq.) is intended to preserve historical and archaeological sites in the United States of America.

The act created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices. Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP (36 CFR part 800). The Michigan State Historic Preservation Office, which implements section 106 of the NHPA, is located in the Michigan State Housing Development Authority. NOAA has and continues to consult with the State Historic Preservation Officer on matters related to Section 106 of the NHPA. A programmatic agreement will be developed if the expansion of the sanctuary is finalized and if it is determined to be necessary.

VI. Request for Comments

NOAA requests comments on this proposed rule for 30 days after publication of this document.

VII. References

A list of references is available upon request and online at: *http://thunderbay.noaa.gov/management/expansion.html*.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Fishing gear, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Wildlife.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: May 2, 2014.

Holly A. Bamford,

Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

Accordingly, for the reasons set forth above, NOAA proposes amending part 922, title 15 of the Code of Federal Regulations as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

■ 1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 et seq.

Subpart R—Thunder Bay National Marine Sanctuary and Underwater Preserve

■ 2. Revise § 922.190 to read as follows:

§ 922.190 Boundary.

(a) Except as provided in paragraph (b) of this section, the Thunder Bay National Marine Sanctuary and Underwater Preserve (Sanctuary) consists of an area of approximately 3,247 square nautical miles (sq. nmi) (4,300 sq. mi.) of waters of Lake Huron and the submerged lands thereunder, over, around, and under the underwater cultural resources in Thunder Bay. The eastern boundary of the sanctuary begins at the intersection of the southern Alcona County boundary and the U.S./Canada international boundary (Point 1). The eastern boundary of the sanctuary approximates the international boundary passing through Points 2–5. The boundary continues west through Point 6 and then back to the northeast until it intersects with the 45.83333° N line of latitude at Point 7. The northern boundary follows the line of latitude 45.83333° N westward until it intersects the −84.33333° W line of longitude at Point 8. The western boundary extends south along the −84.33333° W line of longitude towards Point 9 until it intersects the ordinary high water mark at Cordwood Point. From there, the western boundary follows the ordinary high water mark as defined by Part 325, Great Lakes Submerged Lands, of P.A. 451(1994), as amended, cutting across the mouths of rivers and streams until it intersects the line formed between Point 10 and Point 11 south of Rogers City, MI. From there the boundary moves offshore through Points 11–15 in order until it intersects the ordinary high water mark along the line formed between Point 15 and Point 16. At this intersection the boundary continues to follow the ordinary high water mark south until it intersects with the line formed between Point 17 and Point 18 near Stoneport Harbor Light in Presque Isle, MI. From there the boundary moves offshore through Points 18–20 in order until it intersects the ordinary high water mark along the line formed between Point 20 and Point 21. At this intersection the boundary continues to follow the ordinary high water mark south until it intersects the line formed between Point 22 and Point 23 near the Lafarge dock in Alpena, MI. At this intersection the boundary moves towards Point 23 until it intersects the ordinary high water mark. At this intersection the boundary follows the ordinary high water mark south until it intersects the southern Alcona County boundary along the lined formed between Point 24 and Point 25 in Greenbush, MI. Finally, at this intersection the boundary moves eastward and offshore until it reaches Point 25.

(b) Excluded from the Sanctuary boundary are the following ports:

(1) Rogers City;

(2) Presque Isle;

(3) Alpena;

(c) The coordinates of each boundary area appear in Appendix A of this Subpart.

■ 3. Amend § 922.191(a) to revise the definition for ''Traditional fishing'' and add a definition for ''Treaty fishing rights'' in alphabetical order to read as follows:

§ 922.191 Definitions.

(a) * * *

Traditional fishing means those commercial, recreational, and subsistence fishing activities that were customarily conducted within the Sanctuary prior to its designation or expansion, as identified in the relevant Final Environmental Impact Statement and Management Plan for this Sanctuary. Traditional fishing includes tribal fishing rights as provided for in the 1836 Treaty of Washington and subsequent court decisions related to the Treaty.

Treaty fishing rights means those rights reserved in the 1836 Treaty of Washington and in subsequent court decisions related to the Treaty.

* * * * *

■ 4. Revise § 922.197 to read as follows:

§ 922.197 Effect on affected federally-recognized Indian tribes.

The exercise of treaty fishing rights is not modified, altered, or in any way affected by the regulations promulgated in this Subpart. The Director shall consult with the governing body of each federally-recognized Indian tribe mentioned in the 1836 Treaty of Washington and in subsequent court decisions related to the Treaty regarding any matter which might affect the ability of the Tribe's members to participate in treaty fishing activities in the Sanctuary.

■ 5. Revise Appendix A to Subpart R of Part 922 to read as follows:

Appendix A to Subpart R of Part 922—Thunder Bay National Marine Sanctuary and Underwater Preserve Boundary Coordinates [Based on North American Datum of 1983]

Point ID	Latitude (north)	Longitude (west)
1	44.512834	−82.329519
2	44.858147	−82.408717
3	45.208484	−82.490596
4	45.335902	−82.52064
5	45.771937	−83.483974

Point ID	Latitude (north)	Longitude (west)
6	45.773944	−83.636867
7	45.833333	−83.584432
8	45.833333	−84.333333
9*	45.662858	−84.333333
10*	45.41733	−83.77327
11	45.42103	−83.79487
12	45.42708	−83.79371
13	45.42343	−83.75318
14	45.41748	−83.75333
15	45.41210	−83.76805
16*	45.40738	−83.76785
17*	45.29672	−83.41908
18	45.29682	−83.40965
19	45.29010	−83.40965
20	45.29464	−83.41914
21*	45.29681	−83.42277
22*	45.06632	−83.40715
23*	45.06560	−83.40810
24*	44.511734	−83.320169
25	44.512834	−82.329519

Note: The coordinates in the table above marked with an asterisk (*) are not part of the sanctuary boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline for the purpose of charting the boundary.

[FR Doc. 2014–10672 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–NK–P

MILLENNIUM CHALLENGE CORPORATION

22 CFR Part 1305

[MCC FR 14–02]

Touhy Regulations

AGENCY: Millennium Challenge Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this document is to outline the procedures by which the Millennium Challenge Corporation proposes to respond to subpoenas or other official demands for information and testimony served upon itself or its employees.

DATES: Submit comments by July 8, 2014.

ADDRESSES: Send comments to: Office of the General Counsel, Millennium Challenge Corporation, 875 Fifteenth Street NW., Washington, DC 20005–2221.

FOR FURTHER INFORMATION CONTACT: John C. Mantini, Office of the General Counsel, Millennium Challenge Corporation, 875 15th Street NW., Washington, DC 20005–2221

SUPPLEMENTARY INFORMATION: The United States Supreme Court held in *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951), that the head of a federal agency may make the determination on his/her sole authority to produce documents and authorize employee's testimony in response to a subpoena or other demand for information. This proposed regulation will govern the Millennium Challenge Corporation's procedures for authorizing or denying such demands.

List of Subjects in 22 CFR Part 1305

Administrative Practice and procedure, Courts, Disclosure, Exemptions, Government employees, Subpoenas, Records, Testimony.

For the reasons set forth above, the Millennium Challenge Corporation proposes to amend Chapter XIII of 22 CFR by adding Part 1305, to read as follows:

PART 1305—RELEASE OF OFFICIAL INFORMATION AND TESTIMONY BY MCC PERSONNEL AS WITNESSES

§ 1305.1 Purpose and Scope
§ 1305.2 Definitions
§ 1305.3 Production Prohibited Unless Approved
§ 1305.4 Factors the General Counsel May Consider
§ 1305.5 Service of Demands
§ 1305.6 Processing Demands
§ 1305.7 Final Determination
§ 1305.8 Restrictions that Apply to Testimony
§ 1305.9 Restrictions that Apply to Released Documents
§ 1305.10 Procedure When a Decision is Not Made Prior to the Time a Response is Required
§ 1305.11 Procedure in the Event of an Adverse Ruling
§ 1305.12 No Private Right of Action

Authority: 5 U.S.C. 301.

§ 1305.1 Purpose and Scope

Pursuant to 5 U.S.C. 301, the head of an executive department or military department may prescribe regulations for the government of his/her department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. Section 301 does not authorize withholding information from the public or limiting the availability of records to the public. This part contains the regulations of the Millennium Challenge Corporation (MCC) concerning procedures to be followed when a request, subpoena, order or other demand (hereinafter in this part referred to as a ''demand'') of a court or other authorities in any state or federal proceeding is issued for the production or disclosure of:

(a) Any material contained in the files of MCC;

(b) Any information relating to materials contained in the files of MCC; or

(c) Any information or material acquired by an employee of MCC during the performance of the employee's official duties or because of the employee's official status.

§ 1305.2 Definitions

For purposes of this part:

(a) *Demand* means a request, order, or subpoena for testimony or documents related to or for possible use in a legal proceeding.

(b) *Document* means any record or other property, no matter what media and including copies thereof, held by MCC, including without limitation, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes and sound or mechanical reproductions.

(c) *Employee* means all employees and officers of MCC, including contractors who have been appointed by, or are subject to the supervision, jurisdiction or control of MCC. The procedures established within this part also apply to former employees and contractors of MCC.

(d) *General Counsel* means the General Counsel or MCC employee to whom the General Counsel has delegated authority to act under this subpart.

§ 1305.3 Production Prohibited Unless Approved

No employee or former employee shall, in response to a demand of a court or other authority, disclose any information relating to materials contained in the files of MCC, or disclose any information or produce any material acquired as part of the performance of the person's official duties, or because of the person's official status, record without the prior, written approval of the General Counsel.

§ 1305.4 Factors to be considered by the General Counsel

(a) In deciding whether to authorize the release of official information or the testimony of employees concerning official information, the General Counsel shall consider the following factors:

(1) Whether the demand is unduly burdensome;

(2) MCC's ability to maintain impartiality in conducting its business;

(3) Whether the time and money of the United States would be used for private purposes;

(4) The extent to which the time of employees for conducting official business would be compromised;

(5) Whether the public might misconstrue variances between personal opinions of employees and MCC policy;

(6) Whether the demand demonstrates that the information requested is relevant and material to the action pending, genuinely necessary to the proceeding, unavailable from other sources, and reasonable in its scope;

(7) Whether the number of similar demands would have a cumulative effect on the expenditure of agency resources;

(8) Whether disclosure otherwise would be inappropriate under the circumstances; and

(9) Any other factor that is appropriate.

(b) Among those demands in response to which compliance will not ordinarily be authorized are those with respect to which any of the following factors exists:

(1) The disclosure would violate a statute, Executive order, or regulation;

(2) The integrity of the administrative and deliberative processes of MCC Department would be compromised;

(3) The disclosure would not be appropriate under the rules of procedure governing the case or matter in which the demand arose;

(4) The disclosure, including release in camera, is not appropriate or necessary under the relevant substantive law concerning privilege;

(5) The disclosure, except when in camera and necessary to assert a claim of privilege, would reveal information properly classified or other matters exempt from unrestricted disclosure; or

(6) The disclosure would interfere with ongoing enforcement proceedings, compromise constitutional rights, reveal the identity of an intelligence source or confidential informant, or disclose trade secrets or similarly confidential commercial or financial information.

§ 1305.5 Service of Demands

Demands for official documents, information or testimony must be in writing, and served on the General Counsel, Millennium Challenge Corporation, 875 Fifteenth Street NW., Washington, DC 20005–2221.

§ 1305.6 Processing Demands

(a) After service of a demand to produce or disclose official documents and information, the General Counsel will review the demand and, in accordance with the provisions of this subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or produce official documents.

(b) If information or material is sought by a demand in any case or matter in which MCC is not a party, an affidavit or, if that is not feasible, a statement by the party seeking the information or material, or by his/her attorney setting forth a summary of the information or material sought and its relevance to the proceeding, must be submitted before a decision is made as to whether materials will be produced or permission to testify or otherwise provide information will be granted. Any authorization for testimony by a present or former employee of MCC shall be limited to the scope of the demand.

(c) When necessary, the General Counsel will coordinate with the Department of Justice to file appropriate motions, including motions to remove the matter to Federal court, to quash, or to obtain a protective order.

(d) If a demand fails to follow the requirements of these regulations, MCC will not allow the testimony or produce the documents.

(e) MCC will process demands in the order in which they are received. Absent unusual circumstances, MCC will respond within 45 days of the date that the demand was received. The time for response will depend upon the scope of the demand.

(f) The General Counsel may grant a waiver of any procedure described by this subpart where a waiver is considered necessary to promote a significant interest of MCC or the United States or for other good cause.

§ 1305.7 Final Determination

The General Counsel makes the final determination on demands to employees for production of official documents and information or testimony. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requester and the Court or other authority of the final determination, the reasons for the grant or denial of the demand, and any conditions that the General Counsel may impose on the release of documents, or on the testimony of an employee. When in doubt about the propriety of granting or denying a demand for testimony or documents, the General Counsel should consult with the Department of Justice.

§ 1305.8 Restrictions that Apply to Testimony

(a) The General Counsel may impose conditions or restrictions on the testimony of MCC employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) MCC may offer the employee's declaration in lieu of testimony, in whatever form the court finds acceptable.

(c) If authorized to testify pursuant to this part, an employee may testify to relevant unclassified materials or information within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee shall not:

(1) Disclose confidential or privileged information; or

(2) For a current MCC employee, testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of MCC, unless testimony is being given on behalf of the United States.

§ 1305.9 Restrictions that Apply to Released Documents

(a) The General Counsel may impose conditions or restrictions on the release of official documents and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of the confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, MCC may condition the release of official documents and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original MCC documents may be presented in response to a demand, but they are not to be presented as evidence or otherwise used in a manner by which they could lose their identity as official MCC documents nor are they to be marked or altered. In lieu of original records, certified copies will be presented for evidentiary purposes. (See 28 U.S.C. 1733).

§ 1305.10 Procedure When a Decision is Not Made Prior to the Time a Response is Required

If a response to a demand is required before the General Counsel can make the determination referred to above, the General Counsel, when necessary, will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the demand is being reviewed, and respectfully seek a stay of the demand pending a final determination.

§ 1305.11 Procedure in the Event of an Adverse Ruling

If the court or other competent authority declines to stay the demand in response to a request made in accordance with § 1305.10, or if the court or other competent authority rules that the demand must be complied with irrespective of the instructions from the General Counsel not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand (*United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951)).

§ 1305.12 No Private Right of Action

This part is intended only to provide guidance for the internal operations of MCC, and is not intended to, and does not, and may not be relied upon, to create a right or benefit, substantive or procedural, enforceable at law by a party against the United States.

Dated: May 1, 2014.

Laura Leussing,

Assistant General Counsel, Millennium Challenge Corporation.

[FR Doc. 2014–10356 Filed 5–8–14; 8:45 am]

BILLING CODE 9211–03–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0714]

RIN 1625–AA08

Special Local Regulation; Annual Events on the Maumee River

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations by adding two Special Local Regulations within the Captain of the Port Detroit Zone on the Maumee River, Toledo, Ohio. These special local regulated areas are necessary to protect spectators, participants, and vessels from the hazards associated with these races. These regulations are intended to regulate vessel movement in portions of the Maumee River during the annual Dragon Boat Races and Frogtown Races.

DATES: Comments and related material must be received by the Coast Guard on or before June 9, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0714 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above; deliveries are accepted between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LT Jennifer M. Disco, Response Department, Marine Safety Unit Toledo, Coast Guard; telephone (419)418–6036, email *Jennifer.M.Disco@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NAD 83 North American Datum of 1983
NPRM Notice of Proposed Rulemaking
§ Section

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0714), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number (USCG–2012–0714) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2012–0714) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of

our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

On September 10, 2012, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation; Partnership in Education Dragon Boat Race, Maumee River Toledo, OH in the **Federal Register** (77 FR 55436; USCG–2012–0714). One public comment was received in response to the September 10, 2012 NPRM publication in the **Federal Register**, which will be addressed in the *Discussion of Proposed Rule* section; a public meeting was not requested, and no public meetings were held.

In this supplemental notice of proposed rulemaking, in addition to amending 33 CFR part 100 for the Dragon Boat Race, we are proposing a special local regulation for the Frogtown Races which is also conducted on the Maumee River.

C. Basis and Purpose

Each year, two organized racing events take place on the Maumee River. The Dragon Boat Races, in which participants paddle Hong Kong-style Dragon Boats from International Park at approximate River Mile 4.45 to just south of the mouth of Swan Creek at approximate River Mile 4.77 on the Maumee River, Toledo, OH; and the Frogtown Races, in which participants row shell boats from the Norfolk and Southern Bridge at River Mile 1.80 to the Anthony Wayne Bridge at River Mile 5.16 on the Maumee River, Toledo, OH. The Captain of the Port Detroit has determined that these boat races, which are in close proximity to watercraft and in the shipping channel pose extra and unusual hazards to public safety and property, including potential collisions, allisions, and individuals falling in the water. Thus, the Captain of the Port Detroit has determined it necessary to establish a permanent Special Local Regulation around each location of these two races to ensure the safety of persons and property at these annual events and to help minimize the associated risks.

D. Discussion of Proposed Rule

The Captain of the Port Detroit proposes to establish the following special local regulations:

Dragon Boat Races, Maumee River, Toledo, OH: In response to the Dragon Boat Race 2012 NPRM, a commenter noted that a clause in the preamble of the NPRM stated that ''the races will stop for oncoming freighter or commercial traffic'' did not appear in the regulatory text, but that it should. The Coast Guard concurs with this recommendation, and has inserted this clause in the Dragon Boat Festival SLR proposed regulatory text. See paragraph (c)(1) of proposed § 100.927.

The Dragon Boat Festival special local regulation would encompass all navigable waters of the United States on the Maumee River, Toledo, OH, bound by a line extending from a point on land just north of the Cherry Street Bridge at position 41°39′5.27″ N; 083°31′34.01″ W straight across the river along the Cherry Street bridge to position 41° 39′12.83″ N; 083° 31′42.58″ W and a line extending from a point of land just south of International Park at position 41°38′46.62″ N; 083°31′50.54″ W straight across the river to the shore adjacent to position 41°38′47.37″ N; 083°32′2.05″ W (NAD 83). It would be enforced annually on the third or fourth Saturday in July. The exact dates and times would be issued annually via a Notice of Enforcement.

Frogtown Races, Maumee River, Toledo, OH: This Special Local Regulation would encompass all U.S. waters on the Maumee River, Toledo, OH from the Norfolk and Southern Railway Bridge at River Mile 1.80 to the Anthony Wayne Bridge at River Mile 5.16. It would be enforced annually on the third or fourth Saturday in September. The exact dates and times would be issued annually via a Notice of Enforcement.

E. Regulatory Analyses

We developed these proposed rules after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

These proposed rules are not significant regulatory actions under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and do not require assessments of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. They are not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that these proposed rules are not significant regulatory actions because we anticipate that they will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

The Special Local Regulations will be relatively small and be enforced for a relatively short time. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the area when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

These proposed rules would affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in the areas designated as special local regulations during the dates and times the special local regulations are being enforced.

These proposed Special Local Regulations will not have a significant economic impact on a substantial number of small entities for the following reasons: These rules will be enforced for approximately 12 hours the 1 day each is enforced annually. In addition, on-scene representatives will allow vessels to transit along the Western side of the river at a slow no wake speed. The race committees will stop the races for any oncoming commercial traffic.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

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

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Commandant Instruction because it involves the establishment of a special local regulation. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and record keeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.927 to read as follows:

§ 100.927 Special Local Regulations, Partnership in Education, Dragon Boat Festival, Toledo, OH.

(a) *Regulated area.* The regulated area includes all U.S. navigable waters of the Maumee River, Toledo, OH, between a line starting from a point on land just north of the Cherry Street Bridge at position 41°39′5.27″ N; 083°31′34.01″ W straight across the river along the Cherry Street bridge to position 41°39′12.83″ N; 083°31′42.58″ W and a line extending from a point of land just south of International Park at position 41°38′46.62″ N; 083°31′50.54″ W straight across the river to the shore just south of the mouth of Swan Creek at position 41°38′47.37″ N; 083°32′2.05″ W (NAD 83).

(b) *Enforcement period.* This section will be enforced annually on the third or fourth Saturday of July. The exact dates and times would be issued annually via a Notice of Enforcement.

(c) *Special Local Regulations.* (1) The Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum, in a manner which will not endanger participants in the event or any other craft and remain vigilant for event participants and safety craft. Additionally, vessels must yield right-of-way for event participants and event safety craft and must follow directions given by the Coast Guard's Patrol Commander. The rules contained in the above two sentences do not apply to participants in the event or vessels of the patrol operating in the performance

of their assigned duties. Commercial vessels will have right-of-way over event participants and event safety craft. The races will stop for oncoming freighter or commercial traffic and will resume after the vessel has completed its passage through the regulated area. The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signaled must stop and comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Patrol Commander may establish vessel size and speed limitations and operating conditions and may restrict vessel operation within the regatta area to vessels having particular operating characteristics. The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(2) Patrol Commander means a Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the Captain of the Port. The Patrol Commander will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign ''Coast Guard Patrol Commander.''

■ 3. Add § 100.928 to read as follows:

§ 100.928 Special Local Regulations, Frogtown Race Regatta, Toledo, OH.

(a) *Regulated Area.* The regulated area includes all U.S. navigable waters of the Maumee River, Toledo, OH, from the Norfolk and Southern Railway Bridge at River Mile 1.80 to the Anthony Wayne Bridge at River Mile 5.16.

(b) *Enforcement period.* This section will be enforced annually on the third or fourth Saturday of September. The exact dates and times would be issued annually via a Notice of Enforcement.

(c) *Special Local Regulations.* (1) The Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum, in a manner which will not endanger participants in the event or any other craft and remain vigilant for event participants and safety craft. Additionally, vessels must yield right-of-way for event participants and event safety craft and must follow directions given by the Coast Guard's Patrol Commander. The rules contained in the above two sentences do not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties. Commercial vessels will have right-of-way over event participants and event safety craft. The races will stop for oncoming freighter or commercial traffic and will resume after the vessel has completed its passage through the regulated area. The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signaled must stop and comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Patrol Commander may establish vessel size and speed limitations and operating conditions and may restrict vessel operation within the regatta area to vessels having particular operating characteristics. The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(2) Patrol Commander means a Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the Captain of the Port. The Patrol Commander will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign ''Coast Guard Patrol Commander.''

Dated: April 28, 2014.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2014–10625 Filed 5–8–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. PTO–T–2014–0011]

RIN 0651–AC94

Reduction of Fees for Trademark Applications and Renewals

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Patent and Trademark Office (''Office'' or ''USPTO'') proposes reducing certain trademark fees, as authorized by the Leahy-Smith America Invents Act (''AIA'' or ''Act''). The proposed reductions will reduce total trademark fee collections and promote efficiency for the USPTO and customers. The proposals also will further USPTO strategic objectives to increase the end-to-end electronic processing of trademark applications by offering additional electronic application processing options and promoting online filing, electronic file management, and workflow.

DATES: Written comments must be received on or before June 23, 2014.

ADDRESSES: The USPTO prefers that comments be submitted via electronic mail message to *TMFRNotices@uspto.gov.* Written comments also may be submitted by mail to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, attention Cynthia C. Lynch; by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building—East Wing, 600 Dulany Street, Alexandria, Virginia 22314, attention Cynthia C. Lynch; or by electronic mail message via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal. All comments submitted directly to the USPTO or provided on the Federal eRulemaking Portal should include the docket number (PTO–T–2014–0011). The comments will be available for public inspection on the USPTO's Web site at *http://www.uspto.gov*, on the Federal eRulemaking Portal, and also will be available at the Office of the Commissioner for Trademarks, Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia 22314. Because comments will be made available for public inspection, information that is not desired to be made public, such as

an address or phone number, should not be included.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by email at *TMPolicy@uspto.gov,* or by telephone at (571) 272–8742.

SUPPLEMENTARY INFORMATION:

Executive Summary: Purpose: Section 10 of the AIA authorizes the Director of the USPTO (''Director'') to set or adjust by rule any fee established, authorized, or charged under the Trademark Act of 1946 (15 U.S.C. 1051 *et seq.*) for any services performed by, or materials furnished by, the Office. *See* Section 10 of the AIA, Public Law 112–29, 125 Stat. at 316–17.

Section 10(c) of the AIA authorizes the Director to consult with the Trademark Public Advisory Committee (''TPAC'') on the advisability of reducing trademark fees and, following the required consultation, to reduce such fees. *See* Section 10(c) of the AIA, Public Law 112–29, 125 Stat. at 317. The Director has consulted with TPAC and thereafter determined that it is advisable to propose such reductions in order to both improve the alignment of Office costs with revenues and incentivize electronic communications, thereby increasing efficiency. Therefore, the USPTO proposes to reduce the filing fees for trademark, certification mark, collective membership mark, and collective trademark applications for registration on the Principal or Supplemental Register that are filed using the Trademark Electronic Application System (''TEAS'') if applicants authorize email communication and file electronically throughout the application process. The USPTO also proposes to reduce the filing fees for TEAS Plus applications for registration and TEAS applications for renewal of a registration.

The per-class fees for filing an application for registration of a trademark are currently set at $375 for filing a paper application, $325 for filing electronically using TEAS, and $275 for filing electronically using TEAS Plus, which involves additional requirements. 37 CFR 2.6(a)(1). The per-class fee for renewal of a registration is currently $400. 37 CFR 2.6(a)(5).

Prior to consulting with TPAC, the USPTO also published a notice of inquiry to provide the public, including user groups, with an opportunity to comment on possible adjustments to trademark application fees (77 FR 49,426 (Aug. 16, 2012)). The public comments overwhelmingly favored a fee reduction, and many expressed a desire for a lower-cost electronic filing option without any restrictions on the nature of the identification of goods and services, as is required under TEAS Plus.

The proposed fees will help the USPTO to: (1) Continue with an appropriate and sustainable funding model; (2) support strategic objectives relating to online filing, electronic file management, and workflow; and (3) improve efficiency for USPTO operations and customers. The proposals will benefit the public by providing lower costs to seek federal registration, including advantages to individual and pro se filers, who make greater use of lower-cost filing options. In addition, the proposals offer additional options for meeting applicants' needs and preferences.

Summary of Major Provisions: After reviewing the comments received in response to the notice of inquiry, the USPTO proposes to reduce by $50 the fee for an application filed using the regular TEAS application form from $325 to $275 per class if the applicant authorizes email communication and agrees to file all responses and other documents electronically during the prosecution of the application. This option will be known as a TEAS Reduced Fee (''TEAS RF'') application. The USPTO also proposes to reduce by $50 the fee for a TEAS Plus application from $275 to $225 per class and reduce by $100 the fee for a TEAS application for renewal of a registration from $400 to $300 per class. As has been the case since the inception of TEAS Plus, TEAS Plus applicants who fail to fulfill the filing and examination requirements set out in the rules will be subject to a processing fee of $50 per class, and similarly, TEAS RF applicants who fail to fulfill the requirements under the proposed rules will be subject to the existing processing fee of $50 per class.

The filing fee of $375 per class for applications for registration filed on paper will not be changed. The filing fee of $400 per class for renewal of a registration filed on paper will not change.

Costs and Benefits: This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

References below to ''the Act,'' ''the Trademark Act,'' or ''the statute'' refer to the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.,* as amended. References to ''TMEP'' or ''*Trademark Manual of Examining Procedure''* refer to the October 2013 edition.

Discussion of Proposed Rules Changes

The USPTO proposes to amend §§ 2.6, 2.22, and 2.23.

The USPTO proposes to revise § 2.6(a)(1) to enumerate the revised application filing fee options. The proposed § 2.6(a)(1)(iii) sets out the new, reduced fee of $275 for filing a TEAS Reduced Fee (i.e., TEAS RF) application under proposed § 2.23. The proposed § 2.6(a)(i)(iv) for TEAS Plus is the same as the existing § 2.6(a)(1)(iii) except that the TEAS Plus fee is reduced from $275 to $225 per class and there is minor rewording for consistency with existing § 2.6(a)(1)(ii) and proposed § 2.6(a)(1)(iii). The proposed § 2.6(a)(1)(v) processing fee is the same as the existing § 2.6(a)(1)(iv) except for amended citations to proposed §§ 2.22(c) and 2.23(c). The USPTO proposes to revise § 2.6(a)(5) to enumerate the revised fees for renewal of a registration. The proposed § 2.6(a)(5)(i) sets out the current fee of $400 as the fee for an application for renewal of a registration filed on paper. The proposed § 2.6(a)(5)(ii) sets out the reduced fee of $300 per class for a TEAS renewal of a registration.

The USPTO proposes to make the following format revisions to § 2.22 concerning TEAS Plus applications: Revise the rule title; in § 2.22(a), cite to § 2.6(a)(1)(iv) instead of § 2.6(a)(1)(iii); in § 2.22(b), set forth the additional examination requirements for a TEAS Plus application that are currently set forth in existing § 2.23(a); in § 2.22(c), set forth the current text in existing §§ 2.22(b) and 2.23(b), and cite to § 2.6(a)(1)(v) instead of to § 2.6(a)(1)(iv); and, in § 2.22(d), set forth the text currently in existing § 2.22(c).

The USPTO proposes to revise current § 2.23 to create a TEAS RF option in the amount of $275. Existing § 2.23 currently lists the additional examination requirements for a TEAS Plus application. As noted above, the provisions in existing § 2.23 would be consolidated into revised § 2.22. Filers using either the TEAS Plus or the new TEAS RF option are required to authorize email communication from the USPTO and submit documents electronically using TEAS during the prosecution of the application. However, filers using the new TEAS RF option are not required to comply with the additional TEAS Plus requirements for submitting the initial application.

Rulemaking Considerations

Administrative Procedure Act: This rulemaking proposes to reduce fees under Section 10(c) of the AIA. *See also* 15 U.S.C. 1113, 15 U.S.C. 1123, 35 U.S.C. 2. The other changes proposed in this rulemaking establish procedures for applicants seeking these reduced fees. The procedural changes proposed in

this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (stating that a rule that clarifies interpretation of a statute is interpretive); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (stating that rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (stating that rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims).

Accordingly, prior notice and opportunity for public comment for the procedural changes are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(3)(A))). The Office, however, is publishing these proposed changes for comment as it seeks the benefit of the public's views on the Office's proposed reduced fees along with accompanying related requirements.

Initial Regulatory Flexibility Analysis

1. Description of the Reasons That Action by the USPTO Is Being Considered

The USPTO proposes reducing certain trademark fees as authorized by Section 10(c) of the AIA. The proposed reductions will reduce total trademark fee collections and promote efficiency for the USPTO and customers through increased electronic communication. Specifically, the USPTO proposes to amend its rules to reduce application filing fees for certain applications for registration on the Principal or Supplemental Register under section 1 and/or section 44 of the Trademark Act that are filed through TEAS, and to reduce the fee for renewal of a trademark registration that is filed through TEAS.

2. Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objectives of the proposed rules are to reduce total trademark filing and renewal fees and fee collections, improve the alignment of Office costs with revenues, and promote efficiency for the USPTO and customers through electronic communication. Filing through TEAS and authorizing email communication expedites processing, shortens pendency, minimizes manual processing and the potential for data entry errors, and is more efficient for both the filer and the USPTO. TEAS-filed documents are automatically uploaded into the USPTO database. They require no manual scanning or creation of a paper file wrapper, and they reduce or eliminate the need for manual data entry of amendments to the filings. Authorizing email communication provides similar benefits, by reducing the need for mailing and the creation of, or addition to, a file wrapper. Paper filings, on the other hand, necessitate: (1) Manual scanning and uploading of the documents into the USPTO database; (2) manual data entry of information; and (3) the creation of paper file wrappers in which to store the originals of the paper filings. Thus, the proposed rules facilitate efficiency in numerous ways. As to the legal basis for the proposed rules, Section 10(c) of the AIA provides the authority for the Director to reduce trademark fees after consultation with TPAC. *See also* Section 31 of the Trademark Act, 15 U.S.C. 1113. Both 15 U.S.C. 1123 and 35 U.S.C. 2 provide the authority for the Director to establish regulations for the conduct of trademark proceedings at the USPTO.

3. Description of and, Where Feasible, Estimate of the Number of Affected Small Entities

The USPTO does not collect or maintain statistics in trademark cases on small- versus large-entity applicants, and this information would be required in order to determine the number of small entities that would be affected by the proposed rules. However, the USPTO will provide projected estimates of each type of filing affected by the proposed rules. The USPTO believes that the overall impact of the proposed lower fees on applicants and registrants will be overwhelmingly positive, as they will be afforded the opportunity to obtain a trademark registration for a reduced fee.

The proposed rules could apply to any entity filing a trademark application, except those filing under Section 66(a), 15 U.S.C. 1141f(a). The USPTO estimates that during the first year under the rules as proposed, the USPTO would receive 204,682 classes of TEAS Plus applications and 103,633 classes of TEAS RF applications that, absent the rule change, would be filed as regular TEAS applications. Thus, the estimated financial impact of the proposed reduced fees will be: (1) A $10,234,100 reduction in fees for TEAS Plus applicants; and (2) a $5,181,650 reduction in fees for TEAS RF applicants, or $5,065,100, when the estimated 2,331 classes of TEAS RF applicants who must pay the $50 processing fee are taken into consideration. Turning to the renewal fee, the USPTO estimates that during the first year under the rules as proposed, the USPTO would receive 62,315 classes of renewals, 61,193 filed through TEAS, such that the financial impact will be a $6,119,300 reduction in fees for trademark owners. The USPTO does not collect or maintain statistics in trademark cases on small versus large-entity applicants to determine what subset of applicants would be those small entities impacted by the proposed rules.

4. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The proposed rules impose no new reporting or recordkeeping requirements.

The proposed rules reduce fees for applications for and renewals of trademark registrations. The USPTO does not anticipate that the proposed rules would have a disproportionate impact upon any particular class of small or large entities. Any entity that applies for or renews a registered trademark could in fact benefit from the proposed rules. The proposed rules merely offer lower fees based on electronic filing of the renewal or application and other documents, and authorization for email communication from the USPTO. Because the fees for filing a paper application, a regular TEAS application, and a paper application for renewal of a registration remain unchanged under the proposed rules, and applicants may continue to file on paper or via the regular TEAS application form, following the requirements for the reduced fee options in the proposed rules will be the choice of the filer. Procedures for TEAS Plus filers remain the same, as the proposed rules merely reduce fees, and consolidate the TEAS Plus procedures within one rule, without imposing any change in practice. Filers using the new TEAS RF option will submit documents electronically using TEAS during the prosecution of the application and will authorize email communication from the USPTO.

The USPTO estimates that filing electronically will not take any more time than filing the same type of document on paper and is likely to take less time. The USPTO further estimates that communicating by email will not take any more time than receiving and reviewing a USPTO communication sent by regular mail and is likely to take less time.

5. Description of Any Significant Alternatives to the Proposed Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact of the Rule on Small Entities

The USPTO has considered whether and how it is appropriate to reduce any burden on small businesses through increased flexibility. The following options have been considered, but rejected, by the USPTO, since they are less protective of small businesses.

The alternative of not offering these reduced fees, or not offering them to small entities, would retain the status quo for small entities and therefore produce no economic impact on them, but that alternative has been rejected because the economic effect of the proposed rules will be favorable to small businesses, rather than burdensome. In addition, the alternative of not reducing fees would fail to accomplish the stated objectives of reducing overall trademark fee collections and increasing efficiency for the USPTO and filers.

The proposed rules provide streamlined and simplified procedures for all small entities, given the ease of filing electronically through TEAS and communicating by email. Thus, compliance will be streamlined and simplified for all affected entities. The proposed fee reductions promote greater efficiency from electronic filing and communication, as the procedures are simpler and not burdensome.

Use of performance rather than design standards is not applicable to the proposed rulemaking because the USPTO is not issuing any sort of standard. Rather, the proposed rules will offer reduced fees to applicants and registrants who file and communicate electronically with the USPTO.

6. Identification, to the Extent Practicable, of all Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

The proposed rules would not duplicate, overlap, or conflict with any other Federal rules.

Executive Order 12866 (Regulatory Planning and Review): This rule has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the USPTO has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing a notice of proposed rulemaking, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

Executive Order 13132 (Federalism): This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this notice is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

Paperwork Reduction Act: This rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this rule has been reviewed and previously approved by OMB under control numbers 0651–0009 and 0651–0055.

I. Summary

The USPTO proposes reducing certain trademark fees, as authorized by the AIA. The proposed reductions will reduce total trademark fee collections and promote efficiency for the USPTO and customers through electronic communication. The proposals will further the USPTO strategic objective to increase the end-to-end electronic processing of trademark applications including online filing, electronic file management, and workflow. Specifically, the USPTO proposes to amend its rules to permit a trademark applicant using the regular TEAS application form to file an application for registration on the Principal or Supplemental Register under section 1 and/or section 44 of the Trademark Act to pay a reduced fee under certain circumstances. The reduced fee would be offered to a TEAS applicant if the applicant agrees to receive communications concerning the application by email and to file all responses and other documents through TEAS during the prosecution of the application. The reduced fee option will not apply to applications filed pursuant to section 66(a) of the Act because they cannot be filed through TEAS. The USPTO also proposes to amend its rules to reduce the filing fees for an application filed using the TEAS Plus form and a TEAS application for renewal of a registration.

II. Data

Needs and Uses: The public uses the various applications to apply for the registration of trademarks/service marks, collective trademarks/service marks, collective membership marks,

and certification marks that identify goods and/or services classified in single or multiple classes. The public also uses applications under section 44 to apply for a priority filing date and/or for registration based upon foreign registration of a mark. The USPTO uses information from the public to receive and process applications for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks. The USPTO uses information from the public in response to section 44 applications to process applications for registration of a mark based upon earlier-filed foreign applications or a foreign registration. In addition, the USPTO also uses the application information to determine whether the marks may be registered. The public uses the application for renewal to apply for the renewal of a registration. The USPTO uses information from the public to receive and process applications for renewal of a registration.

Title of Collection: Applications for Trademark Registration.

OMB Control Number: 0651–0009.

Form Number(s): PTO Forms 1478, 1480, 1481, 1482.

Type of Review: Revised Collection.

Method of Collection: By mail, facsimile, hand delivery, or electronically to the Office.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Responses: 359,560.

Estimated Time per Response: The Office estimates that the responses in this collection will take the public approximately 18 to 30 minutes (0.3 to 0.5 hours).

Estimated Total Annual Respondent Burden Hours: 125,373 hours per year.

Estimated Total Annual Respondent Cost Burden: $48,770,097 per year.

Estimated Total Annual Non-hour Respondent Cost Burden: $97,548,226 per year.

Title of Collection: Post Registration (Trademark Processing).

OMB Control Number: 0651–0055.

Form Number(s): PTO Form 1963.

Type of Review: Revised Collection.

Method of Collection: By mail, facsimile, hand delivery, or electronically to the Office.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Responses: 51,929.

Estimated Time per Response: The Office estimates that the responses in this collection will take the public approximately 12 to 14 minutes (0.20 to 0.23 hours).

Estimated Total Annual Respondent Burden Hours: 10,414 hours per year.

Estimated Total Annual Respondent Cost Burden: $4,050,988 per year.

Estimated Total Annual Non-hour Respondent Cost Burden: $20,865,550 per year.

III. Solicitation

The agency is soliciting comments to: (1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of collecting the information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Interested persons are requested to send comments regarding this information collection by June 23, 2014 to: (1) The Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street NW., Washington, DC 20503, Attention: Nicholas A. Fraser, the Desk Officer for the United States Patent and Trademark Office; and (2) The Commissioner for Trademarks, by mail to P.O. Box 1451, Alexandria, VA 22313–1451, attention Cynthia C. Lynch; by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, Virginia 22314, attention Cynthia C. Lynch; or by electronic mail message via the Federal eRulemaking Portal. All comments submitted directly to the USPTO or provided on the Federal eRulemaking Portal should include the docket number (PTO–T–2014–0011).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 2

Administrative practice and procedure, Trademarks.

For the reasons stated in the preamble and under the authority contained in Section 10(c) of the AIA, 15 U.S.C. 1113, 15 U.S.C. 1123, and 35 U.S.C. 2, as amended, the USPTO proposes to amend part 2 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for part 2 reads as follows:

Authority: 15 U.S.C. 1113, 15 U.S.C. 1123, 35 U.S.C. 2, Section 10(c) of the Leahy-Smith America Invents Act (Pub. L. 112–29), unless otherwise noted.

■ 2. Amend § 2.6 by revising paragraphs (a)(1)(iii) and (iv), adding paragraph (a)(1)(v), and revising paragraph (a)(5) to read as follows:

§ 2.6 Trademark fees.

* * * * *

(a) * * *

(1) * * *

(iii) For filing a TEAS Reduced Fee (RF) application through TEAS under § 2.23, per class—$275.

(iv) For filing a TEAS Plus application through TEAS under § 2.22, per class—$225.00.

(v) Additional processing fee under § 2.22(c) or § 2.23(c), per class—$50.00.

* * * * *

(5) Application for renewal of a registration fees.

(i) For filing an application for renewal of a registration on paper, per class—$400.00.

(ii) For filing an application for renewal of a registration through TEAS, per class—$300.00.

* * * * *

■ 3. Amend § 2.22 by revising the section heading, paragraph (a) introductory text, and paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 2.22 Requirements for a TEAS Plus application.

(a) A trademark/service mark application for registration on the Principal Register under section 1 and/or section 44 of the Act will be entitled to a reduced filing fee under § 2.6(a)(1)(iv) if it is filed through TEAS and includes:

* * * * *

(b) In addition to the filing requirements under paragraph (a), the applicant must:

(1) File the following communications through TEAS:

(i) Responses to Office actions (except notices of appeal under section 20 of the Trademark Act);

(ii) Requests to change the correspondence address and owner's address;

(iii) Appointments and/or revocations of power of attorney;

(iv) Appointments and/or revocations of domestic representative;

(v) Voluntary amendments;

(vi) Amendments to allege use under section 1(c) of the Act or statements of use under section 1(d) of the Act;

(vii) Requests for extensions of time to file a statement of use under section 1(d) of the Act; and

(viii) Requests to delete a section 1(b) basis.

(2) Maintain a valid email correspondence address and continue to receive communications from the Office by email.

(c) If an application does not fulfill the requirements of paragraphs (a) and (b) of this section, the applicant must pay the processing fee required by § 2.6(a)(1)(v). The application will retain its original filing date, provided that when filed, the application met the filing date requirements of § 2.21.

(d) The following types of applications cannot be filed as TEAS Plus applications:

(1) Applications for certification marks (see § 2.45);

(2) Applications for collective trademarks and service marks (see § 2.44);

(3) Applications for collective membership marks (see § 2.44); and

(4) Applications for registration on the Supplemental Register (see § 2.47).

■ 4. Revise § 2.23 to read as follows:

§ 2.23 Requirements for a TEAS RF application.

(a) A trademark, service mark, certification mark, collective membership mark, or collective trademark application for registration on the Principal or Supplemental Register under section 1 and/or section 44 of the Act will be entitled to a reduced filing fee under § 2.6(a)(1)(iii) if it is filed through TEAS and includes:

(1) an email address for correspondence; and

(2) an authorization for the Office to send correspondence concerning the application to the applicant or applicant's attorney by email.

(b) In addition to the filing requirements under paragraph (a), the applicant must:

(1) File the following communications through TEAS:

(i) Responses to Office actions (except notices of appeal under section 20 of the Trademark Act);

(ii) Requests to change the correspondence address and owner's address;

(iii) Appointments and/or revocations of power of attorney;

(iv) Appointments and/or revocations of domestic representative;

(v) Voluntary amendments;

(vi) Amendments to allege use under section 1(c) of the Act or statements of use under section 1(d) of the Act;

(vii) Requests for extensions of time to file a statement of use under section 1(d) of the Act; and

(viii) Requests to delete a section 1(b) basis.

(2) Maintain a valid email correspondence address, and continue to receive communications from the Office by email.

(c) If an application does not meet the requirements of paragraphs (a) and (b) of this section, the applicant must pay the processing fee required by § 2.6(a)(1)(v). The application will retain its original filing date, provided that when filed, the application met the filing date requirements of § 2.21.

Dated: May 6, 2014.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director, United States Patent and Trademark Office.

[FR Doc. 2014–10730 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 62

RIN 2900–AO50

Supportive Services for Veteran Families Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning the Supportive Services for Veteran Families Program (SSVF). The proposed changes would clarify, consistent with existing regulations, that grantees must focus on providing permanent housing to eligible veteran families who, without SSVF assistance, would likely become homeless. The proposed clarifications are intended to emphasize the intended goals of SSVF. The proposed rule would expand grantees' authority to provide certain services to all very low-income veteran families, and specifically to those veteran families with significantly lower economic resources, which we would identify as extremely low-income veteran families. The purpose of this expanded authority is to address identified needs based on the administration of SSVF since its inception, and to provide greater incentive to grantees to assist these particularly vulnerable veteran families. Finally, the proposed rule would clarify that certain services are not permissible uses of SSVF funds.

DATES: Comments must be received by VA on or before June 23, 2014.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO50—Supportive Services for Veteran Families Program.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online at *www.Regulations.gov* through the Federal Docket Management Systems (FDMS).

FOR FURTHER INFORMATION CONTACT: John Kuhn, National Center for Homelessness Among Veterans, Supportive Services for Veteran Families Program Office, 4100 Chester Avenue, Suite 200, Philadelphia, PA 19104, (877) 737–0111. (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 10, 2010, VA published a final rule promulgating 38 CFR part 62, regulations implementing 38 U.S.C. 2044 by establishing an SSVF Program. 75 FR 68979. Through this program, VA has offered grants to eligible entities, identified in the regulations, that provide supportive services to very low-income veterans and families who are at risk for becoming homeless or who, in some cases, have recently become homeless. The program has been a tremendous success, providing services to over 62,000 participants in fiscal year (FY) 2013 (the program was projected to serve 42,000 for the entire fiscal year). To date, over 80 percent of those discharged from SSVF have been placed in or saved their permanent housing.

In order to ensure its continued success and to address minor issues that have arisen through the course of the administration of SSVF, we are proposing to revise the regulations. In particular, these revisions would establish a class of very low-income veteran families who are most in need (identified in this proposed rule as

''extremely low-income veteran families''), and make other necessary refinements to the regulations. Additional clarifications are included with respect to the categories and classification of participants. These changes should ensure that those most in need receive supportive services under SSVF, and that VA aligns its terminology with that used by the U.S. Department of Housing and Urban Development (HUD) for similar programs. VA has expressed the priority to serve those most in need in its annual Notice of Funding Availability, and the proposed clarifying language will identify those priorities in the regulations.

A discussion of the proposed revisions to part 62 follows.

62.2: ''Homeless'' Definition

VA proposes to amend the definition of ''homeless'' to adopt HUD's definition in 24 CFR 576.2. Currently, VA uses the statutory definition of ''homeless'' that is applicable to similar programs administered by HUD, but without the benefit of HUD's interpretation of this term. The authorizing statute for SSVF specifically requires VA to use the definition set forth in 42 U.S.C. 11302. 38 U.S.C. 2044(f)(3). HUD, not VA, is the primary government agency charged with interpreting and applying section 11302, and therefore adopting HUD's regulation would support a single, nationally applicable definition of ''homeless.'' In addition, adopting HUD's regulation would help ensure consistent reporting on homelessness across both agencies, as per a recommendation from the United States Interagency Council on Homelessness. It should also make the SSVF program clearer for grantees who often provide services under various HUD programs as well as SSVF. We do not expect that adopting a definition of ''homeless'' that is consistent with HUD's definition in 24 CFR 576.2 will impact the veteran families that grantees will be able to assist under the SSVF program. Grantees may provide services to veteran families who are either homeless or at risk of becoming homeless, provided that they meet specific income requirements discussed elsewhere in this proposed rulemaking.

62.2 and 62.34(f): Emergency Housing Assistance

VA proposes to define ''emergency housing'' in § 62.2 as ''temporary housing provided under § 62.34(f) that does not require the participant to sign a lease or occupancy agreement.'' This term would be associated with proposed § 62.34(f), which would add emergency housing assistance to the list of services that may be offered by grantees under the category of ''other supportive services.''

Under SSVF, grantees are authorized to provide supportive services to a very low-income veteran family that is homeless and scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing, or that has exited permanent housing within the previous 90 days to seek other housing that is responsive to the very low-income veteran family's needs and preferences. See 38 CFR 62.11(a)(2), (3). Proposed § 62.34(f) would authorize grantees to provide emergency housing to these individuals, subject to the restrictions set forth in paragraphs (f)(1) through (5) and discussed in more detail below. By authorizing the limited provision of emergency housing, grantees would be able to ensure that participants do not become homeless or homeless for any extensive period while they transition to permanent housing or otherwise be put at risk pending placement in permanent housing. Appropriate provision of emergency housing could include cases in which no space is available at a community shelter that would be appropriate for placement of a family unit, or where permanent housing has been identified and secured but the participant cannot immediately be placed in that housing. The current regulations do not authorize grantees to provide temporary assistance to a participant under these types of circumstances.

Proposed § 62.34(f)(1) through (5) would limit grantees' authority to provide emergency housing assistance to situations in which placement in emergency housing would be considered truly temporary. These time- and cost-based limitations would ensure the integrity of SSVF's mission to assist in the placement of veteran families in permanent housing. In cases where the participant would require placement in emergency housing more frequently or for a longer period of time, it would be more appropriate for the participant to obtain assistance from other VA, Federal, State or local programs. The time limitation for an emergency housing placement for a single veteran is a maximum of 72 hours. This is because VA offers multiple short- and long-term community-based transitional housing alternatives, including the Grant and Per Diem Program and the Health Care for Homeless Veterans contract residential care program, as well as a variety of VA-based residential care programs. There are fewer comparable transitional housing alternatives available for a veteran and his or her spouse and/or dependents. As a result, we propose a longer, 30-day time limitation for placement of a veteran and his or her spouse with dependents in emergency housing. The grantee may also connect veteran families with appropriate non-VA resources within the community, such as housing programs offered by local governments or non-governmental organizations. We would also state that a participant may be placed in emergency housing only once during any 3-year period, beginning on the date that the grantee first pays for emergency housing on behalf of the participant. VA believes that this limit is reasonable because veteran households who need more consistent financial assistance would be better served by a program that offers longer term financial assistance, such as the HUD-VA Supportive Housing Program. Furthermore, to ensure that emergency housing is used in support of plans to place participants in permanent housing, emergency housing placement would only be allowed when permanent housing has been identified and secured, and will be available before the end of the period during which the participant is placed in emergency housing.

Further, proposed § 62.34(f)(5) would require the cost of emergency housing to be reasonable in relation to the cost charged for other available emergency housing, considering, the location, quality, size and type of the emergency housing. Emergency housing can be costly, and this provision would require grantees to be mindful of the cost of such housing and ensure that cost is reasonable relative to comparable emergency housing alternatives. We would redesignate current § 62.34(f) as proposed § 62.34(g).

62.2, 62.33(h)(2)(i), 62.34(a)(1), 62.34(b)(1) and 62.35(a): Extremely Low-Income Veteran Family

In § 62.2, we propose to add a definition of the term ''extremely low-income veteran family.'' The term would be defined as ''a veteran family whose annual income, as determined in accordance with 24 CFR 5.609, does not exceed 30 percent of the median income for an area or community.'' This definition would essentially establish a subgroup of very low-income veteran families who have greater need than other very low-income veteran families, whose income may be as high as 50 percent of the median income for an area or community (under the existing § 62.2 definition of the term ''very low-

income veteran family''). The authorizing statute, 38 U.S.C. 2044(f)(6), and the current regulation, 38 CFR 62.2, authorize VA to vary the income ceiling for an area or to vary the income requirement based on family size. Although providing a 30 percent across-the-board adjusted median income does not fit within these authorized variances, we believe that our proposed identification of extremely low-income veteran families is nevertheless within our statutory authority because extremely low-income veteran families would, by definition, also meet the requirement of very low-income veteran families, and therefore would be eligible participants under the statute. Establishing the proposed 30 percent median income subgroup would enable SSVF to target veteran families with greater need, and provide to them slightly increased benefits. It would also remove any unintended disincentive to provide services to these veteran families that might arise under the current regulations, due to the fact that these families may require more intensive assistance and may not meet the grantee's performance measures as quickly as veteran families with slightly higher incomes. We believe that this is consistent with the authority granted by 38 U.S.C. 2044 and Congress' intent in establishing SSVF.

The first additional benefit offered to extremely low-income veteran families would appear in § 62.33(h)(2)(i), where we would add a sentence authorizing a longer period of coverage for child care services provided to extremely low-income veteran families, i.e., increasing to up to 9 months in a 12-month period and 12 months during a 3-year period. The second additional benefit offered to extremely low-income veteran families would appear in § 62.34(a)(1), where we would authorize grantees to provide a longer period of rental assistance. Where very low-income veteran families are eligible under the current rule for up to 5 months per year of rental assistance (which we are proposing to increase to 6 months), extremely low-income veteran families would be eligible for up to 9 months of rental assistance per year, and up to 12 months during any 3-year period. Finally, in § 62.34(b)(1) we would offer a grantee authority to provide additional utility payment support to extremely low-income veteran families for 9 months in any 12 month period and 12 months during a 3-year period.

We believe that veteran families subsisting on an income that is 30 percent of the median income in their area or community face particularly difficult economic circumstances and commensurate barriers to placement in or retention of permanent housing, and therefore additional relief may be appropriate in accordance with these proposed revisions. SSVF is designed to provide families with temporary assistance and to facilitate self-sufficiency by working with the family to build a sustainable living situation. In doing so, VA must minimize the risk that veteran families become dependent on such assistance over the long term. The proposed maximums set forth above would provide needed short-term assistance without enabling long-term dependence on VA to cover essential family expenses. We note that HUD has established the 30 percent median income threshold as a determining factor to define ''at risk of homelessness.'' See 24 CFR 576.2. Therefore, we believe that the 30 percent median is an appropriate measure of increased risk of homelessness that would require additional, though not permanent assistance. In addition, VA received feedback from grantees through the administration of this program suggesting that veteran families at lower levels of income are more difficult to reach and require more resources in order for the interventions authorized under this program to succeed. Based on that feedback, we believe that the increased benefit amounts authorized under the proposed rule would help ensure that grantees can be successful in supporting extremely low-income veteran families.

We propose to revise § 62.35(a) to state that ''[a] participant classified as an extremely low-income veteran family will retain that designation as long as the participant continues to meet the other eligibility requirements.'' This clarification would enable eligible extremely low-income veteran families to receive the extended services associated with this designation for the entire time that they remain eligible for supportive services, which is important for the reasons discussed above. Due to the increased challenges that families with extremely low incomes face, income fluctuations that do not exceed the maximum threshold are significantly less likely to eliminate the risk of homelessness without an extended period of assistance under this program. Therefore, we propose to make the maximum benefit available to extremely-low income families, notwithstanding increases in income up to the 50 percent median income threshold as discussed in the definition of ''very low-income veteran family'' in current § 62.2. As now, SSVF benefits would cease once a veteran family's income exceeds the 50 percent median income threshold.

62.2 and 62.34(e): General Housing Stability Assistance and Emergency Supplies

VA proposes to remove the definition of ''emergency supplies'' in current § 62.2. The current rule defines this term as ''items necessary for a participant's life or safety that are provided to the participant by a grantee on a temporary basis in order to address the participant's emergency situation.'' The term is currently used in only one regulatory provision, paragraph (e) of § 62.34, which authorizes grantees to purchase emergency supplies. Instead, in proposed § 62.34(e), we would authorize grantees to provide ''[g]eneral housing stability assistance.'' This term would be defined in § 62.2 as the provision of goods or payment of expenses that are directly related to supporting a participant's housing stability, and we would refer readers to the substantive authorization of this benefit in § 62.34(e).

Under current § 62.34, grantees are authorized to provide certain services that are necessary for maintaining independent living in permanent housing and housing stability. In this context, current § 62.34(e) authorizes the provision of emergency supplies. Through our experience in administering SSVF, we believe that grantees should be authorized to provide a broader scope of services under this paragraph, which we would refer to as general housing stability assistance.

Proposed paragraph (e)(1) would continue to authorize grantees to provide the items that currently are defined as emergency supplies. This does not represent a substantive change in regulation or policy.

Proposed paragraph (e)(2) would authorize grantees to pay for certain types of expenses. In order to reduce the potential for misuse of funds and generally facilitate management of SSVF grants, we would require that payment be made directly to a third party and not to a participant. For similar reasons, and because payment of these types of expenses is not the primary goal of SSVF, we would limit these payments to $1500 per participant for any 3 year period.

The three classes of expenses that would be authorized by proposed paragraph (e)(2)(i) through (iii) relate to a participant's ability to gain or keep employment or permanent housing. In our experience administering SSVF, costs related to basic employment (such

as uniforms, tools, certifications, and licenses), basic housing needs (such as kitchen utensils, bedding, and other supplies), and securing permanent housing (such as fees for housing applications, housing inspections, or background checks) are often barriers to a participant's success in obtaining and keeping permanent housing.

62.2, 62.11(b), 62.35(a), and 62.36(a): Reclassification of Categories of Participants

Under current § 62.36(a), grantees are required to initially classify a participant in one of the 3 categories under § 62.11, along with certifying their eligibility, and repeat this process at least once every 3 months. Although grantees would still be required to certify program eligibility for participants every 3 months, we propose to eliminate the requirement that grantees certify the classification of each participant under one of the categories set forth in § 62.11 at least once every 3 months. The initial classification is necessary in order to determine the veteran family's eligibility under the SSVF program and for the grantee to be able to appropriately track grant funds used on different categories of participants. Once a grantee determines the classification for the veteran family, the grantee develops a strategy with the veteran family that would provide the veteran family with the assistance they need during the appropriate time period to stabilize their housing situation. The participant's category becomes less relevant after the initial classification because grantees transition veteran families out of the program once their income exceeds the eligibility levels for the SSVF program or they enter a sustainable housing situation. Further, if at any time a veteran family's income decreases below the extremely-low income threshold while receiving SSVF assistance, the veteran family would be reclassified in order to receive the expanded levels of assistance under the program. Reclassification of participants every 3 months is burdensome for grantees and detracts from grantees' ability to develop a long-term plan to stabilize veteran families' housing situations. The reclassification system is also more difficult for VA, because it is more difficult to track the use of grant funds if grantees are continuously moving participants among the categories. As a result of these various issues, we propose to eliminate this requirement in § 62.36(a).

We propose to delete current § 62.11(b) to conform to the above-noted proposed change to § 62.36(a). Under the new proposed language, grantees would no longer be required to certify a participant's occupying permanent housing classification every 3 months. Therefore, current § 62.11(b) is unnecessary. Additionally, we propose to redesignate the remaining paragraphs, and update the relevant cross-references that appear in §§ 62.2, § 62.35, and § 62.36(a).

Similarly, we propose to revise current § 62.35(a) to conform to the above-noted proposed changes to § 62.36(a). Currently, § 62.35(a) explains that a veteran family is considered to be residing in permanent housing after the original 90 days as described in current § 62.11(a), provided the veteran family remains scheduled to move into permanent housing within a 90-day period. Under the proposed revision to § 62.11, as discussed above, grantees would no longer be required to certify a participant's occupying permanent housing classification every 3 months. Therefore, the exception provided under the current § 62.35(a) is no longer relevant. Accordingly, the cross reference in the note to § 62.11 would also be modified to eliminate the reference to a continuation of services.

62.11: Categories of Participants

We propose to amend the categories of participants eligible for SSVF as set forth in current § 62.11(a). These changes are intended to eliminate certain ambiguities that have been identified through the administration of the program and more clearly identify VA's goals of serving through SSVF those veteran families most in need of assistance to obtain or remain in permanent housing. We believe the changes to this section are consistent with the authority granted by 38 U.S.C. 2044 and Congress' intent in establishing SSVF. Furthermore, these changes would be consistent with and would make permanent certain guidance provided in previous SSVF Notices of Fund Availability. Most importantly, the proposed amendments to § 62.11 would require grantees to prioritize the use of SSVF funds for those veteran families who are in the greatest need of immediate assistance, without excluding any veteran families who would currently be eligible for benefits under the SSVF program.

Current § 62.11(a)(1) identifies the first category of participants eligible for SSVF funding as those very low-income veteran families who are ''residing in permanent housing''. We propose adding to this in proposed § 62.11(a) the clause ''and at risk of becoming homeless, per conditions in paragraph (b)(1), but for the grantee's assistance.'' This provision would enable VA to utilize SSVF's limited resources to assist those veteran families that are in permanent housing but would otherwise be homeless. We would require the grantee to apply this test to all veteran families to whom they would provide assistance under the SSVF grant. This ''but for'' standard is similar to the one used by HUD in its homelessness prevention programs, which allows for consistency between VA and HUD programs. We believe that aligning VA's definitions and practices more closely with HUD takes advantage of HUD's expertise and success in assisting low-income families, including veteran families, to find permanent housing. Additionally, as this standard has been included in each Notice of Fund Availability that SSVF has issued thus far, this would not result in a substantive change in the way SSVF operates. As we have done in the past, we plan to include risk factors for the ''but for'' requirement in the Notices of Fund Availability. The risk factors provide some common factors that would indicate that a veteran family would be homeless but for the assistance, but would not comprise an exhaustive list. We understand that each veteran family is different, and geographic or other valid concerns exist that we would be unable to contemplate through the risk factors alone. We would allow grantees to consider additional circumstances when applying this ''but for'' test, and would require that those circumstances be explained.

The existing regulations at § 62.11(a)(2) refer to the second category of participants as ''homeless and scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing.'' We propose amending the first part of this category to better describe what we mean by ''homeless.''

When the SSVF legislation was passed by Congress in 2008, the definition of the term ''homeless'' set forth in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) was narrower than it is today. Following the passage of the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, which included an amendment to broaden the definition of the term ''homeless'' in 42 U.S.C. 11302, certain at risk populations now qualify under the definition of the term ''homeless.'' We do not think that this broader definition is consistent with the spirit of the SSVF program, which provides specific types of assistance designed to prevent immediate

homelessness. Therefore, we propose limiting the second category of participants to those veteran families who are literally homeless, in order to avoid an eligible veteran family being qualified under multiple SSVF categories. (**Note:** those veteran families who are at risk of becoming literally homeless would fall only under the first category.) We propose to adopt a portion of the language HUD uses in 24 CFR 576.2 to describe the population of literally homeless individuals—those ''lacking a fixed, regular, and adequate nighttime residence.'' This is further described in proposed § 62.11(b)(1)(i) through (iii).

Additionally, for the same reasons we propose to add the ''but for'' language to proposed § 62.11(a), we propose adding § 62.11(b)(2) to include those who are at risk of remaining homeless as described in proposed § 62.11(b)(1) but for the grantee's assistance. We would not change the remaining criteria for eligibility under current § 62.11(a)(2) except to redesignate this section as proposed § 62.11(b)(3).

Similarly, we propose amending the third category of participants in proposed § 62.11(c) to reference the same criteria described in proposed § 62.11(b)(1). This change is intended to clarify an ambiguity that existed in certain circumstances where a participant could qualify under multiple categories. For example, a participant could have ''exited permanent housing within the previous 90 days to seek other housing that is responsive to the very low-income veteran family's needs and preferences'' and be ''residing in permanent housing,'' thereby causing confusion as to whether that participant should be classified under the first or third categories. Therefore, with this change, VA seeks to provide clarity consistent with 38 U.S.C. 2044 and VA's goals for SSVF. Additionally, we propose to update the relevant cross-references to current § 62.11(a)(3) that appear in current § 62.35(b).

62.20 and 62.22: Identifying Appropriate Veteran Families

We propose to amend § 62.20(a) to clarify the requirements for a complete supportive services grant application package by including in proposed paragraph (a)(2) the reporting requirement that applicants describe how they will ensure that participation is limited to very low-income veteran families for whom no appropriate housing options have been identified and who lack their own financial resources and/or support networks to obtain or remain in permanent housing. VA already requires that applicants provide this explanation in the existing application, but the current regulation is silent on this point. This revision would simply provide a more thorough description of the existing application requirements.

We recognize that 38 U.S.C. 2044 both defines very low-income veteran families and requires that we provide grants to eligible entities that would assist such families. However, due to the limited availability of SSVF funding, and based also on our authority to ''establish criteria for the selection of eligible entities'' under 38 U.S.C. 2044(c)(3), we believe that the proposed reporting requirement is a reasonable implementation of our statutory authority. In addition, it accords with our fiscal responsibility to minimize overlap when we provide benefits to veterans, to ensure the necessity and integrity of each veterans benefits program. Finally, we believe that this language would emphasize that SSVF is not an anti-poverty program, or a program of general assistance. As such, it is not intended to reach all veterans who are in need of financial assistance; rather, SSVF's limited purpose and scope are to assist veteran families who are at risk of becoming homeless absent SSVF intervention and rapidly re-house those that have become homeless.

Under current § 62.22(b)(2)(i), VA will award up to 25 points for applications that among other things, contain a ''feasible outreach and referral plan to identify and assist very low-income veteran families occupying permanent housing that may be eligible for supportive services and are most in need of supporting services.'' We would add a reference to the proposed requirements in § 62.20(a)(2) in order to ensure that there would be scoring criteria to assess whether the grantee has met the proposed criteria in § 62.20(a).

62.31: Supportive Service: Case Management Services

Current § 62.31 requires grantees to ''provide case management services that include, at a minimum'' the requirements set forth in paragraphs (a) through (e). We propose to add a requirement to the introductory sentence that grantee case management services ''prioritize housing stability as the primary goal of SSVF services.'' This requirement is consistent with the statutory authority and the manner in which we have always intended that SSVF programs operate. We would explicitly include it under case management services as it is the policy of VA to support a housing first model in the approach to addressing and ending homelessness. The housing first model establishes housing stability as the primary intervention in working with homeless persons. This means that grantees should ensure that case managers focus on housing before addressing issues such as participants' sobriety or mental health.

We would also add a new requirement in proposed paragraph (f) that case management services ''assist[] participants in locating, obtaining, and retaining suitable permanent housing.'' Assistance in retaining permanent housing is one of the fundamental goals of SSVF, and not requiring case management assistance in this regard was an oversight in our publication of current § 62.31. Case management assistance in locating or obtaining permanent housing is important for those participants who require rapid re-housing assistance (and therefore may be considered participants in an SSVF program under current § 62.11(a)(2) or (3)). The proposed rule would include as permissible activities under § 62.31(f) ''identifying appropriate permanent housing and landlords willing to work with homeless veteran families; tenant counseling; mediation with landlords; and outreach to landlords.'' These activities are all consistent with the requirement of assistance in locating, obtaining and retaining permanent housing.

62.33: Supportive Service: Assistance in Obtaining and Coordinating Other Public Benefits

Current § 62.33(c) authorizes grantees to assist participants in obtaining certain financial planning services. We would amend paragraph (c) to authorize grantees to use ''SSVF funds [to] pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving credit problems.'' Such assistance has proved important to ensure that participants can maintain permanent housing in a significant number of cases administered through SSVF.

Current § 62.33(d)(3)(i) authorizes grantees to make payments on behalf of participants needing car repairs or maintenance in an amount of up to $1,000 during a 3-year period. We propose to increase this amount by $200 to reflect increased costs and changes in the overall financial environment since this rule was originally published.

Current § 62.33(g) authorizes grantees to provide, or assist participants in obtaining, legal services relevant to issues that interfere with the

participant's ability to obtain or retain permanent housing or supportive services. Through the administration of this program, grantees have sometimes been unsure of the intended scope of this paragraph. We propose to amend paragraph (g) to clarify that it is intended to broadly encompass matters of employment and financial security, and that it includes the authority to pay for related court fees. We would add a caveat that ''SSVF funds may not be used to pay for court-ordered judgments or fines.'' This prohibition against using SSVF funds to pay court-ordered judgments or fines would be consistent with proposed § 62.38, which would be cross-referenced in paragraph (g). The rationale for this restriction is discussed in greater detail below.

In § 62.33(h), VA proposes to revise the introductory sentence to further define age limits for supportive services for child care. We propose that the services should be available ''for children under the age of 13, unless disabled. Disabled children must be under the age of 18.'' This would bring the availability of child care services through SSVF in conformity with similar regulations issued by HUD. See 24 CFR 576.102(a)(1)(ii).

Also related to grantees' authority to pay child care expenses, we would amend current paragraph (h)(2)(i), which limits child care payments to a period of up to 4 months in a 12-month period. We would increase this number to a maximum 6 months in a 12-month period, and add an additional restriction that grantees cannot pay for child care in excess of 10 months during a 3-year period. These limitations are consistent with other 6-month limitations for temporary financial assistance offered through SSVF. Grantees have communicated to VA that implementing various time limitations for specific benefits is cumbersome, and requested that VA provide a single time period for such limitations.

62.34: Other Supportive Services

In addition to authorizing greater rental and utility assistance for extremely low-income veteran families for the reasons discussed above, we propose to revise § 62.34 to extend grantee authority to provide greater rental assistance and utility assistance to all participants. For rental assistance, in proposed § 62.34(a)(1), we would revise the current restriction of 8 months during any 3-year period or 5 months during any 12-month period to 10 months during any 3-year period or 6 months during any 12-month period. For utility costs, we would revise § 62.34(b)(1) to revise the current restriction from 4 to 10 months during any 3-year period, and from 2 to 6 months during any 12-month period.

62.36: Habitability Standards

Proposed § 62.36(f) would require grantees using supportive services funds to provide rental assistance, payments of utilities fees, security deposits, or utilities deposits on behalf of a participant who is moving into a new (different) housing unit to confirm the unit meets the minimum conditions set forth in 24 CFR 583.300(b). By requiring grantees' use of these HUD habitability standards in certain circumstances, VA is encouraging grantees to be mindful of the safety and quality of housing to which participants are moving. To minimize the burden that this requirement may place on grantees, these standards do not require the use of a certified inspector. Rather, the habitability standards inspection can be performed by grantee staff members. Timely inspections must occur in a manner consistent with the goals of rapid re-housing, that is, the process should be completed as quickly as possible so that a new barrier to housing placement is not created. Regardless, the inspection should occur no more than 3 working days after the housing unit has been identified. Alternatively, the grantee may rely on timely certified inspections that have already been completed by another governmental or community agency. We believe it is reasonable to consider an inspection timely if it was completed with the past 2 years. Criteria for these inspections have been added to § 62.34.

62.38: Ineligible Activities

VA proposes to add a new § 62.38 which would address activities and services that cannot be funded through SSVF funds. These restrictions are intended to maximize the use of SSVF funds and to avoid duplicating services provided by other public programs. VA estimates that SSVF is capable of providing direct assistance to roughly 67,000 of those veteran families who are eligible to be considered participants, so we must limit the use of SSVF resources to ensure that we provide assistance that is most directly related to preventing homelessness. We do not perceive these prohibited activities to be as good or better uses of SSVF resources than those allowed under the current regulations.

In paragraph (a), we propose to prohibit SSVF resources from being used to pay for mortgage and other costs associated with home ownership. Instances where homeowners become homeless are rare. The vast majority of homeowners tend to have more options available to them, even after a foreclosure. Therefore, we do not believe that such assistance would be the most efficient use of limited SSVF resources.

In paragraph (b), we would prevent SSVF funds to be used for construction or rehabilitation of buildings. The investment of resources into infrastructure is complex, and SSVF funds are limited in a manner that could not guarantee ongoing funding for such projects. Therefore, we do not believe that infrastructure investment as a means to prevent homelessness is viable under SSVF.

Under paragraph (c), we would clarify that SSVF grant funds cannot be used to directly pay for any ''[h]ome care and home health aides typically used to provide care in support of daily living activities,'' and under paragraph (e), we would clarify that SSVF funds cannot be used to pay for medical or dental care and medicines. Grantees may refer veterans and families for health care treatment or assistance with daily living services provided by other public entities, including VA where appropriate. However, grantees may not use SSVF funds to pay for such care or services as it would represent a duplication of available services. VA health care and mainstream entitlements (such as Medicare, Medicaid, and the Children's Health Insurance Program) are currently available to support such needs.

Paragraphs (d) through (g) list uses of funds that are prohibited specifically because there is little connection to the prevention of homelessness. Generally, these items can be addressed through alternative means. For example, credit card and other consumer debt may be discharged in other ways that do not result in the loss of housing. Therefore, it is not necessary to use SSVF for such purpose. SSVF funds should not be used to absolve responsibility for court-ordered judgments or fines, because the purpose of the program is not to ensure participant solvency. Additionally, § 62.34 requires that certain types of temporary financial assistance are permissible if paid directly to third parties, and providing direct cash assistance to participants may result in funds being used for unauthorized purposes.

Finally, SSVF is not designed to support entertainment or optional activities, and therefore, SSVF funds should not be used for pet care and entertainment, which would be barred uses under proposed paragraphs (h) and (i).

Comment Period

Although under the rulemaking guidelines in Executive Orders 12866 and 13563, VA ordinarily provides a 60-day comment period, the Secretary has determined that there is good cause to limit the public comment period on this proposed rule to 45 days. VA determined that in order to take advantage of increased funding for the SSVF program, certain limitations of program benefits should be expanded for those veteran families in the greatest need. Because SSVF supports VA's homelessness prevention efforts, VA's expedited ability to disburse funding to grantees under these revised regulations could potentially lead to a decrease in homelessness among very low-income veteran families. Therefore, the need to take action is particularly great for those veterans and their families who would benefit from the increased supportive services funded by SSVF under these revised regulations. Accordingly, the Secretary has determined that it would be contrary to the public interest to provide for a longer comment period, and VA has provided that comments must be received within 30 days of publication in the **Federal Register**.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

Although this action contains provisions constituting collections of information, at 38 CFR 62.20, 62.36, and 62.60, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for §§ 62.20, 62.36, and 62.60 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0757.

In proposed § 62.20(a), we would state that the collection of information must include a description of how the applicant will ensure that the program is targeted to very-low income families. Under the current OMB-approved application, VA Form 10–10072, VA requires the applicant to ''[d]escribe the proposed outreach and referral plan to identify and assist eligible very low-income Veteran families who are most in need of supportive services.'' The current application specifies that the response should include an explanation of the ''[i]dentification of target population(s) to be served.'' Because this specific question on the application correlates directly with the requirement that we propose to add in § 62.20(a), the information collection and corresponding burden hours would remain unchanged.

In a final rule published on November 10, 2010, we stated that OMB had approved collections of information contained in, inter alia, § 62.36(c). 75 FR 68975, 68979–80, Nov. 10, 2010. In both the proposed and final regulation, a collection also appeared in § 62.36(a). That collection required grantees to classify all participants and verify and document participant eligibility at least once every 3 months. The verification of eligibility is reflected on VA Form 10–0508b, one of the forms approved by OMB and assigned OMB control number 2900–0757, which requires quarterly reports of detailed information and data on participant screenings and compliance with all SSVF requirements. However, the requirement to reclassify participants every 3 months was not contained on that form. In proposed § 62.36(a), we would remove the requirement that grantees reclassify participant eligibility every 3 months; however, we retain the requirement that the grantee certify participant eligibility. Therefore, although we are amending the collection that appears at § 62.36(a), the amendment will not result in a change to the form. Moreover, although we omitted specific reference to § 62.36(a) in the final rulemaking published on November 10, 2010, we did in fact seek approval for the collection requirements in VA Form 10–0508b, which appear in this proposed rule. Therefore, we do not believe that this rulemaking contains amendments to collections approved under OMB control number 2900–0757.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would only impact those entities that choose to participate in SSVF. Small entity applicants would not be affected to a greater extent than large entity applicants. Small entities must elect to participate, and it is considered a benefit to those who choose to apply. To the extent this proposed rule would have any impact on small entities, it would not have an impact on a substantial number of small entities. In FY 2013, 151 organizations successfully submitted applications for SSVF funding and would be effected by this rule. The changes described in this rule should have a positive impact compared to the existing rule as changes would generally aid grantees in providing service and thereby reduce time demands. On this basis, the Secretary certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by OMB, unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been

determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits and 64.033, VA Supportive Services for Veteran Families Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on April 15, 2014, for publication.

List of Subjects in 38 CFR Part 62

Administrative practice and procedure, Day care, Disability benefits, Government contracts, Grant programs—health, Grant programs—social services, Grant programs—transportation, Grant programs—veterans, Grants—housing and community development, Heath care, Homeless, Housing, Housing assistance payments, Indian-lands, Individuals with disabilities, Low and moderate income housing, Manpower training program, Medicare, Medicaid, Public assistance programs, Public housing, Relocation assistance, Rent subsidies, Reporting and recordkeeping requirements, Rural areas, Social security, Supplemental security income (SSI), Travel and transportation expenses, Unemployment compensation, Veterans.

Dated: April 30, 2014.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 62 as follows:

PART 62—SUPPORTIVE SERVICES FOR VETERAN FAMILIES PROGRAMS

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 38 U.S.C. 501, 2044, and as noted in specific sections.

■ 2. Amend § 62.2 by:

■ a. Removing the definition of ''Emergency supplies''.

■ b. Adding the definitions of ''Emergency housing'', ''Extremely low-income veteran family'', and ''General housing stability assistance'', in alphabetical order.

■ b. Revising the definition of ''Homeless''.

■ c. Revising the definition of ''Occupying permanent housing''.

The additions and revisions read as follows:

§ 62.2 Definitions.

* * * * *

Emergency housing means temporary housing provided under § 62.34(f) that does not require the participant to sign a lease or occupancy agreement.

Extremely low-income veteran family means a veteran family whose annual income, as determined in accordance with 24 CFR 5.609, does not exceed 30 percent of the median income for an area or community.

General housing stability assistance means the provision of goods or payment of expenses that are directly related to supporting a participant's housing stability and are authorized under § 62.34(e).

* * * * *

Homeless has the meaning given that term in 24 CFR 576.2.

* * * * *

Occupying permanent housing means meeting any of the conditions set forth in § 62.11.

* * * * *

■ 3. Revise § 62.11 to read as follows:

§ 62.11 Participants-occupying permanent housing.

A very low-income veteran family will be considered to be occupying permanent housing if the very low-income veteran family:

(a) Is residing in permanent housing and at risk of becoming homeless, per conditions in paragraph (b)(1) of this section, but for the grantee's assistance;

(b)(1) Is lacking a fixed, regular, and adequate nighttime residence, meaning:

(i) That the veteran family's primary nighttime residence is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned bus or train station, airport, or camping ground;

(ii) That the veteran family is living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or

(iii) That the veteran family is exiting an institution where the veteran family resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) Are at risk to remain in the situation described in paragraph (b)(1) of this section but for the grantee's assistance; and

(3) Scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing; or

(c) Has met any of the conditions described in paragraph (b)(1) of this section after exiting permanent housing within the previous 90 days to seek other housing that is responsive to the very low-income veteran family's needs and preferences.

Note to paragraph (c): For limitations on the provision of supportive services to participants classified under paragraph (c) of this section, see § 62.35.

(Authority: 38 U.S.C. 501, 2044)

■ 4. Amend § 62.20 by:

■ a. Redesignating paragraphs (a)(2) through (a)(7) as paragraphs (a)(3) through (a)(8),respectively.

■ b. Adding a new paragraph (a)(2).

■ c. Adding a parenthetical at the end of the section.

The additions read as follows:

§ 62.20 Applications for supportive services grants.

(a) * * *

(2) A description of how the applicant will ensure that services are provided to very low-income veteran families for whom:

(i) No appropriate housing options have been identified for the veteran family; and

(ii) The veteran family lacks the financial resources and/or support networks to obtain or remain in permanent housing;

* * * * *

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–0757.)

■ 5. Amend § 62.22 by revising paragraph (b)(2)(i) to read as follows:

§ 62.22 Scoring criteria for supporting services grant applicants.

* * * * *

(b) * * *

(2) * * *

(i) Applicant has a feasible outreach and referral plan to identify and assist very low-income veteran families occupying permanent housing that may be eligible for supportive services and are most in need of supportive services. The plan ensures that the applicant's program will assist very low-income families who also meet the requirements of § 62.20(a)(2).

* * * * *

■ 6. Amend § 62.31 by:

■ a. Revising the introductory text.

■ b. In paragraph (d), removing the word ''and''

■ c. In paragraph (e), removing the period at the end of the paragraph and adding, in its place ''; and''.

■ d. Adding paragraph (f).

The revision and addition read as follows:

§ 62.31 Supportive service: Case management services.

Grantees must provide case management services that prioritize housing stability as the primary goal of SSVF services and include, at a minimum:

* * * * *

(f) Assisting participants in locating, obtaining, and retaining suitable permanent housing. Such activities may include: Identifying appropriate permanent housing and landlords willing to work with homeless veteran families; tenant counseling; mediation with landlords; and outreach to landlords.

■ 7. Amend § 62.33 by:

■ a. Revising paragraph (c).

■ b. In paragraph (d)(3)(i), removing ''$1,000'' and adding, in its place, ''$1,200''.

■ c. Revising paragraph (g).

■ d. Revising paragraph (h) introductory text.

■ e. Revising paragraph (h)(2)(i).

The revisions read as follows:

§ 62.33 Supportive service: Assistance in obtaining and coordinating other public benefits.

* * * * *

(c) Personal financial planning services, which include, at a minimum, providing recommendations regarding day-to-day finances and achieving long-term budgeting and financial goals. SSVF funds may pay for credit counseling and other services necessary to assist participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving credit problems.

* * * * *

(g) Legal services, including court filing fees, to assist a participant with issues that interfere with the participant's ability to obtain or retain permanent housing or supportive services, including issues that affect the participant's employability and financial security. However, SSVF funds may not be used to pay for court-ordered judgments or fines, pursuant to § 62.38.

(h) Child care for children under the age of 13, unless disabled. Disabled children must be under the age of 18. Child care includes the:

* * * * *

(2) * * *

(i) Payments for child care services must be paid by the grantee directly to an eligible child care provider and cannot exceed a maximum of 6 months in a 12-month period, and 10 months during a 3-year period, such period beginning on the date that the grantee first pays for child care services on behalf of the participant. For extremely low-income veteran families, payments for child care services on behalf of that participant cannot exceed 9 months in a 12-month period and 12 months during a 3-year period, such period beginning on the date that the grantee first pays for child care services on behalf of the participant.

* * * * *

■ 8. Amend § 62.34 by:

■ a. Revising paragraph (a)(1).

■ b. Revising paragraph (b)(1).

■ c. Revising paragraph (e).

■ d. Redesignating paragraph (f) as paragraph (g).

■ e. Adding a new paragraph (f).

The revisions and addition read as follows:

§ 62.34 Other supportive services.

* * * * *

(a) * * *

(1) A participant may receive rental assistance for a maximum of 10 months during a 3-year period (consecutive or nonconsecutive), such period beginning on the date that the grantee first pays rent on behalf of the participant; however, a participant cannot receive rental assistance for more than 6 months in any 12-month period beginning on the date that the grantee first pays rent on behalf of the participant. For extremely low-income veteran families, payments for rent cannot exceed 9 months in any 12-month period and 12 months during a 3-year period, such period beginning on the date that the grantee first pays rent on behalf of the participant. The rental assistance may be for rental payments that are currently due or are in arrears, and for the payment of penalties or fees incurred by a participant and required to be paid by the participant under an existing lease or court order. In all instances, rental assistance may only be provided if the payment of such rental assistance will directly allow the participant to remain in permanent housing or obtain permanent housing.

* * * * *

(b) * * *

(1) A participant may receive payments for utilities for a maximum of 10 months during a 3-year period, such period beginning on the date that the grantee first pays utility fees on behalf of the participant; provided, however, that a participant cannot receive payments for utilities for more than 6 months in any 12-month period beginning on the date that the grantee first pays a utility payment on behalf of the participant. For extremely low-income veteran families, payments for utilities cannot exceed 9 months in any 12-month period and 12 months during a 3-year period, such periods beginning on the date that the grantee first pays a utility payment on behalf of the participant. The payment for utilities may be for utility payments that are currently due or are in arrears, provided that the payment of such utilities will allow the participant to remain in permanent housing or obtain permanent housing.

* * * * *

(e) *General housing stability assistance.* (1) A grantee may provide to a participant items necessary for a participant's life or safety on a temporary basis, in order to address a participant's emergency situation.

(2) A grantee may pay directly to a third party (and not to a participant), in an amount not to exceed $1500 per participant during any 3-year period, beginning on the date that the grantee first submits a payment to a third party, the following types of expenses:

(i) Expenses associated with gaining or keeping employment, such as obtaining uniforms, tools, certifications, and licenses.

(ii) Expenses associated with moving into permanent housing, such as obtaining basic kitchen utensils, bedding, and other supplies.

(iii) Expenses necessary for securing appropriate permanent housing, such as fees for housing applications, housing inspections, or background checks.

(f) *Emergency housing assistance.* If permanent housing, appropriate shelter beds and transitional housing are not available and subsequent rental housing has been identified but is not immediately available for move-in by the participant, then a grantee may place a participant in emergency housing, subject to the following limitations:

(1) Placement for a single veteran may not exceed 72 hours.

(2) Placement for a veteran and his or her spouse with dependent(s) may not exceed 30 days.

(3) A participant may be placed in emergency housing only once during any 3-year period, beginning on the date that the grantee first pays for emergency housing on behalf of the participant.

(4) Permanent housing will be available before the end of the period during which the participant is placed in emergency housing.

(5) The cost of the emergency housing must be reasonable in relation to the costs charged for other available emergency housing considering the location, quality, size, and type of the emergency housing.

* * * * *

■ 9. Amend § 62.35 by:

■ a. Revising paragraph (a).

■ b. In paragraph (b), remove ''§ 62.11(a)(3)'' and add, in its place, ''§ 62.11(c)'' in all places it occurs.

The revision reads as follows:

§ 62.35 Limitations on and continuations of the provision of supportive services to certain participants.

(a) *Extremely low-income veteran families.* A participant classified as an extremely low-income veteran family will retain that designation as long as the participant continues to meet all other eligibility requirements.

* * * * *

■ 10. Amend § 62.36 by:

■ a. Revising paragraph (a).

■ b. Adding a new paragraph (f).

■ c. Adding a parenthetical at the end of the section.

The revision and additions read as follows:

§ 62.36 General operation requirements.

(a) *Eligibility documentation.* Prior to providing supportive services, grantees must verify and document each participant's eligibility for supportive services and classify the participant under one of the categories set forth in § 62.11. Grantees must recertify the participant's eligibility as a very low-income veteran family at least once every 3 months.

* * * * *

(f) *Habitability standards.* (1) Grantees using supportive services grant funds to provide rental assistance, payments of utilities fees, security deposits, or utilities deposits, as set forth under § 62.34, on behalf of a participant moving into a new (different) housing unit will be required to conduct initial and any appropriate follow-up inspections of the housing unit into which the participant will be moving. Such inspections shall ensure that the housing unit meets the conditions set forth in 24 CFR 583.300(b) and do not require the use of a certified inspector. Inspections should occur no later than three (3) working days after the housing unit has been identified to the SSVF grantee, unless the Alternative Inspection Method is used to meet the requirements of this paragraph.

(2) *Alternative Inspection Method.* An inspection of a property will be valid for purposes of this paragraph if:

(i) The inspection was conducted pursuant to the requirements of a Federal, State, or local housing program (including, but not limited to, the Home investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act or the low-income housing tax credit program under section 42 of the Internal Revenue Code of 1986);

(ii) If the inspection was not conducted pursuant to the requirements of a Federal housing program, the public housing agency has certified to the Secretary that such standard or requirement provides the same (or greater) protection to occupants of inspected dwelling units;

(iii) Pursuant to the inspection, the property was determined to meet the requirements regarding housing quality or safety applicable to properties assisted under such program; and

(iv) The inspection was conducted within the past 2 years.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–0757.)

■ 11. Add § 62.38 to read as follows:

§ 62.38 Ineligible activities.

Notwithstanding any other section in this part, grantees are not authorized to use supportive services grant funds to pay for the following:

(a) Mortgage costs or costs needed by homeowners to assist with any fees, taxes, or other costs of refinancing.

(b) Construction or rehabilitation of buildings.

(c) Home care and home health aides typically used to provide care in support of daily living activities. This includes care that is focused on treatment for an injury or illness, rehabilitation, or other assistance generally required to assist those with handicaps or other physical limitations.

(d) Credit card bills or other consumer debt.

(e) Medical or dental care and medicines.

(f) Direct cash assistance to participants.

(g) Court-ordered judgments or fines.

(h) Pet care.

(i) Entertainment activities.

(Authority: 38 U.S.C. 501, 2044)

■ 12. Amend § 62.60 by adding a parenthetical at the end of the section to read as follows:

§ 62.60 Program or budget changes and corrective action plans.

* * * * *

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–0757.)

[FR Doc. 2014–10251 Filed 5–8–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA–HQ–OPPT–2012–0018; FRL–9910–75]

RIN 2070–AJ92

Formaldehyde Emission Standards for Composite Wood Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 10, 2013, EPA published a notice of proposed rulemaking in the **Federal Register** entitled ''Formaldehyde Emissions Standards for Composite Wood Products.'' On April 8, 2014, EPA published a notice in the **Federal Register** announcing a public meeting and reopening the comment period for

30 days for comments related to the treatment of laminated products under the proposed rule. Based on requests from the public, EPA extended the public comment period. On May 6, 2014, EPA posted a memorandum in the docket for this proposed rule. That memorandum ensured that the docket would remain open until the announcement of the extension of the public comment period, which was set to end on May 8, 2014, could be published in the **Federal Register**. On May 6, 2014, an Agency-compiled list of stakeholders was notified of the extension of the comment period via email. This document announces the extension of the comment period until May 26, 2014.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0018, must be received on or before May 26, 2014.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of June 10, 2013 (78 FR 34820) (FRL–9342–3).

FOR FURTHER INFORMATION CONTACT: Sara Kemme, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–0511; email address: *Kemme.Sara@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: This document formally announces the extension of the public comment period established in the **Federal Register** of April 8, 2014 (79 FR 19306) (FRL–9909–05). In that document, EPA announced a public meeting on April 28, 2014, and reopened the comment period for the June 10, 2013 **Federal Register** document for 30 days to allow additional comments to be submitted by the public and interested stakeholders specifically on the issue of laminated products. On May 6, 2014, EPA posted a memorandum in the docket for this proposed rule. That memorandum ensured that the docket would remain open until the announcement of the extension of the public comment period, which was set to end on May 8, 2014, could be published in the **Federal Register**. On May 6, 2014, an Agency-compiled list of stakeholders was notified of the extension of the comment period via email. On May 12, 2014, the Agency placed a transcript of the public meeting in the docket for this proposed rule. This document announces the extension of the comment period until May 26, 2014.

To submit comments, or access the docket, please follow the detailed instructions as provided under **ADDRESSES** in the June 10, 2013 **Federal Register** document. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 40 CFR Part 770

Environmental protection, Formaldehyde, Reporting and recordkeeping requirements, Toxic substances, Wood.

Dated: May 6, 2014.

Louise P. Wise,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2014–10809 Filed 5–7–14; 4:15 pm]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Nos. FWS–R4–ES–2013–0100; FWS–R4–ES–2013–0030; 4500030113]

RIN 1018–AY72; 1018–AZ55

Endangered and Threatened Wildlife and Plants; Threatened Species Status and Designation of Critical Habitat for Arabis georgiana (Georgia Rockcress)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; reopening of comment periods.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the September 12, 2013, proposed rule to list *Arabis georgiana* (Georgia rockcress) as a threatened species under the Endangered Species Act of 1973, as amended (Act); the reopening of the public comment period on the September 12, 2013, proposed rule to designate critical habitat for *A. georgiana;* the amended required determinations section of the proposed rule to designate critical habitat; and the availability of a draft economic analysis (DEA) for the proposed designation of critical habitat. We are reopening both proposed rules' comment periods to allow all interested parties an opportunity to comment simultaneously on the proposed rules, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rules.

DATES: *Written comments:* We will consider comments received or postmarked on or before June 9, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public informational session and public hearing: We will hold a public informational session and public hearing on the proposed rules in Columbus, Georgia on May 28, 2014, from 7 p.m. to 9 p.m.

ADDRESSES: *Document availability:* For the proposed listing, you may obtain copies of the proposed rule and associated documents on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0100. For the proposed critical habitat designation, you may obtain copies of the proposed rule, associated documents, and the draft economic analysis on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0030. You may also obtain copies of these materials by mail from the Ecological Services Office in Athens, Georgia (see **FOR FURTHER INFORMATION CONTACT**).

Written comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. Submit comments on the proposed listing by searching for Docket No. FWS–R4–ES–2013–0100 or on the proposed critical habitat designation and its associated draft economic analysis by searching for Docket No. FWS–R4–ES–2013–0030.

(2) *By hard copy:* Submit comments on the proposed listing by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0100; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203. Submit comments on the proposed critical habitat designation and its associated draft economic analysis by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0030; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal

information you provide us (see the Public Comments section, below, for more information).

Public informational session and public hearing: A public informational session and public hearing will be held in the Magnolia Room at Columbus State University, 4225 University Avenue, Columbus, GA 31907. People needing reasonable accommodations to attend and participate in this public hearing should contact Robin Goodloe as soon as possible (see **FOR FURTHER INFORMATION CONTACT,** below).

FOR FURTHER INFORMATION CONTACT: Robin Goodloe, Assistant Field Supervisor, U.S. Fish and Wildlife Service, 105 Westpark Drive, Suite D, Athens, GA 30606; telephone 706–613–9493; facsimile 706–613–6059. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our September 12, 2013, proposed rule to list *Arabis georgiana* as a threatened species (78 FR 56192); our September 12, 2013, proposed rule to designate critical habitat for *A. georgiana* (78 FR 56506); our DEA of the proposed critical habitat designation; and the amended required determinations provided in this document for the proposed rule to designate critical habitat. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) Georgia rockcress's biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for growth and reproduction;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors affecting its continued existence.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, of this species, including the locations of any additional populations of this species.

(5) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(6) Specific information on:

(a) The distribution of *Arabis georgiana;*

(b) The amount and distribution of *A. georgiana* habitat;

(c) What areas occupied by the species at the time of listing that contain features essential for the conservation of the species we should include in the designation and why; and

(d) What areas not occupied at the time of listing are essential to the conservation of the species and why.

(7) Land use designations and current or planned activities in the subject areas and their probable impacts on proposed critical habitat.

(8) Information on the projected and reasonably likely impacts of climate change on *Arabis georgiana* and proposed critical habitat.

(9) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, we seek information on the benefits of including or excluding areas that exhibit these impacts.

(10) Information on the extent to which the description of economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts.

(11) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the associated documents of the draft economic analysis, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(12) Whether any areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(13) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the proposed rules (78 FR 56192 or 78 FR 56506) during the initial comment period from September 12, 2013, to November 12, 2013, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determinations. Our final determinations will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final critical habitat determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed rules or DEA by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

For the proposed listing, you may obtain copies of the proposed rule and associated documents (including comments and materials we receive and supporting documentation we used in preparing the proposed rule) on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0100. For the proposed critical habitat designation, you may obtain copies of the proposed rule, associated documents (including comments and materials we receive and supporting documentation we used in preparing the proposed rule), and the draft economic analysis on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0030. You may also obtain copies of these materials by mail from the Ecological Services Office in

Athens, Georgia (see **FOR FURTHER INFORMATION CONTACT**).

Background

It is our intent to discuss only those topics directly relevant to the listing or designation of critical habitat for *Arabis georgiana* in this document. On September 12, 2013, we published a proposed rule to list *A. georgiana* as threatened under the Act (78 FR 56192). In the proposed rule, we determined that the most serious threats to the species are habitat degradation and the subsequent invasion of exotic species. Specifically, disturbance associated with timber harvesting, road building, and grazing has created favorable conditions for the invasion of exotic weeds, especially Japanese honeysuckle (*Lonicera japonica*), in this species' habitat. These threaten the species throughout its range.

On September 12, 2013, we published a proposed rule to designate critical habitat for the *Arabis georgiana* (78 FR 56506). In total, we proposed 323 hectares (ha) (786 acres (ac)). The proposed critical habitat is located in Georgia including parts of Gordon, Floyd, Harris, Muscogee, Chattahoochee, and Clay Counties; and in Alabama, including parts of Bibb, Dallas, Elmore, Monroe, Russell, Sumter, and Wilcox Counties. Under Corrections to Proposed Critical Habitat Designation for *Arabis georgiana,* below, we correct the acreage numbers provided in our September 12, 2013, proposed critical habitat designation.

Both proposed rules had a 60-day comment period, ending November 12, 2013. We intend to publish in the **Federal Register** final determinations concerning listing *Arabis georgiana* and designating critical habitat for the species on or before September 12, 2014.

For more information on previous Federal actions concerning *Arabis georgiana* or its habitat, refer to the proposed listing rule published in the **Federal Register** on September 12, 2013 (78 FR 56192), which is available online at *http://www.regulations.gov* (at Docket No. FWS–R4–ES–2013–0100) or from the office listed under **FOR FURTHER INFORMATION CONTACT,** above.

Critical Habitat

The remainder of this document addresses our proposed critical habitat designation for *Arabis georgiana.*

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed critical habitat designation is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area we consider, among other factors, the additional regulatory benefits that an area would receive through the analysis under section 7 of the Act addressing the destruction or adverse modification of critical habitat as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of identifying areas containing essential features that aid in the recovery of the listed species, and any ancillary benefits triggered by existing local, State or Federal laws as a result of the critical habitat designation.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to incentivize or result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of *Arabis georgiana,* the benefits of critical habitat include public awareness of the presence of *A. georgiana* and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for *A. georgiana* due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken or authorized by Federal agencies.

We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis concerning the proposed critical habitat designation (DEA), which is available for review and comment (see **ADDRESSES**).

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (e.g., under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (i.e., conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and

beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct an optional 4(b)(2) exclusion analysis.

For this designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the *Arabis georgiana* (U.S. Fish and Wildlife Service 2013). The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (i.e., absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular areas of critical habitat that are already subject to such protections and are therefore, unlikely to incur incremental economic impacts. The screening analysis also assesses whether units are unoccupied by the species and may require additional management or conservation efforts as a result of the critical habitat designation and may incur incremental economic impacts. This screening analysis, combined with the information contained in our IEM, is our draft economic analysis of the proposed critical habitat designation for the *Arabis georgiana* and is summarized in the narrative below.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. We assess, to the extent practicable and if sufficient data are available, the probable impacts to both directly and indirectly impacted entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our IEM dated December 4, 2013, first we identified probable incremental economic impacts associated with the following categories of activities: (1) Transportation; (2) water quantity/supply; (3) conservation/restoration; (4) forest management; (5) hydropower; (6) mining; (7) in-water construction; and (8) utilities (U.S. Fish and Wildlife Service, 2013). We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where *Arabis georgiana* is present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize the proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our IEM, we attempted to distinguish between the effects that will result from the species being listed and those attributable to the critical habitat designation (i.e., difference between the jeopardy and adverse modification standards) for *Arabis georgiana*'s critical habitat. Because the designation of critical habitat for *A. georgiana* was proposed concurrently with the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical and biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to *A. georgiana* would also likely adversely affect the essential physical and biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species.

Based on the available information, we anticipate fewer than five consultations per year in occupied units, with costs of administrative efforts ranging from approximately $400 to $9,000 per consultation (2014 dollars, total cost for all parties participating in a single consultation). Applying these unit cost estimates, this analysis conservatively estimates that the administrative cost of considering adverse modification in section 7 consultation will result in incremental costs of up to $45,000 (2014 dollars) in a given year.

Corrections to Proposed Critical Habitat Designation for *Arabis georgiana*

In the proposed rule, Unit 7A was described as 12 hectares (ha) (29 acres) in size, and Unit 9B was described as 13 ha (21 acres) in size. Unit 7A was incorrect due to a minor error in the analysis (within the Geographical Information System), and Unit 9B was a typographical error. The correct numbers are 11 ha (26 ac) for Unit 7A, and 13 ha (31 ac) for Unit 9B with a total area of critical habitat of 322 ha (793 ac), these values have been corrected in the table and information provided below.

In total, we are proposing 18 critical habitat units encompassing approximately 322 hectares (ha) (793 acres (ac)). The proposed critical habitat is located in Georgia including parts of Gordon, Floyd, Harris, Muscogee, Chattahoochee, and Clay Counties; and in Alabama, including parts of Bibb, Dallas, Elmore, Monroe, Russell, Sumter, and Wilcox Counties. Unit name, location, and the approximate area of each proposed critical habitat unit, as corrected here, are shown in Table 1.

TABLE 1—PROPOSED CRITICAL HABITAT UNITS FOR GEORGIA ROCKCRESS

[Area estimates reflect all land within critical habitat unit boundaries]

Unit No.	Unit name	County/state	Ownership	Hectares	Acres
1	Fort Tombecbee	Sumter/AL	State	6	14
2	Marshalls Bluff	Monroe/AL	Private	11	27
3	Prairie Bluff	Wilcox/AL	Private	13	32

TABLE 1—PROPOSED CRITICAL HABITAT UNITS FOR GEORGIA ROCKCRESS—Continued

[Area estimates reflect all land within critical habitat unit boundaries]

Unit No.	Unit name	County/state	Ownership	Hectares	Acres
4	Portland Landing River Slopes	Dallas/AL	Private	12	31
5	Durant Bend	Dallas/AL	Private	12	28
6	Murphys Bluff Bridge Cahaba River	Bibb/AL	Private	11	26
7A	Creekside Glades	Bibb/AL	Private	11	26
7B	Little Schulz Creek	Bibb/AL	Private	12	28
8A	Cottingham Creek Bluff	Bibb/AL	Private	22	55
8B	Pratts Ferry	Bibb/AL	Private	11	28
9A	Fern Glade	Bibb/AL	Federal	14	34
9B	Sixmile Creek	Bibb/AL	Private	13	31
10A	Browns Dam Glade North	Bibb/AL	Private	14	35
10B	Browns Dam Glade South	Bibb/AL	Private	15	37
11	McGuire Ford √ Limestone Park	Bibb/AL	Private	6	15
12	Fort Toulouse State Park	Elmore/AL	State	7	17
13	Fort Gaines Bluff	Clay/GA	Private	17	42
14A	Fort Benning (GA)	Chattahoochee/GA	Federal	14	35
14B	Fort Benning (AL)	Russell/AL	Federal	11	26
15A	Goat Rock North	Harris/GA	Private	7	19
15B	Goat Rock South	Harris, Muscogee/GA	Private	24	59
16	Blacks Bluff Preserve	Floyd/GA	Private	37	92
17	Whitmore Bluff	Floyd/GA	Private	17	43
18	Resaca Bluffs	Gordon/GA	Private	5	13
Total				322	793

Note: Area sizes may not sum due to rounding.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of the critical habitat proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Required Determinations—Amended

In our September 12, 2013, proposed rule (78 FR 56506), we indicated that we would defer our determination of compliance with certain statutes and executive orders until we had evaluated the probable effects on landowners and stakeholders and the resulting probable economic impacts of the designation. Following our evaluation of the probable incremental economic impacts resulting from the designation of critical habitat for *Arabis georgiana,* we have amended or affirmed our determinations below. Specifically, we affirm the information in our proposed rule concerning Executive Orders (E.O.s) 12866 and 13563 (Regulatory Planning and Review), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on our evaluation of the probable incremental economic impacts of the proposed designation of critical habitat for the *A. georgiana,* we are amending our required determination concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and E.O. 12630 (Takings).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential

incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the agency is not likely to adversely modify critical habitat. Therefore, under these circumstances only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Under these circumstances, it is our position that only Federal action agencies will be directly regulated by this designation. Federal agencies are not small entities, and to this end, there is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

E.O. 12630 (Takings)

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for *Arabis georgiana* in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding or assistance, or that require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The economic analysis found that no significant economic impacts are likely to result from the designation of critical habitat for *A. georgiana.* Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the economic analysis assessment and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that the designation of critical habitat for *A. georgiana* does not pose significant takings implications for lands within or affected by the designation.

Authors

The primary authors of this notice are the staff members of the Athens, Georgia, Ecological Services Office, Southeast Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 25, 2014.

Michael Bean,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–10399 Filed 5–8–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Nos. FWS–R8–ES–2013–0072 and FWS–R8–ES–2013–0042; 4500030113]

RIN 1018–AY10; RIN 1018–AZ70

Endangered and Threatened Wildlife and Plants; Threatened Status for the Bi-State Distinct Population Segment of Greater Sage-Grouse With Special Rule and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; notice of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the locations and dates of public hearings to receive public comments on the October 28, 2013, proposed listing, critical habitat designation, and special rule for the bi-State distinct population segment (DPS) of greater sage-grouse (*Centrocercus urophasianus*).

DATES: We will hold two public hearings on these proposed rules. The first will be in Minden, Nevada, on May 28, 2014, from 6:00 to 9:00 p.m. (Pacific Time), and the second will be in Bishop, California, on May 29, 2014, from 6:00 to 9:00 p.m. (Pacific Time) (see **ADDRESSES**).

ADDRESSES:

Document availability: You may obtain copies of the proposed rules on the Internet at *http://www.regulations.gov* at Docket No. FWS Docket No. lations.govulations.go with special rule) and Docket No. FWSDocket No. lations.govulations.go with special rule) and Docket No.me) (see listing, critical habitatent of Greater Sage-Grouse entura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public hearing: The May 28, 2014, public hearing will be held at Carson Valley Inn, Valley Ballroom, 1627 U.S. Highway 395 North, Minden, Nevada 89423. The May 29, 2014, public hearing will be held at the Tri-County Fairgrounds, Home Economics Building, Sierra Street and Fair Drive, Bishop, CA 93514. People needing reasonable accommodations in order to attend and participate in either public hearing should contact Edward D. Koch, State Supervisor, Nevada Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: For information on the proposed listing rule, proposed special rule, and proposed critical habitat designation, contact Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 2013, we published a proposed rule to list the bi-State DPS of greater sage-grouse in California and Nevada as a threatened species under the Endangered Species Act of 1973, as amended (Act) (78 FR 64358), with a special rule under section 4(d) of the Act. We concurrently published a proposed rule to designate critical habitat (78 FR 64328). For a description of previous Federal actions concerning the bi-State DPS, please refer to the October 28, 2013, proposed rules. Both proposed rules opened a 60-day comment period scheduled to end December 27, 2013; however, we

received requests to extend the public comment periods on the proposed rules. In response to those requests, we announced on December 20, 2013, an extension of the comment periods for an additional 45 days (78 FR 77087) to February 10, 2014, to allow additional comment. On April 8, 2014 we announced the reopening of another comment period for 60 days (79 FR 19314) to June 9, 2014; that document also announced a 6-month extension for a final determination on the proposed listing rule to occur no later than April 28, 2015.

We are holding public hearings to provide interested parties an opportunity to present verbal testimony (formal, oral comments) or written comments regarding the proposals. A public hearing is a forum for accepting formal verbal testimony. Anyone wishing to testify verbally at the public hearings for the record is encouraged to also provide a written copy of their statement to us at the hearings. In the event of a large attendance, the time allotted for verbal testimony may be limited. Speakers can sign up at the hearings if they desire to make a verbal statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us.

Persons with disabilities needing reasonable accommodations to participate in either public hearing should contact the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). Reasonable accommodation requests should be received at least 3 business days prior to the hearing to help ensure that we can meet the requested assistance.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 1, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–10640 Filed 5–8–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140403309–4309–01]

RIN 0648–BE16

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2014

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes management measures for the 2014 summer flounder, scup, and black sea bass recreational fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Comments must be received by 5 p.m. local time, on May 27, 2014.

ADDRESSES: You may submit comments on this document, identified NOAA–NMFS–2014–0047, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0047,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail and Hand Delivery:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on 2014 FSB Recreational Measures.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the Supplemental Environmental Assessment and Initial Regulatory Flexibility Analysis (SEA/IRFA) and other supporting documents for the recreational harvest measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The recreational harvest measures document is also accessible via the Internet at: *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35 E. 13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, North Carolina) northward to the U.S./Canada border.

The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMP appear at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass). General regulations governing fisheries of the Northeastern U.S. also appear at 50 CFR part 648. States manage these three species within 3 nautical miles (4.83 km) of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The applicable species-specific Federal regulations govern vessels and individual fishermen fishing in Federal waters of the exclusive economic zone (EEZ), as well as vessels possessing a summer flounder, scup, or

black sea bass Federal charter/party vessel permit, regardless of where they fish.

Recreational Management Measures Background

The Council process for devising recreational management measures to recommend to NMFS for rulemaking is generically described in the following section. All meetings are open to the public and the materials utilized during such meetings, as well as any documents created to summarize the meeting results, are public information and typically posted on the Council's Web site (*www.mafmc.org*) or are available from the Council by request. Extensive background on the 2014 recreational management measures recommendation process is therefore not repeated in this preamble.

The FMP established monitoring committees for the three fisheries, consisting of representatives from the Commission, the Council, state marine fishery agency representatives from Massachusetts to North Carolina, and NMFS. The FMP's implementing regulations require the monitoring committees to review scientific and other relevant information annually and to recommend management measures necessary to constrain landings within the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The FMP limits the choices for the types of measures to minimum fish size, possession limit, and fishing season.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board then consider the monitoring committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for each species in the FMP and all applicable laws and Executive Orders before ultimately implementing measures for Federal waters.

In this rule, NMFS proposes management measures for the 2014 summer flounder, scup, and black sea bass recreational fisheries. All minimum fish sizes discussed hereafter are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

Proposed 2014 Recreational Management Measures

NMFS is proposing the following measures that would apply in the Federal waters of the EEZ and to all federally permitted party/charter vessels with applicable summer flounder, scup, or black sea bass permits regardless of where they fish for the 2014 recreational summer flounder, scup, and black sea bass fisheries. For summer flounder, use of state-by-state or regional conservation equivalency measures, which are the status quo measures; for scup, a 9-inch (25.4-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31; and, for black sea bass, a 12.5-inch (31.8-cm) minimum fish size, a 15-fish per person possession limit for open seasons of May 19 through September 18 and October 18 through December 31. NMFS may implement more restrictive black sea bass measures, as recommended by the Council (i.e., a 12.5-inch (31.8-cm) minimum fish size, a 5-fish per person possession limit, and an open season of June 1-September 5), for Federal waters if the Commission is unable to develop and implement state-waters measures that, when paired with the Council's recommended measures, provide the necessary conservation to ensure the 2014 recreational harvest limit will not be exceeded. More detail on these proposed measures is provided in the following sections.

Summer Flounder Recreational Management Measures

NMFS proposes to implement the use of conservation equivalency to manage the 2014 summer flounder recreational fishery. The 2014 recreational harvest limit for summer flounder is proposed to be 7.01 million lb (3,179 mt), as published in the proposed rule to implement an adjustment to the 2014 summer flounder specifications based on an updated stock assessment. (March 31, 2014; 79 FR 17995). Projected landings for 2013 are approximately 7.11 million lb (3,225 mt), which is above the proposed recreational harvest limit for 2014. As a result, the 2014 recreational landings must be reduced relative to 2013 to prevent the recreational harvest limit from being exceeded. The Council and Commission have recommended the use of conservation equivalency to manage the 2014 summer flounder recreational fishery.

NMFS implemented Framework Adjustment 2 to the FMP on July 29, 2001 (66 FR 36208), to permit the use of conservation equivalency to manage the recreational summer flounder fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit partitioned by the Commission from the coastwide recreational harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures. Framework Adjustment 6 (July 26, 2006; 71 FR 42315) allowed states to form regions for conservation equivalency in order to minimize differences in regulations for individuals fishing in adjacent waters.

The Council and Board annually recommend that either state- or region-specific recreational measures be developed (conservation equivalency) or coastwide management measures be implemented to ensure that the recreational harvest limit will not be exceeded. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of coastwide measures that would apply if conservation equivalency is not approved for use in Federal waters.

When conservation equivalency is recommended, and following confirmation that the proposed state or regional measures developed through the Commission's technical and policy review processes achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires Federal permit holders to comply with the more restrictive management measures when state and Federal measures differ. In such a situation, federally permitted summer flounder charter/party permit holders and individuals fishing for summer flounder in the EEZ would then be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures.

In addition, the Council and the Board must recommend precautionary default measures when recommending conservation equivalency. The Commission would require adoption of the precautionary default measures by any state that either does not submit a summer flounder management proposal to the Commission's Summer Flounder Technical Committee, or that submits measures that would exceed the

Commission-specified harvest limit for that state.

Much of the conservation equivalency measures development process happens at both the Commission and individual state level. The selection of appropriate data and analytic techniques for technical review of potential state conservation equivalent measures and the process by which the Commission evaluates and recommends proposed conservation equivalent measures is wholly a function of the Commission and its individual member states. Individuals seeking information regarding the process to develop specific state measure or the Commission process for technical evaluation of proposed measures should contact the marine fisheries agency in the state of interest, the Commission, or both.

The Commission has implemented an addendum to its Summer Flounder FMP to implement regional conservation equivalency for fishing year 2014. The Commission adopted the following regions: (1) Massachusetts; (2) Rhode Island; (3) Connecticut, New York, and New Jersey; (4) Delaware, Maryland, and Virginia; and (5) North Carolina. These regions are intended to minimize differences in regulations for anglers fishing in the same waters, while allowing for differences in fish size and availability for each state, and to address New York's long-standing concerns regarding the equity of the 1998 state allocations. Each state within a region is required by the Council and Commission FMPs to have identical measures. In order to provide the maximum amount of flexibility and to continue to adequately address the state-by-state differences in fish availability, each state in a region is required to establish fishing seasons of the same length, identical minimum fish sizes, and identical possession limits. The Commission will need to certify that these measures, in combination, are the conservation equivalent of coastwide measures that would be expected to result in the recreational harvest limit being achieved, but not exceeded. More information on this addendum is available from the Commission (*www.asmfc.org*).

Once the regions select their final 2014 summer flounder management measures through their respective development, analytical, and review processes and submit them to the Commission, the Commission will conduct further review and evaluation of the submitted proposals, ultimately notifying NMFS as to which proposals have been approved or disapproved. NMFS has no overarching authority in the development of state or Commission management measures, but is an equal participant along with all the member states in the review process. NMFS retains the final authority either to approve or to disapprove the use of conservation equivalency in place of the coastwide measures in Federal waters, and will publish its determination as a final rule in the **Federal Register** to establish the 2014 recreational measures for these fisheries.

States that do not submit conservation equivalency proposals, or whose proposals are disapproved by the Commission, will be required by the Commission to adopt the precautionary default measures. In the case of states that are initially assigned precautionary default measures, but subsequently receive Commission approval of revised state measures, NMFS will publish a notice in the **Federal Register** announcing a waiver of the permit condition at § 648.4(b).

The 2014 precautionary default measures recommended by the Council and Board are for a 20.0-inch (50.8-cm) minimum fish size, a possession limit of two fish, and an open season of May 1 through September 30, 2014.

In this action, NMFS proposes to implement conservation equivalency with a precautionary default backstop, as previously outlined, for states that either fail to submit conservation equivalent measures or whose measures are not approved by the Commission. NMFS proposes the alternative of coastwide measures (18-inch (45.7-cm) minimum size, 4-fish possession limit, May 1–September 30 open fishing season), if conservation equivalency is not approved in the final rule. The coastwide measures would be waived if conservation equivalency is approved in the final rule.

Scup Recreational Management Measures

NMFS is proposing to implement the Council and Commission's recommended scup recreational management measures for 2014 in Federal waters. The 2014 scup recreational harvest limit is 7.03 million lb (3,188 mt), as published in the final rule (December 31, 2012; 77 FR 76942). Estimated 2013 scup recreational landings are 5.36 million lb (2,431 mt), well below the 2014 recreational harvest limit, therefore, no reduction in landings is needed. The Council and Commission's recommended measures for the 2014 scup recreational fishery are for a 9-in (22.9-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31. These measures are intended to promote an increase in recreational scup fishing in order to achieve the recreational harvest limit.

Black Sea Bass Recreational Management Measures

NMFS is proposing to implement the Council's recommended recreational management measures to reduce landings for black sea bass. The proposed 2014 black sea bass recreational harvest limit is 2.26 million lb (1,025 mt). The 2013 black sea bass recreational landings limit was the same, and the projected landings at the time that the Council and Board met to recommend 2014 measures were 2.46 million lb (1,115 mt). This would require a 7-percent reduction in 2014 landings relative to 2013. More recent data indicate that the 2013 recreational black sea bass landings were approximately 2.33 million lb (1,058 mt), or 3.2 percent over the 2013 and 2014 recreational harvest limits.

In 2012, recreational black sea bass catch exceeded the 2012 annual catch limit of 2.52 million lb (1,143 mt) by 129 percent, with total catch estimates approximately 5.78 million lb (2,620 mt). As a result, the recently implemented recreational accountability measure needs to be addressed for the 2014 fishing year. The Council's recreational accountability measure system requires, for stocks in a healthy condition such as black sea bass, that the Council take into account the overage and the performance of the management measures when setting a subsequent year's management measures. The Council contends that utilizing the process that they have always used (i.e., comparing last year's landings to this year's harvest limit) is in compliance with the accountability measure.

However, NMFS disagrees with the Council's interpretation. The recreational accountability measures were revised last year in response to a pending pound-for-pound payback that would have otherwise been implemented for this year. In the Omnibus Recreational Accountability Measures Amendment (December 19, 2013; 78 FR 76759), the accountability measure was described as resulting in the Council doing something different than what had previously been done if triggered. That is, the accountability measure requires that the Council take the overage and the poor performance of the management measures ''into account.'' This may result in the subsequent year's management measures being ''less liberal, or more restrictive than otherwise would have been, had the overage not occurred.''

This could also mean that the process by which the management measures are set (updated data, more precise estimates of catch per angler per day, etc.) has been improved upon as a result of the poor performance of the management measures, or other decisions or improvements that allow the Council to make a more informed decision and implement management measures with more confidence in their performance. The Council has not sufficiently demonstrated how the ''performance review'' included the overage from 2012 when setting the 2014 management measures. It appears that the Council's process was the same as it would have been had the overage not occurred and the accountability measure not been triggered.

Nevertheless, because the reduction in recreational black sea bass landings required from 2013 to 2014 may actually be only 3.2 percent based on more recent estimates, NMFS has preliminarily determined that the Council's proposed measures would comply with the accountability measures. Given the magnitude of the 2012 overage and the additional overage in 2013, a 7-percent reduction has a higher likelihood of preventing the recreational harvest limit from being exceeded again.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), which is included in the Supplemental EA and supplemented by information contained in the preamble to this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the **SUMMARY** of this proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the Council (see **ADDRESSES**).

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed recreational management measures could affect any recreational angler who fishes for summer flounder, scup, or black sea bass in the EEZ or on a party/charter vessel issued a Federal permit for summer flounder, scup, and/or black sea bass. However, the only regulated entities affected by this action are party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass, and so the IRFA focuses upon the expected impacts on this segment of the affected public. These vessels are all considered small entities for the purposes of the RFA, i.e., businesses in the recreational fishery with gross revenues of up to $7.0 million. These small entities can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or state waters. Although fishing opportunities by individual recreational anglers may be impacted by this action, they are not considered small entities under the RFA.

The Council estimated that the proposed measures could affect any of the 777 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2012, the most recent year for which complete permit data are available. However, only 346 vessels reported active participation in the 2012 recreational summer flounder, scup, and/or black sea bass fisheries. Further, it was determined, based on improved ownership information, that there were 326 unique fishing business entities. The vast majority of these fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. The highest percentage of annual gross revenues though for all 326 fishing businesses was from for-hire fishing. In other words, the revenue from for-hire fishing was greater than the revenue from shellfishing and the revenue from finfish fishing for all 326 business entities. Therefore, all of the affected business entities are classified as for-hire business entities in this analysis.

According to the SBA size standards small for-hire fishing businesses are defined as firms with annual receipts of up to $7 million. Average annual gross revenue estimates calculated from the most recent 3 years (2010–2012) indicate that none of the 326 business entities earned more than $2.4 million from all of their fishing activities (for-hire, shellfish, and finfish). Therefore, all of the affected business entities are considered ''small'' by the SBA size standards; thus, this action will not disproportionately affect small versus large entities.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

The IRFA identified three alternatives in this action: The no-action alternative; the status quo alternative; and the preferred alternative. The no-action alternative (i.e., maintenance of the regulations as codified) is: (1) For summer flounder, coastwide measures of a 18-inch (45.7-cm) minimum fish size, a 4-fish possession limit, and an open season from May 1 through September 30; (2) for scup, a 10-inch (25.4-cm) minimum fish size, a 30-fish possession limit, and an open season of January 1 through December 31; and (3) for black sea bass, a 12.5-inch (31.8-cm) minimum size, a 20-fish possession limit for open seasons of May 19 through October 14 and November 1 through December 31. The status quo alternative is: (1) For summer flounder, conservation equivalency, with precautionary default measures of a 20-inch (50.8-cm) minimum fish size, a 2-fish possession limit, and an open season of May 1 through September 30; and (2) for scup and black sea bass, the same as the no action alternative. The proposed alternative is: (1) For summer flounder, the same as the status quo alternative; (2) for scup, a 9-inch (22.9-cm) minimum fish size, a 30-fish possession limit, and an open season of January 1 through December 31; and (3) for black sea bass, a 12.5-inch (31.8-cm) minimum fish size, and a 15-fish possession limit for open seasons of May 19 through September 18 and October 18 through December 31.

The impacts of the alternatives on small entities (i.e., federally permitted party/charter vessels in each state in the Northeast region) were analyzed, assessing potential changes in gross revenues for all 18 combinations of alternatives proposed. Although NMFS's RFA guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using expected changes in party/charter vessel revenues as a proxy for profitability. This is because reliable cost and revenue information is not available for charter/party vessels at this time. Without reliable cost and revenue data, profits cannot be discriminated

from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed, due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process. Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, qualitative analyses were utilized.

The proposed action is as or only slightly more restrictive than the other alternatives considered, and provides the same or slightly less opportunity for recreational fishing. It is expected that the affected regulated entities will be able to maximize fishery-related revenue under the preferred alternative relative to the non-preferred alternatives, while maintaining long-term fishery health. The preferred alternative for scup would decrease the minimum size, and, thus would provide a slight economic benefit. The preferred alternative for black sea bass is more restrictive than the status quo, but it would constrain recreational landings to the appropriate level and maintain long-term fishery stability. In contrast, the non-preferred alternatives for scup would result in a larger minimum size, and the non-preferred alternatives for black sea bass that would not constrain recreational landings to the appropriate level.

For summer flounder, the preferred alternative for conservation equivalency is expected to maintain fishing opportunities because, under the Commission's plan, almost all states are authorized to maintain increase landings in 2014. The Commission has also proposed an addendum to implement 2014 recreational fishing rules for summer flounder that would result in more consistent regulations for anglers in adjacent states, minimizing confusion and resulting in more equitable fishing opportunities.

NMFS did not consider any alternatives that would provide additional fishing opportunities beyond what was recommended by the Council because any such alternative would increase the risk of the fishery exceeding the recreational harvest limit, which could result in overfishing the stock and/or exceeding the annual catch limit. This would be contrary to the goals and objectives of the Magnuson-Stevens Act.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 6, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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. Section 648.107 is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the states of Maine through North Carolina for 2014 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

(1) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels harvesting summer flounder in or from the EEZ and subject to the recreational fishing measures of this part, landing summer flounder in a state whose fishery management measures are determined by the Regional Administrator to be conservation equivalent shall not be subject to the more restrictive Federal measures, pursuant to the provisions of § 648.4(b). Those vessels shall be subject to the recreational fishing measures implemented by the state in which they land.

(2) [Reserved]

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels registered in states and subject to the recreational fishing measures of this part, whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103(b), and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission shall be subject to the following precautionary default measures: Season—May 1 through September 30; minimum size—20 inches (50.8 cm); and possession limit—two fish.

■ 3. In § 648.126, paragraph (b) is revised to read as follows:

§ 648.126 Scup minimum fish sizes.

* * * * *

(b) *Party/Charter permitted vessels and recreational fishery participants.* The minimum size for scup is 9 inches (22.9 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

* * * * *

■ 4. In § 648.145, paragraph (a) is revised to read as follows:

§ 648.145 Black sea bass possession limit.

(a) During the recreational fishing season specified at § 648.146, no person shall possess more than 15 black sea bass in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit may not retain more than 15 black sea bass during the recreational fishing season specified at § 648.146. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.142.

* * * * *

■ 5. Section 648.146 is revised to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from May 19 through September 18, and October 18 through December 31, unless this time

period is adjusted pursuant to the procedures in § 648.142.

[FR Doc. 2014–10710 Filed 5–8–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140305202–4379–01]

RIN 0648–BE07

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery and Northeast Multispecies Fishery; Framework Adjustment 25

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement regulations for Framework Adjustment 25 to the Atlantic Sea Scallop Fishery Management Plan (Framework 25), which the New England Fishery Management Council adopted and submitted to NMFS for approval. Framework 25 would set specifications for the Atlantic sea scallop fishery for fishing year 2014, including days-at-sea allocations, individual fishing quotas, and sea scallop access area trip allocations. This action would also set precautionary default FY 2015 specifications, in case NMFS implements the next framework after the March 1, 2015, start of fishing year 2015, and the fishery must operate under transitional measures. Framework 25 would allow pounds that went unharvested in Closed Area I Access Area in 2012 and 2013 to be landed in a future year; develop Southern New England/Mid-Atlantic windowpane flounder accountability measures; and provide full-time scallop vessels the option to exchange their allocated Delmarva Access Area trip for 5 days-at-sea.

DATES: Comments must be received by 5 p.m., local time, on May 27, 2014.

ADDRESSES: The Council developed an environmental assessment (EA) for this action that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the Framework, the EA, and the Initial Regulatory Flexibility Analysis (IRFA), are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

You may submit comments on this document, identified by NOAA–NMFS–2014–0048, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0048,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Scallop Framework 25 Proposed Rule.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978–281–9233.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery's management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Scallop Fishery Management Plan (FMP), first established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery's management. The Council sets scallop fishery specifications through framework adjustments that occur annually or biennially. This action includes allocations for fishing year (FY) 2014, as well as other scallop fishery management measures.

The Council adopted Framework 25 on January 29, 2014, and submitted it to NMFS on March 13, 2014, for review and approval. Framework 25 specifies measures for FY 2014, but includes FY 2015 measures that will go into place as a default, should the next specifications-setting framework be delayed beyond the start of FY 2015. NMFS will implement Framework 25, if approved, after the start of FY 2014; FY 2014 default measures have been in place since March 1, 2014. Because the default allocation for the Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) fleet is higher for FY 2014 than what is proposed under Framework 25, payback measures are identified and described below, to address unintended consequences of the late implementation of this action. This action includes some measures that are not explicitly proposed in Framework 25, which we are proposing under the authority of section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the MSA. These measures, which are separately identified and described below, are necessary to address unintended consequences of the projected late implementation of this action, as well as to clarify implied measures which may not have been explicitly included in Framework 25. The Council has reviewed the Framework 25 proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the MSA.

Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), and Set-Asides for FY 2014 and Default Specifications for FY 2015

The Council sets the OFL based on a fishing mortality rate (F) of 0.38, equivalent to the F threshold updated through the most recent scallop stock assessment. The Council sets the ABC and the equivalent total ACL for each FY based on an F of 0.32, which is the F associated with a 25-percent probability of exceeding the OFL. The Council's Scientific and Statistical Committee recommended scallop fishery ABCs for FYs 2014 and 2015 of 45.8 M lb (20,782 mt) and 52.9 M lb (23,982 mt), respectively, after accounting for discards and incidental mortality. The Scientific and Statistical Committee will reevaluate an ABC for FY 2015 when the Council develops the next framework adjustment.

TABLE 1—SCALLOP CATCH LIMITS FOR FYS 2014 AND 2015 FOR THE LA AND LAGC IFQ FLEETS

	2014	2015
Overfishing Limit	30,419 mt (67,062,427 lb)	34,247 mt (75,501,724 lb)
ABC/ACL w/ discards removed	20,782 mt (45,816,475 lb)	23,982 mt (52,871,269 lb)
Incidental TAC	22.7 mt (50,000 lb)	22.7 mt (50,000 lb)
Research Set-Aside (RSA)	567 mt (1,250,000 lb)	567 mt (1,250,021 lb)
Observer Set-aside (1 percent of ABC/ACL)	208 mt (458,562 lb)	240 mt (529,110 lb)
LA sub-ACL (94.5 percent of total ACL, after deducting set-asides and incidental catch).	18,885 mt (41,634,305 lb)	21,879 mt (48,234,778 lb)
LA sub-ACT(adjusted for management uncertainty)	15,567 mt (34,319,360 lb)	16,540 mt (36,463,509 lb)
LAGC IFQ sub-ACL (5.0 percent of total ACL, after deducting set-asides and incidental catch).	999.2 mt (2,202,859 lb)	1,158 mt (2,552,105 lb)
LAGC IFQ sub-ACL for vessels with LA scallop permits (0.5 percent of total ACL, after deducting set-asides and incidental catch).	99.9 mt (220,286 lb)	116 mt (255,210 lb)

Table 1 outlines the scallop fishery catch limits that are derived from the ABC values. After deducting the incidental target total allowable catch (TAC) and the research and observer set-asides, the Council proportions out the remaining ACL available to the fishery according to the fleet allocations established in Amendment 11 to the Scallop FMP (Amendment 11; 72 FR 20090; April 14, 2008): 94.5 percent allocated to the limited access (LA) scallop fleet (i.e., the larger ''trip boat'' fleet); 5 percent allocated to the LAGC IFQ fleet (i.e., the smaller ''day boat'' fleet); and the remaining 0.5 percent allocated to LA scallop vessels that also have LAGC IFQ permits. These separate ACLs and their corresponding ACTs are referred to as sub-ACLs and sub-ACTs, respectively, throughout this action. Amendment 15 to the Scallop FMP (76 FR 43746; July 21, 2011) specified that no buffers to account for management uncertainty are necessary in setting the LAGC sub-ACLs, meaning that the LAGC sub-ACL would equal the LAGC sub-ACT. As a result, the LAGC sub-ACL values in Table 1, based on an F of 0.32, represent the amount of catch from which IFQ percentage shares will be applied to calculate each vessel's IFQ for a given FY. For the LA fleet, the Council set a management uncertainty buffer based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which results in an F of 0.28.

This action would deduct 1.25 M lb (567 mt) of scallops annually for FYs 2014 and 2015 from the ABC and set it aside as the Scallop RSA to fund scallop research and to compensate participating vessels through the sale of scallops harvested under RSA projects. Beginning March 1, 2014, this set-aside is available for harvest by RSA-funded projects in open areas. In an effort to reduce mortality of both larger and smaller scallops in the Nantucket Lightship (NLS) and Delmarva (DMV) access areas, Framework 25 would not allow RSA to be harvested from these two areas, and once this action is approved and implemented, applicable vessels would be able to harvest RSA from the Closed Area II access area (CA2) or open areas.

This action would also remove 1 percent from the ABC and set it aside for the industry-funded observer program to help defray the cost of carrying an observer. The observer set-aside for FYs 2014 and 2015 are 208 mt (458,562 lb) and 240 mt (529,110 lb), respectively.

Temporary Adjustment to the Principles Used for Setting Target Catch Levels

This action would temporarily modify a current principle used for setting target catch levels in this fishery. Specifically, the overfishing definition approved in Amendment 15 includes three main principles to set target catch: (1) F in open areas cannot exceed 0.38; (2) spatially averaged F target is limited to 0.28 for all areas combined (open and closed areas); and (3) F targets for access areas are based on a time-averaged principle (i.e., higher F in some years followed by closures or limited fishing levels in subsequent years). This action would temporarily modify the first principle, and allow open area F to exceed Fthreshold (0.38) for FY 2014 only. Because we do not consider this a modification of the overall overfishing definition for the fishery as a whole, this temporary change is a frameworkable measure under the Scallop FMP. This minor, temporary adjustment is consistent with the FMP, and, when analyzed in connection with measures for access to closed areas, still consistent with achieving an overall F of 0.28. Open area F would increase to a level that provides projected catch levels similar to FY 2013, but would not exceed an overall combined F of 0.28 for all areas. The OFL for the scallop stock as a whole (F of 0.38) would remain unchanged. The estimates of F for this action are 0.52 for open areas, and 0.21 for all areas combined. Framework 25 projects that this level of effort in the open area would provide short-term economic benefits that outweigh any reduction in benefits due to projected marginal reductions in future DAS allocations in open areas.

Open Area Days-at-Sea (DAS) Allocations

This action would implement vessel-specific DAS allocations for each of the three LA scallop DAS permit categories (i.e., full-time, part-time, and occasional) for FYs 2014 and 2015 (Table 2). FY 2015 DAS allocations are precautionary, and are set at 75 percent of what current biomass projections indicate could be allocated to each LA scallop vessel for the entire FY so as to avoid over-allocating DAS to the fleet in the event that the framework that would set those allocations, if delayed past the start of FY 2015, estimates that DAS should be less than currently projected. The allocations in Table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeded its 2013 sub-ACL.

TABLE 2— SCALLOP OPEN AREA DAS ALLOCATIONS FOR FYS 2014 AND 2015

Permit category	FY 2014	FY 2015
Full-Time	31	17
Part-Time	12	7
Occasional	3	1

On March 1, 2014, full-time, part-time, and occasional vessels received 23, 9, and 2 DAS, respectively. These allocations would increase as soon as Framework 25 is implemented, if approved.

LA Trip Allocations, the Random Allocation Process, and Possession Limits for Scallop Access Areas

In terms of pounds allocated, the proposed access area allocations for FY 2014 are slightly lower than FY 2013 allocations, which were about 35 percent less than FY 2012 access area trip allocations. Allocations have been lower in recent years due, in part, to a decline in recruitment since 2008. From 1998–2008 recruitment in the Mid-Atlantic was unusually high. This led to higher allocations in the Mid-Atlantic access areas in several years thereafter. The decline in allocations in recent years, FY 2013 and FY 2014, is a result of recruitment returning to normal levels following this boom. In addition, scallop biomass was above maximum sustainable yield levels from 2003 through 2011. As a result, the Council set high scallop allocations to allow for maximum harvest of the resource. While this has been a very successful time for the scallop fishing industry, the scallop stock was not replenishing itself at a level that could sustain these high allocations indefinitely. Although all recent 2013 survey results show that there has been a large recruitment event in the Elephant Trunk Access Area (ETA) (second only to the massive recruitment that occurred in 2001), these young scallops should not be harvested until they have had at least another year to grow (i.e., harvest in FY 2015 at the earliest). As a result, the proposed FY 2014 access area allocations are similar to FY 2013 access area allocations. Because the Council does not know what will happen to the recruitment in the Mid-Atlantic over the course of next year, and because potential changes could occur based on the Essential Fish Habitat Omnibus Amendment (in development), the Council decided to develop Framework 25 as a 1-year specification-setting framework. Framework 25 is not allocating FY 2015 default access area trips, and the Council will wait for the 2014 survey results to develop final FY 2015 measures through the next framework adjustment (i.e., Framework 26).

Framework 25 would maintain the current closure of the ETA for FYs 2014 and 2015. The Council proposes to continue the closure of this area to protect the large number of small scallops that are located inside the area. In addition, Framework 25 would close the Hudson Canyon Access Area (HCA) for FYs 2014 and 2015. According to all 2012 survey results, recruitment was very widespread in the Mid-Atlantic and dense in all Mid-Atlantic access areas, especially ETA. The PDT was concerned that these high levels of recruitment would not materialize, but many 2-year old scallops are still present. Overall, recruitment in 2013 is still relatively high. Protecting these small scallops will allow them to grow to a more marketable size for harvest, likely in FY 2015. Additionally, Framework 25 would close the Closed Area 1 Access Area (CA1) for FYs 2014 and 2015 because there is no longer enough biomass in this area to provide profitable access area trips to the fleet.

For FY 2014, full-time LA vessels would receive two 12,000-lb (5,443-kg) access area trips. Vessels would be allocated one trip in either the NLS or CA2 access area, and one trip in the DMV. Table 3 shows the total number of trips allocated to full-time vessels for each area.

TABLE 3—TOTAL NUMBER OF FY 2014 FULL-TIME TRIPS BY ACCESS AREA

Access area	Number of full-time vessel trips
HC	0
DMV	313
ET	0
CA1	0
CA2	197
NLS	116
Total	*626

*There are a total of 313 full-time vessels and each vessel would receive 2 trips.

Part-time vessels would receive one FY 2014 access area trip allocation in 2014 equivalent to 9,600 lb (4,354 kg), and vessels with limited access occasional permits would receive one 2,000-lb (907-kg) trip (although there are currently no vessels with an occasional scallop permit). These trips could be taken in any one of the access areas that is open to the fishery for FY 2014 (i.e., DMV, NLS, or CA2).

In order to ensure appropriate access area allocations in the next framework adjustment, there would be no access area trips allocated under FY 2015 default measures. The next framework that would replace these FY 2015 default measures would include the FY 2015 access area allocations based on updated scallop projections. If Framework 26 is delayed past March 1, 2015, scallop vessels would be restricted to fishing in open areas until final FY 2015 specifications are implemented. However, vessels would be able to fish FY 2014 compensation trips in the access areas that were open in FY 2014 (e.g., DMV, NLS, and CA2) for the first 60 days that those areas are open in FY 2015, or until Framework 26 is approved and implemented, whichever occurs first. This level of effort is not expected to greatly impact the scallop resource or affect FY 2015 allocations.

In order to avoid allocating trips into access areas with scallop biomass levels not large enough to support a full trip by all 313 LA full-time vessels, Framework 25 proposes to allocate ''split-fleet'' trips into certain access areas. First, Framework 25 would allocate each full-time vessel one trip in the DMV area. Then Framework 25 would randomly allocate one trip to each full-time vessel into either NLS or CA2. To accomplish this random trip allocation assignment, the Scallop Plan Development Team (PDT) developed a system similar to the one developed in Framework Adjustment 22 to the Scallop FMP (Framework 22; 76 FR 43774; July 21, 2011), where permit numbers are selected based on a simple random number generator in Microsoft Excel and the vessels associated with a permit number would receive trip assignments into the access area where they can fish. In order to facilitate trading trips between vessels, the Council has already proposed allocations for full-time vessels for FY 2014. These allocations are listed in Appendix IV of the Framework 25 document (See **ADDRESSES**), as well as NMFS's Web site. NMFS would update these preliminary allocations, subject to NMFS approval of Framework 25 and permit renewal requirements, with any changes in vessel ownership and/or vessel replacements.

Ability To Exchange a DMV Trip for 5 DAS

In response to uncertain projections of scallop sizes and densities in DMV, this action would give LA vessels the flexibility to exchange their 12,000-pound DMV trip for 5 open area DAS. If scallops are of harvestable size in DMV and in higher densities than open areas, as projected, then vessels would be expected to fish there. If projections are not correct, however, giving vessels a choice to fish in open areas instead would help reduce impacts on smaller scallops. This flexibility may help self-regulate the area based on the fishing condition in DMV, which is more uncertain than some of the other access areas due to the large proportion of smaller scallops and more uncertainty about natural mortality and growth in that access area. Providing this flexibility does have the potential to increase fishing mortality in open areas further above the current target of 0.38 that would already be exceeded by the

proposed 31 DAS allocation. Although we do not know how the fleet would behave if they were given this option, the estimated additional effort was included in the projected F of 0.52 for the open area.

A vessel would receive automatically an additional 5 DAS for not fishing its DMV trip in one of two ways. First, from the date this action goes into place, DMV would be open for 90 days. If DMV closes for the remainder of the FY and a vessel did not take its DMV trip, that vessel would automatically be credited 5 additional DAS. For example, Vessel A would receive 31 DAS once this action goes into place. If the DMV closed on August 15, 2014, and Vessel A never declared or fished a DMV trip, then Vessel A would automatically be credited with 5 additional DAS, giving Vessel A a total of 36 DAS for FY 2014. Alternatively, a vessel could fish its initial allocation of 31 open area DAS before the DMV closes, and, then fish five additional DAS by deciding not fish a DMV trip, regardless of whether the DMV has closed. For example, if Vessel B fishes a total of 31 DAS prior to the DMV closing, it could fish up to an additional 5 DAS even if the DMV hasn't closed. Vessel B could not fish in the DMV subsequent to using any or all of the additional 5 DAS. NMFS will track trips and declarations to automatically convert the non-used DMV trip into 5 additional DAS. All vessel owners would be notified of this process upon the implementation of this action.

LAGC Measures

1. *Sub-ACL for LAGC vessels with IFQ permits.* For LAGC vessels with IFQ permits, this action proposes a 2,202,859-lb (999.2-mt) ACL for FY 2014 and an initial ACL of 2,552,105 lb (1,158 mt) for FY 2015 (Table 1). We calculate IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ AMs are triggered. If a vessel exceeds its IFQ in a given FY, its IFQ for the subsequent FY would be reduced by the amount of the overage.

Because Framework 25 would not go into effect until after the March 1 start of FY 2014, we implemented the default FY 2014 IFQ allocations. These default FY 2014 IFQ allocations are higher than those proposed in Framework 25. To provide the ability for IFQ permit holders to transfer the entirety of their final FY 2014 quota, industry members requested that vessels have access to their full allocation at the beginning of the FY. Consequently, it is possible that scallop vessels could exceed their Framework 25 IFQ allocations during this interim period between March 1, 2014, and NMFS's implementation of the proposed IFQ allocations in Framework 25. To account for this possibility, Framework 25 specifies the following payback measure for LAGC IFQ vessels: If a vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to other vessels prior to Framework 25's implementation (i.e., transfers more than it is ultimately allocated for FY 2014), the vessel that transferred in the pounds would receive a pound-for-pound deduction in FY 2014 (not the vessel that leased out the IFQ). This is the identical process that NMFS took at the start of last year (FY 2013) to account for lower proposed allocations that would be implemented mid-year. For example, Vessel A is allocated 1,000 lb (454 kg) of scallops at the start of FY 2014, but would receive 880 lb (399 kg) of scallops once Framework 25 is implemented. If Vessel A transfers its full March 1, 2014, allocation of 1,000 lb (454 kg) to Vessel B prior to Framework 25's implementation, Vessel B would lose 120 lb (54 kg) of that transfer once Framework 25 is implemented.

In situations where a vessel transfers out its IFQ to multiple vessels, only the vessel(s) that, in turn, transferred in quota resulting in an overage would have to pay back that quota. Using the example above, if Vessel A first leases 500 lb (227 kg) of scallops to Vessel B and then leases 500 lb (227 kg) of scallops to Vessel C, only Vessel C would have to pay back IFQ in excess of Vessel A's ultimate FY 2014 allocation (i.e., Vessel C would have to give up 120 lb (54 kg) of that quota because Vessel A ultimately only had 380 lb (172 kg) of IFQ to lease out). In this example, if Vessel C already fished all of its leased-in quota, it would incur an overage of 120 lb (54 kg) and could either lease in more quota to make up for that overage during FY 2014, or would have that overage, along with any other overages incurred in FY 2014, applied against its FY 2015 IFQ allocation as part of the individual AM applied to the LAGC IFQ fleet. We will attempt to notify all parties involved of the possible consequences of transferring IFQ that would be reduced by implementing Framework 25.

Since March 1, 2014, vessel owners have been able to transfer all IFQ on their vessel to other vessels, including IFQ that was previously transferred permanently or temporarily from another vessel (i.e., they may re-transfer, or sub-lease, IFQ). If a vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to another vessel prior to Framework 25's implementation (i.e., transfers more than it is ultimately allocated for FY 2014), and then the vessel receiving the allocation retransfers out that allocation to another vessel, the vessel that transferred in the pounds initially would receive a pound-for-pound deduction in FY 2014 (not the vessel that leased out the IFQ or the vessel that received the retransferred pounds). For example, if Vessel A transfers its full March 1, 2014, allocation of 1,000 lb (454 kg) to Vessel B prior to Framework 25's implementation, then Vessel B proceeded to sub-lease all 1,000 lb (454 kg) to Vessel C, Vessel B would lose 120 lb (54 kg) of that transfer once Framework 25 is implemented.

The onus is on the vessel owners to have a business plan to account for the mid-year adjustments in light of these payback measures. NMFS sent a letter to IFQ permit holders providing both March 1, 2014, IFQ allocations and Framework 25 proposed IFQ allocations so that vessel owners know how much they can transfer to avoid any overages incurred through transferring full allocations prior to the implementation of Framework 25. NMFS has explained the consequences of owners' leasing decisions that involve full allocations that would be reduced under Framework 25.

2. *Sub-ACL for LA Scallop Vessels with IFQ Permits.* For LA scallop vessels with IFQ permits, this action proposes a 220,286-lb (99.9-mt) ACL for FY 2014 and an initial 255,210-lb (116-mt) ACL for FY 2015 (Table 1). We calculate IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ AMs are triggered. If a vessel exceeds its IFQ in a given FY, its IFQ for the subsequent FY would be reduced by the amount of the overage.

If a vessel fishes all of the scallop IFQ it receives at the start of FY 2014, it would incur a pound-for-pound overage deduction that would be applied against its FY 2015 IFQ allocation, along with any other overages incurred in FY 2014, as part of the individual AM applied to the LA vessels with LAGC IFQ permits. These vessels cannot participate in the IFQ transfer program, so transferring in more quota is not an option.

3. *LAGC IFQ Trip Allocations and Possession Limits for Scallop Access Areas.* Table 4 outlines the total number of FY 2014 LAGC IFQ fleetwide access area trips. Once the total number of trips is projected to be fished, we would close that access area to LAGC IFQ vessels for the remainder of FY 2014.

TABLE 4—LAGC FLEET-WIDE ACCESS AREA TRIP ALLOCATIONS FOR FY 2014

Access area	FY 2014
CA1	0
CA2	0
NLS	241
HC	0
ETA	0
DMV	516

In previous years, the Council did not allocate trips for LAGC IFQ vessels into CA2, because the Council and NMFS do not expect many of these vessels to fish in that area due to its distance from shore, and the total number of fleetwide trips only reflected 5.5 percent of each open access area. To make up for the fact that the IFQ vessels would not be able to access CA2, the Council proposes in Framework 25 to include 5.5 percent of the CA2 available TAC in setting LAGC IFQ fleetwide access area trip allocations, essentially shifting those CA2 trips to other access areas closer to shore, so that LAGC IFQ vessels would have the opportunity to harvest up to 5.5 percent of the overall access area TAC, not just that available in areas open to them. Specifically, this action would equally divide 226 trips that would have been allocated to CA2 into the other 2 areas (DMV and NLS), adding 113 additional trips per area.

In order to preserve appropriate access area allocations, there would be no access area trips allocated to LAGC IFQ vessels under FY 2015 default measures. The next framework that would replace these FY 2015 default measures would include the FY 2015 access area allocations based on updated scallop projections. If Framework 26 is delayed past March 1, 2015, LAGC IFQ scallop vessels would be restricted to fishing their IFQ allocations in open areas until final FY 2015 specifications are implemented.

4. *NGOM TAC.* This action proposes a 70,000-lb (31,751-kg) annual NGOM TAC for FYs 2014 and 2015. The allocation for FY 2015 assumes that there are no overages in FY 2014, which would trigger a pound-for-pound deduction in FY 2015 to account for the overage.

5. *Scallop Incidental Catch Target TAC.* This action proposes a 50,000-lb (22,680-kg) scallop incidental catch target TAC for FYs 2014 and 2015 to account for mortality from this component of the fishery, and to ensure that F-targets are not exceeded. The Council may adjust this target TAC in the future if vessels catch more scallops under the incidental target TAC than predicted.

Restrictions to the DMV

1. Seasonal Restriction

Framework 25 would allow all scallop vessels to fish their FY 2014 DMV trips from June 1 through August 31 or until 90 days after Framework 25 becomes effective, whichever is later. The proposed delay of entrance in DMV would give the scallops in that area some additional time to grow if Framework 25 were to become effective prior to June 1, 2014. The proposed closure of DMV following the 3-month fishery would reduce mortality by concentrating harvest in the area when meat yields are the highest.

2. Crew Limit Restrictions

Limited access scallop vessels have crew size limits when fishing in open areas. These limits are in place to restrict the shucking capacity of a vessel to help reduce landings per unit effort while on DAS. However, in access areas there are possession limits so there is no crew limit restriction. In an effort to protect small scallops and discourage vessels from highgrading (discarding smaller scallops in exchange for larger ones), Framework 25 would impose a crew limit of seven individuals per LA vessel in DMV. If a vessel is participating in the small dredge program it may not have more than five people on board.

Unharvested Pounds in Closed Area 1

1. FY 2012

The FY 2012 scallop specifications were the second-year specifications developed by the Council through Framework 22. In FY 2012, vessels were allocated access area trips into HC, DMV, NLS, CA1, and CA2. Based on updated survey results presented at the Council's Scallop PDT meeting on January 5, 2012, DMV showed lower-than-expected scallop biomass and strong recruitment present. In order to prevent high levels of fishing effort in this area, which could have reduced long-term scallop biomass and yield from DMV, and could have compromised the overall success of the scallop area rotational management program, we issued an Emergency Closure of the DMV (77 FR 28311; May 14, 2012). At the industry's request we reallocated unused 2012 DMV trips to CA1, which appeared at the time to have enough biomass to support these trips. However, towards the end of FY 2012 and into FY 2013 catch rates in CA1 began to drop below profitable levels. Many vessels were unable to harvest the pounds associated with their CA1 trips. This action would allow unused pounds associated with FY 2012 CA1 trips to be to be harvested by some of those vessels in CA1 when it reopens in the future. For FY 2012 CA1 trips, this would be limited to vessels that submitted a broken trip adjustment sheet and qualified for a compensation trip.

2. FY 2013

Because catch rates had not yet begun to fall in CA1 during development of the FY 2013 specifications, Framework 24 allocated an additional 118 trips into CA1 in FY 2013. Most of the vessels allocated CA1 FY 2013 trips were unable to fish some or any of their trips. Framework 25 would allow unharvested pounds associated with FY 2013 CA1 trips to be harvested by the vessel in CA1 when it reopens in the future. Because the potential for this provision had been discussed throughout the year, for FY 2013 CA1 trips, vessels would not be required to submit a broken trip adjustment sheet to receive the permission to harvest these unused pounds. Instead, we would determine which vessels have scallop pounds left to harvest and would inform them after Framework 25 is implemented.

Any CA1 pounds that would be allocated to vessels from FYs 2012 or 2013 to be harvested in a future FY would come off that future FY's LA sub-ACL. The Scallop FMP sets an ACL for every FY based on the most up-to-date surveys, and we cannot allocate the fleet any additional scallops above this limit even if they are ''carried over'' from prior years.

Addition of Southern New England/Mid-Atlantic (SNE/MA) Windowpane Flounder AMs

Framework Adjustment 48 to the Northeast Multispecies FMP (78 FR 26118, May 3, 2013) established a sub-ACL for SNE/MA windowpane flounder. The proposed action contains two alternatives for AMs to respond to and prevent, reactive and proactive, respectively, overages in the SNE/MA windowpane flounder sub-ACL.

1. Reactive AM

This action proposes to add a reactive AM for SNE/MA windowpane flounder. If the scallop sub-ACL for the scallop fishery is exceeded, the area west of 71° W. Long., excluding Mid-Atlantic access areas (HCA, ETA, and DMV), would be considered the SNE/MA windowpane flounder gear restricted area. Scallop vessels participating in the DAS or LAGC IFQ scallop fisheries would be required to comply with the gear

restrictions described below for the months of February or February through March, depending on the severity of the overage (Table 5).

TABLE 5—SNE/MA WINDOWPANE FLOUNDER AM LENGTH OF GEAR RESTRICTION

Percent overage of YTF sub-ACL	Length of gear restriction
0–20	February.
>20	February through March.

When a vessel is subject to the SNE/MA windowpane flounder accountability measure gear restricted area, the vessel would be required to fish with dredges where:

(1) The maximum number of rows of rings in the apron of the topside does not exceed five rows; and

(2) The maximum hanging ratio for a net, net material, or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear does not exceed 1.5:1 overall. An overall hanging ratio of 1.5:1 means that the twine top is hung alternating 2 meshes per ring and 1 mesh per ring (counted at the bottom where the twine top connects to the apron), for an overall average of 1.5 meshes per ring for the entire width of the twine top. For example, an apron that is 40 meshes wide (not including any ring in the side pieces) would only be able to use a twine top with 60 or fewer meshes so that the overall ratio of meshes to rings did not exceed 1.5 (60 meshes/40 rings = 1.5) (copies of a figure depicting this gear are available from the Regional Administrator upon request).

2. Proactive AM

In addition to the reactive AM described above, this action proposes to implement a gear restriction in the area west of 71° W. Long., excluding Mid-Atlantic access areas that are meant to help reduce bycatch of windowpane flounder and other species of flatfish. This is considered to be a proactive AM because it may avoid the exceeding of the sub-ACL for this stock. The specific gear restriction would require dredge vessels to have a maximum of seven rows in the apron. Current twine top restrictions state that a dredge greater than 8 feet (2.44 m) in width, must have at least 7 rows of rings between the terminus of the dredge (clubstick) and the twine top. Framework Adjustment 5 to the Scallop FMP (June 29, 1995; 60 FR 33757) implemented this regulation to protect against the overharvest of small scallops. At that time some vessels were running twine top along the topside of the dredge all the way down to the clubstick. Since the mesh used for twine top was much smaller than it is today this practice essentially turned the dredge bag into a net, which has higher mortality on small scallops. Now that twine top mesh is a required to be a minimum of 10 inches (25.4 cm) there is less incentive to run it back to the terminus of the dredge. However, recent gear research has shown that a shorter apron, for example five rows of rings from the clubstick, may reduce flatfish bycatch.

This action applies to the area west of 71° W. Long., excluding Mid-Atlantic access areas, year-round. This measure may reduce flatfish bycatch by requiring vessels that fish in the AM area all year to use a maximum of seven rows, and enable vessels to voluntarily fish with an even shorter apron, less than seven rings, to proactively reduce flatfish bycatch in any area or season. This measure would apply to all scallop dredge vessels (LA and LAGC IFQ).

Other Clarifications and Modifications

This proposed rule includes several revisions to the regulatory text to address text that is duplicative and unnecessary, outdated, unclear, or otherwise could be improved. NMFS proposes these changes consistent with section 305(d) of the MSA. For example, we are removing regulations that referred to payback measure from FY 2013 due to the delayed implementation of Framework 24. NMFS proposes to revise the regulations to remove measures intended by previous rulemaking, and to provide more ease in locating these regulations by updating cross references.

This action also proposes revisions that would clarify the intent of certain regulations. For example, and we added clarifying language to the IFQ quota transfer regulations to make it clear that the intent of Amendment 11 to the Scallop FMP was to allow vessels in confirmation of permit history to transfer IFQ. Additionally, regulations are unclear regarding how a LAGC IFQ vessel's potential carryover is calculated. We clarified that a vessel's potential carryover is 15 percent of the vessel's original IFQ and the total of transferred in minus transferred out IFQ. As such, NMFS proposes to clarify these regulations. NMFS also proposes to add more description to some access area and habitat closed area coordinates to clarify the boundaries of those areas.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

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

This rule does not contain a collection-of-information requirement subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

An IRFA has been prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of Framework 25 analyses, its draft IRFA, and the preamble to this action.

Statement of Objective and Need

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for FY 2014, with FY 2015 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in Framework 25 and the preamble of this proposed rule and are not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed regulations would affect all vessels with LA and LAGC scallop permits. The Framework 25 document provides extensive information on the number and size of vessels and small businesses that would be affected by the proposed regulations, by port and state (see **ADDRESSES**). There were 313 vessels that obtained full-time LA permits in 2012, including 250 dredge, 52 small-dredge, and 11 scallop trawl permits. In the same year, there were also 34 part-time LA permits in the sea scallop fishery. No vessels were issued occasional scallop permits. NMFS issued 278 LAGC–IFQ permits in 2012. Since all scallop permits are limited access, vessel owners would cancel permits only if they decide to stop fishing for scallops on the permitted vessel permanently or if they transfer IFQ to another IFQ vessel and permanently relinquish the vessel's scallop permit. This is not likely to occur due to the value of retaining the permit. As such, the number of scallop permits could decline over time, but would likely be fewer than 10 permits per year.

The RFA defines a small business in shellfish fishery as a firm that is

independently owned and operated and not dominant in its field of operation, with receipts of up to $5 M annually. In scallop FMP actions prior to Framework 24, each vessel was considered a small business entity and was treated individually for the purposes of the RFA analyses. Since Framework 24, the Council recognizes ownership affiliations and makes very basic connections between multiple vessels to single owners and makes distinctions between large business entities and small business entities, as defined by the RFA. Every LA vessel has multiple owners and some owners of a particular vessel have ownership interest in other vessels with different entities. There have been 132 distinct business entities (23 larger business entities and 109 small business entities) in the scallop limited access fishery as of FY 2012, slightly lower than the number of businesses in FY 2010. The primary industry of all these individual businesses was identified as ''scallop'' fishery, because their revenues from the scallop fishery exceeded the revenues from all other species. Scallop revenue averaged over 96-percent of the total revenue during FYs 2010–2012 for the businesses with LA permits. The sum of annual gross receipts from all scallop vessels operated by the majority of the multiple boat owners (but not all) would exceed $5 M in 2011 and 2012, qualifying them as ''large'' entities. From FY 2010 to FY 2012, 193 vessels, including LA and LAGC permitted-vessels, belonged to 23 large business entities that grossed more than $5 M annually in scallop revenue. In the same year, 155 vessels belonged to 109 small business entities (ownership ranged from 1 to 4 vessels) that grossed less than $5 M a year in scallop revenue.

The Office of Advocacy at the Small Business Administration (SBA) suggests two criteria to consider in determining the significance of regulatory impacts on small entities; namely, disproportionality and profitability. The disproportionality criterion compares the effects of the regulatory action on small versus large entities (using the SBA-approved size definition of ''small entity''), not the difference between segments of small entities. The changes in profits, costs, and net revenues due to Framework 25 are not expected to be disproportional for small versus large entities since each vessel will receive the same number of open areas DAS and access area trips allocations according to the categories they belong to (i.e., the allocations for all full-time vessels are identical, and the allocations for the part-time and occasional vessels are proportional to the full-time allocations, 40 percent and 8.33 percent of the full-time allocations, respectively). As a result, this action would have proportionally similar impacts on revenues and profits of each vessel and each multi-vessel owner compared both to status quo (i.e., FY 2013) and no action levels. Therefore, this action is not expected to have disproportionate impacts or place a substantial number of small entities at a competitive disadvantage relative to large entities. A summary of the economic impacts relative to the profitability criterion is provided below under ''Economic Impacts of Proposed Measures and Alternatives.''

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action contains no new collection-of-information, reporting, or recordkeeping requirements. It does not duplicate, overlap, or conflict with any other Federal law.

Economic Impacts of Proposed Measures and Alternatives

Summary of the Aggregate Economic Impacts

A detailed analysis of the economic impacts of the proposed actions may be found in Section 5.4 of the Framework 25 document (see **ADDRESSES**). All economic values are presented in terms of 2012 dollars and projected economic values presented below use a 7-percent (3-percent when indicated) discount rate to compare results to current values.

The impact of six allocation alternatives were evaluated in Framework 25: Three alternatives (No Action, Alternatives 2, and Alternative 3) each proposed the same number of DAS (23 for full-time vessels), but varied in the number of access area trips. The No Action alternative proposed no access area trips, while Alternatives 2 and Alternative 3 each proposed two 12,000-lb (5,443-kg) full-time access area trips (one in DMV and one in either NLS or CL2). However, Alternative 3 included an option for each vessel to exchange their DMV trip for five additional DAS to be used in the open area. Alternatives 4 and 5 had the same access area options as Alternative 3 (two 12,000-lb (5,443-kg) full-time trips with the DMV option), but varied in the number of DAS allocated to each full-time vessel, 31 DAS and 28 DAS, respectively. Finally, Alternative 6 proposed allocating each full-time vessel 37 DAS, but only issuing one 12,000-lb (5,443-kg) access area trip to be taken in either NLS or CA2 and keeping DMV closed.

The definition of ''No Action'' refers to the implementation of FY 2014 default measures that are currently assigned in the regulations. The No Action alternative does not result in the same allocations or revenues as in FY 2013. During the development of Framework 24 the Council decided to wait for the 2013 survey results to develop final measures for FY 2014. Therefore, the No Action would result in 10 fewer DAS in FY 2014 compared to FY 2013, and would not allocate any trips into access areas. As a result of fewer open area DAS, combined with the lack of access area trips, revenues for No Action would be lower ($280.5 M in FY 2014) compared to the actual revenues in FY 2012 ($546 M) and FY 2013 (estimated to be about $460 M in inflation-adjusted 2013 prices).

The previous frameworks also included a status quo scenario to reflect the changes in landings and economic benefits as a result of changes in allocations from their current values. Alternative 4 in this action reflects a scenario that maintains landings at the projected FY 2013 levels by allocating full-time vessels 31 DAS and two access area trips with a flexibility to exchange a DMV trip for five open areas DAS. This is also the preferred alternative for Framework 25. Therefore, for the purposes of Framework 25 analyses, the projected economic benefits for other alternatives will also be compared to the benefits for Alternative 4 instead of to a hypothetical status quo scenario that keeps the allocations at FY 2013 levels (33 DAS and 2 access area trips).

In summary, the aggregate economic impacts of the proposed measures, including the open area DAS and access area allocations for LA vessels and ACLs for the LAGC IFQ fishery, are expected to have positive impacts on the revenues and profits of the small businesses in the scallop industry in FY 2014 compared to the No Action alternative and neutral impacts compared to FY 2013 conditions. However, the measures included in Framework 25 are not expected to offset the gains and profits of the scallop industry, or to jeopardize the financial viability of scallop vessels either in the short term or in the medium term, especially in this highly profitable industry. The proposed measures (Alternative 4) would have the highest increase in revenues, producer surplus and total economic benefits in FY 2014, but would have a smaller increase in revenues ($18.5 million), producer surplus ($15.1 million) and total economic benefits ($6.5 million) over

the long term compared to No Action and other alternatives except for Alternative 6. The economic impacts of the proposed action are expected to be positive over the long term.

Economic Impacts of the Proposed Measures and Alternatives

1. Allocations for the LA and LAGC Scallop Fleets—Aggregate Impacts

The proposed open area DAS allocations are expected to prevent overfishing in open areas. The proposed action would implement the following vessel-specific DAS allocations for FYs 2014 and 2015: Full-time vessels would be allocated 31 and 17 DAS, respectively; part-time vessels would be allocated 12 and 7 DAS, respectively; and occasional vessels would receive 3 and 1 DAS, respectively. Additionally, in FY 2014 full-time vessels would receive a total of two access area trips at 12,000 lb (5,443 kg), and part-time vessels and occasional vessels would receive one access area trip, at 9,600 lb (4,354 kg) and 2,000-lb (907-kg), respectively. The proposed default FY 2015 DAS would be set at precautionary levels and would be reevaluated in the next specifications-setting framework action. No access area trips would be allocated under FY 2015 default measures, and vessels would have to wait until the next framework to fish in access areas in FY 2015.

The Framework 25 analysis of the fleet-wide aggregate economic impacts indicate that the proposed action and all other alternatives are expected to be positive both in the short (2014) and the long term compared to the No Action alternative. The proposed alternative (Alternative 4) would result in highest landings (17,463 mt), revenues ($427.8 M) and total economic benefits ($429.9 M) in 2014 among all the alternatives considered. The total economic benefits of the proposed alternative would exceed the No Action levels by $151.8 in FY 2014 and by $6.5 M ($26.3 M) over the long-term if a 7-percent (3-percent) discount rate was used to estimate the present value of cumulative benefits. However, long-term economic benefits under the preferred alternative would be less than the benefits for Alternative 3 using a 7-percent discount rate, and would be less than the benefits for Alternative 2, Alternative 3 and Alternative 5 using a discount rate of 3-percent to estimate cumulative present value of net economic benefits. The proposed alternative also reflects status quo conditions by maintaining the landings at the projected FY 2013 levels. Therefore, the economic impacts of the proposed alternative are expected to be low compared to the levels in FY 2013.

As for LAGC IFQ vessels, the economic impacts of the proposed action are the same under all of the specification alternatives considered since the IFQ allocation remains the same under all the alternatives, 1,099 mt. This total catch would be very similar to that from FY 2013, 1,111 mt.

In summary, the economic impacts of the proposed LA and LAGC allocation measures are expected to have positive impacts on the revenues and profits of the small businesses in the scallop industry in FY 2014, compared to the No Action alternative and similar impacts compared to FY 2013 conditions. Over the long term, the economic impacts of the proposed alternative on the majority of small business entities in scallop fishing industry are projected to be positive when compared to No Action.

2. Measures To Reduce Mortality on Smaller Scallops in NLS and DMV in FY 2014

This action would prohibit RSA compensation fishing in NLS and DMV. This would be more restrictive than the No Action alternative because it would limit operational flexibility possibly resulting in slightly higher costs. However, prohibiting RSA compensation fishing in these areas may have slight benefits on the scallop resource by limiting effort in those areas with potential impacts on smaller scallops from incidental mortality. Therefore, this action would have positive impacts on long-term yield, revenues and total economic benefits compared to No Action overall.

This action would also constrain fishing in DMV between June and August, or three months after implementation of this action to concentrate fishing in a season with higher yields. In addition, it would restrict crew limits in DMV to limits used in open area fishing to reduce potential highgrading on small scallops in DMV. As a result, this action could have beneficial impacts on the scallop resource and would therefore have long-term positive impacts on landings, revenues and total economic benefits compared to No Action.

3. Measures To Address Unused CA1 Trips

This action would allow rollover of unused FY 2012 and FY 2013 CA1 trips a future FY. No Action would prevent a vessel from fully utilizing its allocation if it had, for example, a broken trip, which would have a negative impact on the revenues and profits if those vessels with unused trips. This action would have positive economic impacts on vessels with unused trips by allowing them to land their CA1 allocations in a future year and low negative impacts on the rest of the fishery since this rollover would likely result in reduction in allocations in future years for the fleet.

This measure will impact future access for the LA fishery overall since this unused catch will need to be accounted for within the LA sub-ACL. Future access in and around CA1 will be lower for the overall fleet compared to No Action. Spreading access over 2 years would lower those negative impacts somewhat although not totally. Therefore, the economic impacts of the proposed alternatives would be positive for those vessels that are allowed to use their unused trips in a future year and would be low negative on the remainder of the fleet with no unused trips.

4. Payback Measures for LAGC Vessels for Overages Incurred Between March 1, 2014, and Framework 25's Implementation

Framework 25 would be implemented after the start of FY 2014 (March 1, 2014) and the FY 2014 default measures would be in place until the proposed action is implemented. LAGC IFQ vessels have received allocations at the start of FY 2014 that are roughly 13 percent higher than Framework 25 allocations. Framework 25 included a number of provisions to account for the inconsistencies between allocations in effect at the start of FY 2014 and those that would be implemented under Framework 25. These ''payback'' measures create a disincentive to fish higher March 1, 2014, allocations and would help reduce the negative impacts of overfishing in 2014 on the scallop resource if vessels adhere to the lower Framework 25 allocations.

LAGC IFQ vessels that exceed their ultimate FY 2014 allocations through IFQ transfers would have a pound-for-pound deduction in FY 2014 to account for the excess allocated IFQ. The payback would be applied to the vessel that transfers the IFQ in (i.e., not the vessel that transfers out the IFQ). LAGC IFQ vessels that exceed their ultimate FY 2014 allocations would have a pound-for-pound payback in FY 2015 as their individual AM, specified in Amendment 15 to the Scallop FMP (Amendment 15).

As a result, LAGC vessels that choose to exceed the FY 2014 allocations proposed in Framework 25 would have slightly lower revenues than the estimated fleet average in FY 2014, resulting in negative short-term impacts

on those individual vessels in FY 2014. Over the long term, the overage provisions proposed in Framework 25 are expected to reduce the negative impacts of overfishing in FY 2014 on the scallop resource. Therefore, these measures will have positive fleet-wide impacts on landings and revenues over the long term. There are no alternatives that would generate higher economic benefits for the participants of the scallop fishery. Members of the scallop industry assisted in the development of these payback measures.

5. RSA and OBS TACs

The proposed action would set aside 1 percent of the ABC for the industry-funded OBS program, and would set aside 1.25 M lb (567 mt) from the ABC for the RSA 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 a higher OBS percentage or higher RSA allocation 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 also decrease direct economic benefits to the fishery by reducing revenues, and no such alternatives were considered.

6. NGOM TAC

The proposed action (No Action alternative) specifies a 70,000-lb (31,751-kg) TAC for the NGOM and would not have additional economic impacts on the participants of the NGOM fishery. The NGOM TAC has been specified at this level since FY 2008, and the fishery has harvested less than 60 percent of the TAC in each FY; therefore, the TAC has no negative economic impacts. There are no alternatives that would generate higher benefits for NGOM scallop vessels. The alternative for setting the NGOM TAC at 58,000 lb (26,308 kg) is expected to reduce the chance of excess fishing in Federal waters in the NGOM management area, but considering that NGOM vessels have never exceeded the TAC, neither alternative is expected to impact vessels. Thus, negligible economic impacts are expected from the No Action alternative and the other NGOM Alternative.

7. SNE/MA Windowpane Flounder Reactive AM—Seasonal Gear Restricted Area

The proposed action would implement a gear restricted area for a specified period of time with higher bycatch rates of SNE/MA windowpane flounder if the scallop fishery exceeds its sub-ACL and the entire ACL is exceeded, or the sub-ACL is exceeded by more than 50 percent. The AM area would be all waters west of 71° W Long., not including scallop access areas. If AMs are triggered and the overage by the scallop fishery is estimated to be >0 and <20-percent the AM would be in place for the month of February. If the overage is over 20 percent the AM season would be for the months of February and March.

Although reduced flexibility and potentially reduced landings due to fishing with modified gear will have some negative economic impacts on the scallop vessels, these impacts are expected to be low. Based on input from the Scallop Advisory Panel, the required gear modification is expected to have minor impacts on fishing costs. If a vessel switches its gear several times a year there is labor cost involved, but some vessels may just fish with this gear all year, and that could even result in some costs savings since there is less gear with the modified dredge.

The gear modifications will only be applied during the month of February if the overage rate is less than 20 percent and in both February and March if the overage is 20 percent or more. About 1 percent of the landings in Mid-Atlantic open areas took place February and another 10 percent in March by the LA vessels, however, in terms of overall landings in all open areas, 2 percent of scallop pounds were landed in February and 8 percent in March as an average for 2011–2012 fishing years. Therefore, this alternative could result some effort displacement for some vessels that choose not to fish during these months with modified gear. The economic impacts could be slightly higher for the LAGC vessels if instead of fishing with the modified gear they chose not to fish in February or March if the AM triggered. About 3 percent of LAGC scallop landings took place during February and another 6 percent in March in the open Mid-Atlantic areas.

The dredge modification in this alternative is expected to reduce scallop catch, up to 10 percent fewer in terms of catch weights. Therefore, vessels may need to tow longer to attain the same amount of scallop catch, which could increase the trip costs. However, the results from this gear study demonstrated that while the modified gear caught fewer scallops, the gear is more selective at catching larger scallops. If the gear is less efficient at catching smaller scallops, then the impacts on total scallop pounds landed could be small or negligible. In addition, given that larger scallops usually sell at a higher price, the impacts on revenues could be negligible or slightly positive.

Therefore, the net economic impacts of this measure could be slightly negative, neutral, or slightly positive depending on the relative impacts on fishing costs, landings and revenues. However, when compared to the area closure alternative, this alternative could have potentially low positive impacts, because instead of closures, it would require fishing with modified gear in those areas for at most two months in February and March and would still allow the vessels the option to fish in other areas or seasons if they choose not to modify their gear.

The Council clarified that vessels with trawl gear are included, meaning they are not exempt from the AM. This could have low negative economic impacts on trawl vessels compared to No Action since they are unlikely to change their gear to fish in February and March in the event of an AM trigger.

A trawl vessel could switch to dredge gear and fish with the modified gear during the AM season, but this may not be very likely for many trawl vessels, especially if the season is only for two months of the year. In FYs 2010 and 2011 about 5.6 percent of scallops were landed in February and another 5.6 percent in March by LAGC vessels that use a trawl, therefore, this option is likely to increase the costs due to the displacement with effort. Again, however, the net economic impacts will depend to what extent the fishing in seasons when meat weights are larger will outweigh or falls short of the costs associated with reduced flexibility due to a narrower fishing season.

8. SNE/MA Windowpane Flounder Proactive Gear Modification

Under this action, all scallop dredge vessels (LA and LAGC) would only be able to fish with a maximum of seven rows of rings in the apron of their dredge in waters west of 71° W Long., excluding the Mid-Atlantic access areas to reduce the chance the fishery would exceed the sub-ACL. The current regulation is a minimum of seven rows of rings, so vessels are not able to fish with fewer than seven rows. Most scallop vessels already fish with seven rows of rings on the topside of the dredge bag, so they will not be affected by this measure. However, some vessels may want to fish with more rows in the apron of their dredge in harder bottoms (i.e. Great South Channel). Therefore, this proactive measure would be confined to SNE and the MA for now.

If vessels decide to fish with fewer than seven rows (i.e. five rows as was tested in the gear modification study)

tow times may increase since shorter aprons are expected to catch fewer scallops. However, shorter aprons are expected to be more selective and retain fewer small scallops. If that is the case, then the impacts on scallop landings could be negligible if the composition of catch changes towards larger scallops.

In short, this alternative could increase fishing costs for vessels that fish with more than seven rows of rings. However, given that this measure will affect only a subset of vessels and fishing in SNE and Mid-Atlantic, it likely would have low negative economic impacts on the participants of the scallop fishery. Over the long-term, compared to No Action, this measure could have potentially positive economic benefits on the resource if it enables vessels to reduce bycatch and reduce the likelihood that AMs are triggered.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 30, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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, paragraph (f)(4)(i) is revised to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(f) * * *

(4) * * *. (i) The owner or operator of a limited access or LAGC IFQ vessel that fishes for, possesses, or retains scallops, and is not fishing under a NE Multispecies DAS or sector allocation, must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished, including open area trips, access area trips as described in § 648.60(a)(9), and trips accompanied by a NMFS-approved observer. The reports must be submitted for each day (beginning at 0000 hr and ending at 2400 hr) and not later than 0900 hours of the following day. Such reports must include the following information:

(A) FVTR serial number;

(B) Date fish were caught;

(C) Total pounds of scallop meats kept;

(D) Total pounds of yellowtail flounder discarded; and

(E) Total pounds of all other fish kept.

* * * * *

■ 3. In § 648.14:

■ a. Revise paragraphs (i)(1)(iii)(A)(*3*) introductory text, (i)(2)(ii)(B)(*3*), (i)(2)(ii)(B)(*5*), (i)(2)(ii)(B)(*6*), (i)(2)(ii)(B)(*9*);

■ b. Add paragraph (i)(2)(ix);

■ c. Remove and reserve paragraph (i)(4)(iii)(D);

The additions and revisions to read as follows.

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(1) * * *

(iii) * * *

(A) * * *

(*3*) In excess of 600 lb (272.2 kg) of shucked scallops at any time, 75 bu (26.4 hL) of in-shell scallops per trip South of 42°20′ N. Lat. and shoreward of the VMS Demarcation Line or 100 bu (35.2 hL) in-shell scallops South of 42°20′ N. Lat. and seaward of the VMS Demarcation Line, unless:

* * * * *

(2) * * *

(ii) * * *

(B) * * *

(*3*) Fail to comply with the turtle deflector dredge vessel gear restrictions specified in § 648.51(b)(5), and turtle dredge chain mat requirements in § 223.206(d)(11) of this chapter.

* * * * *

(*5*) Fish under the small dredge program specified in § 648.51(e) with more than five persons on board the vessel, including the operator, unless otherwise authorized by the Regional Administrator or unless participating in the Area Access Program, with the exception of the Delmarva Access Area in from March 1, 2014 to February 28, 2015, pursuant to the requirements specified in § 648.60.

(*6*) Participate in the DAS allocation program with more persons on board the vessel than the number specified in § 648.51(c), including the operator, when the vessel is not docked or moored in port, unless otherwise authorized by the Regional Administrator, or unless participating in the Area Access Program, with the exception of the Delmarva Access Area in from March 1, 2014 to February 28, 2015, pursuant to the requirements specified in § 648.60.

* * * * *

(*9*) Fail to comply with the gear restrictions described in § 648.51.

* * * * *

(ix) Fish for scallops west of 71° W. long., outside of the Sea Scallop Access Areas, with gear that does not meet the specifications described in § 648.65 during the period specified in the notice announcing the windowpane flounder accountability measure gear restricted area described in § 648.65.

* * * * *

(4) * * *

(iii) * * *

(D) [Reserved]

* * * * *

■ 4. In § 648.51, paragraph (b)(3)(iii) is removed, and paragraphs (b)(4)(iv), (b)(5)(ii)(A), (b)(5)(ii)(C), (c) introductory text, (c)(1), (c)(2), and (e)(3)(i), are revised to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

(b) * * *

(4) * * *

(iv) *Twine top restrictions.* In addition to the minimum twine top mesh size specified in paragraph (b)(2) of this section the following restrictions apply:

(A) Vessels issued limited access scallop permits that are fishing for scallops under the DAS Program are also subject to the following restrictions:

(*1*) If a vessel is rigged with more than one dredge, or if a vessel is rigged with only one dredge and such dredge is greater than 8 ft (2.4 m) in width, there must be at least seven rows of non-overlapping steel rings unobstructed by netting or any other material between the terminus of the dredge (club stick) and the net material on the top of the dredge (twine top).

(*2*) If a vessel is rigged with only one dredge, and such dredge is less than 8 ft (2.4 m) in width, there must be at least four rows of non-overlapping steel rings unobstructed by netting or any other material between the club stick and the twine top of the dredge. (A copy of a diagram showing a schematic of a legal dredge with twine top is available from the Regional Administrator upon request)

(B) *Twine top restrictions in waters west of 71° W long. as a proactive accountability measure.* In addition to the minimum twine top mesh size specified in paragraph (b)(2) of this section, limited access and limited access general category IFQ vessels fishing for scallops outside of the Scallop Access Areas specified in § 648.59, may not fish with a dredge having more than seven rows of non-overlapping steel rings unobstructed by netting or any other material between the terminus of the dredge (club stick) and the net material on the top of the dredge (twine top) (A copy of a diagram

showing a schematic of a legal dredge with twine top is available from the Regional Administrator upon request).

* * * * *

(5) * * *

(ii) * * * A) From May 1 through October 31, any limited access scallop vessel using a dredge, regardless of dredge size or vessel permit category, or any LAGC IFQ scallop vessel fishing with a dredge with a width of 10.5 ft (3.2 m) or greater, that is fishing for scallops in waters west of 71° W long., from the shoreline to the outer boundary of the EEZ, must use a TDD. The TDD requires five modifications to the rigid dredge frame, as specified in paragraphs (b)(5)(ii)(A)(*1*) through (b)(5)(ii)(A)(*5*) of this section. See paragraph (b)(5)(ii)(D) of this section for more specific descriptions of the dredge elements mentioned below.

* * * * *

(C) A vessels subject to the requirements in paragraph (b)(5)(ii) of this section transiting waters west of 71° W. long., from the shoreline to the outer boundary of the EEZ, is exempted from the requirement to only possess and use TDDs, provided the dredge gear is stowed in accordance with § 648.23(b) and not available for immediate use.

* * * * *

(c) *Crew restrictions.* A full-time limited access vessel participating in or subject to the scallop DAS allocation program and a full-time limited access vessel fishing in the Delmarva Access Area from March 1, 2014, through February 28, 2015, may have no more than seven people aboard, including the operator, when not docked or moored in port, except as follows:

(1) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in § 648.60 other than the Delmarva Access Area.

(2) A vessel participating in the small dredge program is restricted as specified in paragraph (e) of this section;

* * * * *

(e) * * *

(3) * * *

(i) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in § 648.60 other than the Delmarva Access Area.

* * * * *

5. In § 648.53:

(a) Revise paragraphs (a) introductory text, (a)(1), (a)(3), (a)(4)(i), (a)(4)(ii);

(b) Revise (b)(1)(i) and (ii), (b)(4) introductory text;

(c) Add (b)(4)(i);

(d) Revise (g)(1) introductory text, (h)(2)(v)(A), and (h)(5)(i), (h)(5)(ii)(A), (h)(5)(iii), (h)(5)(iv) introductory text, (h)(5)(iv)(A), (h)(5)(iv)(D);

The additions and revisions to read as follows:

§ 648.53 Acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), DAS allocations, and individual fishing quotas (IFQ).

(a) *Scallop fishery ABC.* The ABC for the scallop fishery shall be established through the framework adjustment process specified in § 648.55 and is equal to the overall scallop fishery ACL. The ABC/ACL shall be divided as sub-ACLs between limited access vessels, limited access vessels that are fishing under a LAGC permit, and LAGC vessels as specified in paragraphs (a)(3) and (a)(4) of this section, after deducting the scallop incidental catch target TAC specified in paragraph (a)(2) of this section, observer set-aside specified in paragraph (g)(1) of this section, and research set-aside specified in § 648.56(d). The ABC/ACL for the 2015 fishing year is subject to change through a future framework adjustment.

(1) ABC/ACL for fishing years 2014 through 2015 shall be:

(i) 2014: 20,782 mt (45,816,475 lb).

(ii) 2015: 23,982 mt (52,871,269 lb).

* * * * *

(3) *Limited access fleet sub-ACL and ACT.* The limited access scallop fishery shall be allocated 94.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a). ACT for the limited access scallop fishery shall be established through the framework adjustment process described in § 648.55. DAS specified in paragraph (b) of this section shall be based on the ACTs specified in paragraph (a)(3)(ii) of this section. The limited access fleet sub-ACL and ACT for the 2015 fishing year are subject to change through a future framework adjustment.

(i) The limited access fishery sub-ACLs for fishing years 2014 and 2015 are:

(A) 2014: 18,885 mt (41,634,305 lb).

(B) 2015: 21,879 mt (48,234,778 lb).

(ii) The limited access fishery ACTs for fishing years 2014 and 2015 are:

(A) 2014: 15,567 mt (34,319,360 lb).

(B) 2015: 16,540 mt (36,463,509 lb).

(4) * * *

(i) The ACLs for fishing years 2014 and 2015 for LAGC IFQ vessels without a limited access scallop permit are:

(A) 2014: 999.2 mt (2,202,859 lb).

(B) 2015: 1,158 mt (2,552,105 lb).

(ii) The ACLs for fishing years 2014 and 2015 for vessels issued both a LAGC and a limited access scallop permits are:

(A) 2014: 99.9 mt (220,286 lb).

(B) 2015: 116 mt (255,210 lb).

(b) * * *

(1) * * *

(i) 2014 fishing year: 2,581 lb/DAS (1,171 kg/DAS).

(ii) 2015 fishing year: 2,590 lb/DAS (1,175 kg/DAS).

* * * * *

(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, excluding carryover DAS in accordance with paragraph (d) of this section. DAS allocations shall be determined by distributing the portion of ACT specified in paragraph (a)(3)(ii) of this section, as reduced by access area allocations specified in § 648.59, and dividing that amount among vessels in the form of DAS calculated by applying estimates of open area LPUE specified in paragraph (b)(1) of this section. Allocation for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS allocations, respectively. The annual open area DAS allocations for each category of vessel for the fishing years indicated are as follows:

SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2014	2015
Full-Time	31	17
Part-Time	12	7
Occasional	3	1

(i) Additional DAS for Full-time limited access vessels that exchange a FY 2014 Delmarva Access Area trip. A vessel that exchanges a Delmarva Access Area trip for open area DAS, as specified in § 648.60(a)(3)(iii) shall be allocated 5 additional DAS in the 2014 fishing year.

* * * * *

(g)* * * . (1) To help defray the cost of carrying an observer, 1 percent of the ABC/ACL specified in paragraph (a)(1) of this section shall be set aside to be used by vessels that are assigned to take an at-sea observer on a trip. The total TAC for observer set aside is 208 mt (458,562 lb) in fishing year 2014, and 240 mt (529,110lb) in fishing year 2015.

* * * * *

(h) * * *

(2) * * *

(v) * * * (A) With the exception of vessels that held a confirmation of permit history as described in

§ 648.4(a)(2)(ii)(L) for the entire fishing year preceding the carry-over year, LAGC IFQ vessels that have unused IFQ on the last day of February of any year may carry over up to 15 percent of the vessel's original IFQ plus the total of IFQ transferred to such vessel minus the total IFQ transferred from such vessel (either temporary or permanent) IFQ into the next fishing year. For example, a vessel with a 10,000-lb (4,536-kg) IFQ and 5,000-lb (2,268-kg) of leased IFQ may carry over 2,250 lb (1,020 kg) of IFQ (i.e., 15 percent of 15,000 lb (6,804 kg)) into the next fishing year if it landed 12,750 lb (5,783 kg) (i.e., 85 percent of 15,000 lb (6,804 kg)) of scallops or less in the preceding fishing year. Using the same IFQ values from the example, if the vessel landed 14,000 lb (6,350 kg) of scallops, it could carry over 1,000 lb (454 kg) of scallops into the next 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 (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may temporarily transfer (e.g. lease) 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. For the remainder of the 2013 fishing year, IFQ, once temporarily transferred, cannot be temporarily transferred again to another vessel. Beginning on March 1, 2014, IFQ can be temporarily transferred more than once (i.e., re-transferred). For example, if a vessel temporarily transfers IFQ to a vessel, the transferee vessel may re-transfer any portion of that IFQ to another vessel. There is no limit on how many times IFQ can be re-transferred in a fishing year after March 1, 2014. The Regional Administrator has final approval authority for all temporary IFQ transfer requests.

(ii) * * * (A) Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may transfer IFQ permanently to or from another IFQ scallop vessel. Any such transfer cannot be limited in duration and is permanent as to the transferee, unless the IFQ is subsequently permanently transferred to another IFQ scallop vessel. For the remainder of the 2013 fishing year, IFQ permanently transferred to a vessel during the 2013 fishing year may then be temporarily transferred (i.e., leased) to another vessel(s) in any amount not to exceed the original permanent transfer. IFQ may be permanently transferred to a vessel and then be re-transferred (temporarily transferred (i.e., leased) or permanently transferred) by such vessel to another vessel in the same fishing year. There is no limit on how many times IFQ can be re-transferred in a fishing year after March 1, 2014.

* * * * *

(iii) *IFQ transfer restrictions.* The owner of an IFQ scallop vessel (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may transfer that vessel's IFQ to another IFQ scallop vessel, regardless of whether or not the vessel has fished under its IFQ in the same fishing year. Requests for IFQ transfers cannot be less than 100 lb (46.4 kg), unless that the transfer reflects the total IFQ amount remaining on the transferor's vessel, or the entire IFQ allocation. IFQ may be temporarily or permanently transferred to a vessel and then temporarily re-transferred (i.e., leased) or permanently re-transferred by such vessel to another vessel in the same fishing year. There is no restriction on how many times IFQ can be re-transferred. A transfer of an IFQ may not result in the sum of the IFQs on the receiving vessel exceeding 2.5 percent of the ACL 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 ACL allocated to IFQ scallop vessels. Limited access scallop vessels that are also issued an IFQ scallop permit may not transfer to or receive IFQ from another IFQ scallop vessel.

(iv) *Application for an IFQ transfer.* The owners of vessels applying for a transfer of IFQ must submit a completed application form obtained from the Regional Administrator. The application must be signed by both parties (transferor and transferee) involved in the transfer of the IFQ, and must be submitted to the NMFS Northeast Regional Office at least 30 days before the date on which the applicants desire to have the IFQ effective on the receiving vessel. The Regional Administrator shall notify the applicants of any deficiency in the application pursuant to this section. Applications may be submitted at any time during the scallop fishing year, regardless of whether or not the vessel has fished under its IFQ in the same fishing year. Applications for temporary transfers received less than 45 days prior to the end of the fishing year may not be processed in time for a vessel to utilize the transferred IFQ, if approved, prior to the expiration of the fishing year.

(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 transfer IFQ must indicate the amount, in pounds, of the IFQ allocation transfer. Information obtained from the transfer application will be held confidential, and will be used only in summarized form for management of the fishery. If the applicants are requesting a transfer of IFQ that has already been transferred in a given fishing year, both parties must be up-to-date with all data reporting requirements (e.g., all necessary VMS catch reports, VTR, and dealer data must be submitted) in order for the application to be processed.

* * * * *

(D) If an LAGC IFQ vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to other IFQ vessels prior to Framework 25's implementation (i.e., transfers more than what it is allocated for fishing year 2014 pursuant to the implantation of Framework 25), the vessel(s) to which the scallops were transferred (i.e., the transferee) shall receive a pound-for-pound deduction in fishing year 2014 equal to the difference between the amount of scallops transferred and the amount allocated to the transferring vessel for 2014 pursuant to Framework 25. The vessel that transferred the scallops shall not be assessed this deduction. For example, Vessel A is allocated 5,000 lb (2,268 kg) of scallops at the start of fishing year 2014, but would receive 3,500 lb (1,588 kg) of scallops once Framework 25 is implemented. If Vessel A transfers its full March 1, 2014, allocation of 5,000 lb (2,268 kg) to Vessel B prior to Framework 25's implementation, Vessel B would lose 1,500 lb (680 kg) of that transfer once Framework 25 is implemented. In situations where a vessel leases out its IFQ to multiple vessels, the deduction of the difference between the original amount of scallops allocated and the amount allocated pursuant to Framework 25 shall begin to

apply only to the transfer(s) that exceed the original allocation. Using the example above, if Vessel A first leases 3,000 lb (1,361 kg) of scallops to Vessel B and then leases 2,000 lb (907 kg) of scallops to Vessel C, only Vessel C would have to pay back IFQ in excess of Vessel A's ultimate fishing year 2014 allocation (i.e., Vessel C would have to give up 1,500 lb (680 kg) of that quota because Vessel A ultimately only had 500 lb (227 kg) of IFQ to lease out). If a vessel has already fished its leased-in quota in excess of the amount ultimately allocated pursuant to Framework 25, the vessel must either lease in more quota to make up for that overage during fishing year 2014, or the overage, along with any other overages incurred in fishing year 2014, shall be deducted from its fishing year 2015 IFQ allocation as part of the individual AM applied to the LAGC IFQ fleet, as specified in paragraph (h)(2)(vi) of this section.

■ 6. In § 648.55, paragraph (d) is revised to read as follows:

§ 648.55 Framework adjustments to management measures.

* * * * *

(d) *Yellowtail flounder and windowpane flounder sub-ACLs.* The Council shall specify the yellowtail flounder and windowpane flounder sub-ACLs allocated to the scallop fishery through the framework adjustment process specified in § 648.90.

* * * * *

■ 7. Section 648.57 is revised to read as follows:

§ 648.57 Sea scallop area rotation program.

An area rotation program is established for the scallop fishery, which may include areas closed to scallop fishing defined in § 648.58, and/or Sea Scallop Access Areas defined in § 648.59, subject to the Sea Scallop Area Access program requirements specified in § 648.60. Areas not defined as Rotational Closed Areas, Sea Scallop Access Areas, EFH Closed Areas, or areas closed to scallop fishing under other FMPs, are open to scallop fishing as governed by the other management measures and restrictions in this part. The Council's development of area rotation programs is subject to the framework adjustment process specified in § 648.55, including the Area Rotation Program factors included in § 648.55(a). The percentage of the total allowable catch for each Sea Scallop Access Area that is allocated to limited access scallop vessels and limited access general category scallop vessels shall be through the framework adjustment process specified in § 648.55.

■ 8. In § 648.58 paragraph (b) is revised to read as follows:

§ 648.58 Rotational Closed Areas.

* * * * *

(b) *Hudson Canyon Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Hudson Canyon Closed Area. No vessel may possess scallops in the Hudson Canyon Closed Area, unless such vessel is only transiting the area as provided in paragraph (c) of this section. The Hudson Canyon Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
H1	39°30′ N	73°10′ W
H2	39°30′ N	72°30′ W
H3	38°30′ N	73°30′ W
H4	38°50′ N	73°30′ W
H5	38°50′ N	73°42′ W
H1	39°30′ N	73°10′ W

* * * * *

■ 9. In § 648.59, paragraphs (b), (c), (d), and (e) are revised to read as follows:

§ 648.59 Sea Scallop Access Areas.

* * * * *

(b) *Closed Area I Access Area*—(1) From March 1, 2014, through February 29, 2016 (i.e., fishing year 2014 and 2015), 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) [Reserved]

(3) The Closed Area I Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request), and so that the line connecting points CAIA3 and CAIA4 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between points CAIA3 and CAIA4:

Point	Latitude	Longitude	Note
CAIA1	41°26′ N	68°30′ W	
CAIA2	40°58′ N	68°30′ W	
CAIA3	40°54.95′ N	68°53.37′ W	[1]
CAIA4	41°04.32′ N	69°01.27′ W	[1]
CAIA1	41°26′ N	68°30′ W	

[1] From Point CAIA3 to Point CAIA4 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

(4) [Reserved]

(c) *Closed Area II Access Area*—(1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), subject to the seasonal restrictions specified in paragraph (c)(4) of this section, a vessel issued a scallop permit may not 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, unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(2) From March 1, 2015, through February 29, 2016 (i.e., fishing year 2015), unless fishing a 2014 fishing year compensation trip, as specified in § 648.60(c)(5)(v), a vessel issued scallop permit 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, a vessel issued both a NE Multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (c)(5)(ii)(C) of this section.

(3) The Closed Area II Sea Scallop Access Area is defined by straight lines, except where noted, connecting the

following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude	Note
CAIIA1	41°00′ N	67°20′ W	
CAIIA2	41°00′ N	66°35.8′ W	
CAIIA3	41°18.6′ N	(1)	(2)
CAIIA4	41°30′ N	(3)	(2)
CAIIA5	41°30′ N	67°20′ W	
CAIIA1	41°00′ N	67°20′ W	

[1] The intersection of 41°18.6 N lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.6′ N lat. and 66°25.01′ W long.
[2] From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada Maritime Boundary.
[3] The intersection of 41°30′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°30′ N lat., 66°34.73′ W long.

(4) *Season.* A vessel issued a scallop permit may not 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, during the period of August 15 through November 15 of each year the Closed Area II Access Area is open to scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(d) *Nantucket Lightship Access Area*—(1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), a vessel issued a scallop permit may not 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, unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(2) From March 1, 2015, through February 29, 2016 (i.e., fishing year 2015), unless fishing a 2014 fishing year compensation trip, as specified in § 648.60(c)(5)(v), a vessel 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. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (d)(5)(ii)(C) of this section.

(3) The Nantucket Lightship Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
NLAA1	40°50′ N	69°30′ W
NLAA2	40°50′ N	69°00′ W
NLAA3	40°20′ N	69°00′ W
NLAA4	40°20′ N	69°30′ W
NLAA1	40°50′ N	69°30′ W

(4) [Reserved]

(e) *Delmarva Sea Scallop Access Area.* (1) Beginning upon the effective date of Framework 25 and for 90 days following that effective date, 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 (e)(3) of this section, unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(2) From March 1, 2015, through February 29, 2016 (i.e., fishing year 2015), unless fishing a 2014 fishing year compensation trip, as specified in § 648.60(c)(5)(v), a vessel issued scallop permits may not fish for, possess, or land scallops in or from the area known as the Hudson Canyon Access Area, described in paragraph (e)(3) of this section, unless transiting pursuant to paragraph (f) of this section.

(3) The Delmarva Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
DMV1	38°10′ N	74°50′ W
DMV2	38°10′ N	74°00′ W
DMV3	37°15′ N	74°00′ W
DMV4	37°15′ N	74°50′ W
DMV1	38°10′ N	74°50′ W

* * * * *

■ 10. In § 648.60:

■ (a) Revise paragraphs (a) introductory text, (a)(3)(i), (a)(5)(i);

■ (b) Add paragraph (a)(3)(iii);

■ (c) Revise paragraphs (c)(5)(ii), (c)(5)(v), (e), and (g);

The additions and revisions to read as follows:

§ 648.60 Sea Scallop access area program requirements.

(a) A limited access scallop vessel may only fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraphs (a)(1) through (a)(9), and (b) through (f) of this section. An LAGC scallop vessel may fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraph (g) of this section.

* * * * *

(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, 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. No access area trips are allocated for fishing year 2015.

(B) *Full-time scallop vessels.* In fishing year 2014, each full-time vessel shall have a total of two access area trips, including one trip in the Delmarva Access Area and one trip in either Closed Area II Access Area or the Nantucket Lightship Access Area. These allocations shall be determined by the Regional Administrator through a random assignment and shall be made publically available on the NMFS Northeast Region Web site prior to the start of the 2014 fishing year.

(C) *Part-time scallop vessels.* (*1*) For the 2014 fishing year, a part-time scallop may take one trip in the Closed Area II Access Area, or one trip in the Nantucket Lightship Access Area, or one trip in the Delmarva Access Area.

(*2*) For the 2015 fishing year, part-time scallop vessels shall not receive access area trip allocations.

(D) *Occasional scallop vessels.* For the 2014 fishing year, an occasional scallop vessel may take one trip in the Closed Area II Access Area, or one trip in the Nantucket Lightship Access Area, or one trip in the Delmarva Access Area.

* * * * *

(iii) *Delmarva Access Area Trip Exchange for open area DAS.* From March 1, 2014, to February 28, 2015, (i.e., fishing year 2014) Full-Time Limited Access Scallop vessels may exchange a single Delmarva Access Area trip for 5 additional open area DAS, as specified in § 648.53(b)(4)(i). A vessel may not exchange more than one Delmarva Access Area trip for five DAS. For example, a vessel's initially issued 31 DAS and 2 Scallop Access Area trips, one in the Delmarva Access Area and one in the Nantucket Lightship Access Area, that exchanges its Nantucket Lightship Access Area trip for another Delmarva Access Area trip may only exchange one Delmarva Access Area trip for an additional five DAS.

* * * * *

(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). 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
2014	12,000 lb (5,443 kg)	9,600 lb (4,354 kg)	2,000 lb (907 kg).

* * * * *

(c) * * *

(5) * * *

(ii) If a vessel is authorized more than one additional compensation trip into any Sea Scallop Access Area as the result of more than one terminated trip in the same Access Area, the possession limits for the authorized trips may be combined, provided the total possession limit on a combined additional compensation trip does not exceed the possession limit for a trip as specified in paragraph (a)(5) of this section. For example, if the possession limit for a full-time vessel is 18,000 lb (8,165 kg) per trip, a full-time vessel that has two broken trips with corresponding additional compensation trip authorizations of 10,000 lb (4,536 kg) and 8,000 lb (3,629 kg) may combine the authorizations to allow one compensation trip with a possession limit of 18,000 lb (8,165 kg).

* * * * *

(v) *Additional compensation trip carryover.* Unless otherwise specified in § 648.59, 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 Delmarva Access Area trip on December 29, 2011, must declare that it is beginning its additional compensation trip during the first 60 days that the Delmarva Access Area is open (March 1, 2012, through April 29, 2012). 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 I trip on December 10, 2012, may not carry its additional compensation trip into the 2013 fishing year because Closed Area I is not open during the 2013 fishing year, and must complete any compensation trip by January 31, 2013.

* * * * *

(e) *Sea Scallop Research Set-Aside Harvest in Access Areas*—(1) *Access Areas available for harvest of research set-aside (RSA).* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a framework adjustment and pursuant to § 648.56. The amount of pounds that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2014 and 2015 are:

(i) 2014: Closed Area II Access Area

(ii) 2015: None.

(2) [Reserved]

* * * * *

(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(b)(4), (c)(4), and (d)(4), 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 (9), (d), (e), (f), and (g) of this section. 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) *Limited Access General Category 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 Closed Area I, Closed Area II, and Nantucket Lightship Access Areas may not exceed 10.5 ft (3.2 m). The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in the remaining Access Areas described in § 648.59 may not exceed 31 ft (9.4 m). Dredge width is measured at the widest point in the bail of the dredge.

(3) *LAGC IFQ Access Area Trips.*—(i) 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 have been or are projected to be taken. The total number of LAGC IFQ trips in a specified Access Area for fishing year 2014 and 2015 are:

Access Area	2014	2015
Hudson Canyon	0	0
Delmarva	516	0
Elephant Trunk	0	0
Closed Area 1	0	0
Closed Area 2	0	0
Nantucket Lightship	241	0

(ii) Scallops landed by each LAGC IFQ vessel on an access area trip shall count against the vessel's IFQ.

(iii) 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(b) through (d) is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8)(i).

■ 11. Section 648.61 is revised to read as follows:

§ 648.61 EFH closed areas.

(a) No vessel fishing for scallops, or person on a vessel fishing for scallops, may enter, fish in, or be in the EFH Closure Areas described in paragraphs (a)(1) through (6) of this section, unless otherwise specified. A chart depicting these areas is available from the Regional Administrator upon request.

(1) *Western GOM Habitat Closure Area.* The restrictions specified in this paragraph (a) apply to the Western GOM Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

WESTERN GOM HABITAT CLOSURE AREA

Point	Latitude	Longitude
WGM1	43°15′ N	70°15′ W
WGM2	42°15′ N	70°15′ W
WGM3	42°15′ N	70°00′ W
WGM4	43°15′ N	70°00′ W
WGM1	43°15′ N	70°15′ W

(2) *Cashes Ledge Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Cashes Ledge Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

CASHES LEDGE HABITAT CLOSURE AREA

Point	Latitude	Longitude
CLH1	43°01′ N	69°03′ W
CLH2	43°01′ N	68°52′ W
CLH3	42°45′ N	68°52′ W
CLH4	42°45′ N	69°03′ W
CLH1	43°01′ N	69°03′ W

(3) *Jeffrey's Bank Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Jeffrey's Bank Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

JEFFREY'S BANK HABITAT CLOSURE AREA

Point	Latitude	Longitude
JB1	43°40′ N	68°50′ W
JB2	43°40′ N	68°40′ W
JB3	43°20′ N	68°40′ W
JB4	43°20′ N	68°50′ W
JB1	43°40′ N	68°50′ W

(4) *Closed Area I Habitat Closure Areas.* The restrictions specified in paragraph (a) of this section apply to the Closed Area I Habitat Closure Areas, Closed Area I—North and Closed Area I—South, which are the areas bounded by straight lines connecting the following points in the order stated, and so that the line connecting points CI1 CIH2 and CI1CIH1, and CI2 and CIH3 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between those points:

CLOSED AREA I—NORTH HABITAT CLOSURE AREA

Point	Latitude	Longitude	Note
CI1	41°30′ N	69°23′ W	
CI4	41°30′ N	68°30′ W	
CIH1	41°26′ N	68°30′ W	
CIH2	41°04.32′ N	69°01.27′ W	(1)
CI1	41°30′ N	69°23′ W	(1)

[1] From Point CI2 back to Point CIH3 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

CLOSED AREA I—SOUTH HABITAT CLOSURE AREA

Point	Latitude	Longitude	Note
CIH3	40°54.95′ N	68°53.37′ W	
CIH4	40°58′ N	68°30′ W	
CI3	40°45′ N	68°30′ W	
CI2	40°45′ N	68°45′ W	(1)
CIH3	40°54.95′ N	68°53.37′ W	(1)

[1] From Point CI2 back to Point CIH3 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

(5) *Closed Area II Habitat Closure Area.* The restrictions specified in this paragraph (a) apply to the Closed Area II Habitat Closure Area (also referred to as the Habitat Area of Particular Concern), which is the area bounded by straight lines, except where noted, connecting the following points in the order stated:

CLOSED AREA II HABITAT CLOSURE AREA

Point	Latitude	Longitude	Note
CIIH1	42°10′ N	67°20′ W	
CIIH2	42°10′ N	(1)	(2)
CIIH3	42°00′ N	(3)	(2)
CIIH4	42°00′ N	67°10′ W	
CIIH5	41°50′ N	67°10′ W	
CIIH6	41°50′ N	67°20′ W	
CIIH1	42°10′ N	67°20′ W	

[1] The intersection of 42°10′ N lat. and the U.S.-Canada Maritime Boundary, approximately 42°10′ N lat. and 67°9.38′ W long.
[2] From Point CIIH2 connected to Point CIIH3 along the U.S.-Canada Maritime Boundary.
[3] The intersection of 42°00′ N lat. and the U.S.-Canada Maritime Boundary, approximately 42°00′ N lat. and 67°0.63′ W long.

(6) *Nantucket Lightship Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Nantucket Lightship Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

NANTUCKET LIGHTSHIP HABITAT CLOSED AREA

Point	Latitude	Longitude
NLH1	41°10′ N	70°00′ W
NLH2	41°10′ N	69°50′ W
NLH3	40°50′ N	69°30′ W
NLH4	40°20′ N	69°30′ W
NLH5	40°20′ N	70°00′ W
NLH1	41°10′ N	70°00′ W

(b) *Transiting.* A vessel may transit the EFH Closure Areas as defined in paragraphs (a)(1) through (6) of this section, unless otherwise restricted, provided that its gear is stowed in accordance with the provisions of § 648.23(b). A vessel may transit the CAII EFH closed area, as defined in paragraph (a)(5) of this section, provided there is a compelling safety reason to enter the area and all gear is stowed in accordance with the provisions of § 648.23(b).

■ 12. In § 648.64, paragraphs (a), (b)(1), (c)(1)(i), (c)(2)(ii), (c)(2)(iii), and (c)(2)(iv) are revised to read as follows:

§ 648.64 Yellowtail flounder sub-ACLs and AMs for the scallop fishery.

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for the Georges Bank and Southern New England/Mid-Atlantic stocks of yellowtail flounder. The sub-ACLs for the 2014 fishing year are specified in § 648.90(a)(4)(iii)(C) of the NE multispecies regulations.

(b) *Georges Bank accountability measure.* (1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Georges Bank yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates, bounded in the order stated by straight lines except where noted, shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (b)(2) of this section:

GEORGES BANK YELLOWTAIL ACCOUNTABILITY MEASURE CLOSURE

Point	Latitude	Longitude	Note
GBYT AM 1	41°50′ N	(1)	(2)
GBYT AM 2	40°30′ N	(3)	(2)
GBYT AM 3	40°30′ N	66°40′ W	
GBYT AM 4	40°40′ N	66°40′ W	
GBYT AM 5	40°40′ N	66°50′ W	
GBYT AM 6	40°50′ N	66°50′ W	
GBYT AM 7	40°50′ N	67°00′ W	
GBYT AM 8	41°00′ N	67°00′ W	
GBYT AM 9	41°00′ N	67°20′ W	
GBYT AM 10	41°10′ N	67°20′ W	
GBYT AM 11	41°10′ N	67°40′ W	
GBYT AM 12	41°50′ N	67°40′ W	
GBYT AM 1	41°50′ N	(1)	

[1] The intersection of 41°50′ N lat. and the U.S.-Canada Maritime Boundary, approximately 41°50′ N lat., 66°51.94′ W long.
[2] From Point GBYT AM 1 connected to Point GBYT AM 2 along the U.S.-Canada Maritime Boundary.
[3] The intersection of 40°30′ N lat. and the U.S.-Canada Maritime Boundary, approximately 40°30′ N lat. and 65°44.34′ W long.

* * * * *

(c) *Southern New England/Mid-Atlantic accountability measures.* (1) Limited access scallop vessels. (i) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, the following area shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (c)(1)(ii) of this section. The Southern New England Yellowtail Accountability Measure Closure Area for Limited Access Scallop Vessels is comprised of Northeast Region Statistical Areas #537, #539 and #613, and is defined by the following coordinates, connected in the order

listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Note
LA SNEYT AM A	(1)	73°00′ W	
LA SNEYT AM B	40°00′ N	73°00′ W	
LA SNEYT AM C	40°00′ N	71°40′ W	
LA SNEYT AM D	39°50′ N	71°40′ W	
LA SNEYT AM E	39°50′ N	70°00′ W	
LA SNEYT AM F	(2)	70°00′ W	(3)
LA SNEYT AM G	41°16.76′ N	70°13.47′ W	(3) (4)
LA SNEYT AM H	41°18.01′ N	70°15.47′ W	(5)
LA SNEYT AM I	41°20.26′ N	70°18.30′ W	(6)
LA SNEYT AM J	41°21.09′ N	70°27.03′ W	(7) (8)
LA SNEYT AM K	41°20′ N	(9)	(8)
LA SNEYT AM L	41°20′ N	71°10′ W	
LA SNEYT AM M	(10)	71°10′ W	(11)
LA SNEYT AM N	(12)	71°40′ W	(11)
LA SNEYT AM O	41°00′ N	71°40′ W	
LA SNEYT AM P	41°00′ N	(13)	(14)
LA SNEYT AM A	(1)	73°00′ W	(14)

[1] The south facing mainland coastline of Long Island.
[2] The southern coastline of Nantucket.
[3] From Point F to Point G along the southern coastline of Nantucket.
[4] Point G represents Esther Island, Nantucket, Massachusetts.
[5] Point H represents Tuckernuck Island, Nantucket, Massachusetts.
[6] Point I represents Muskeget Island, Nantucket, Massachusetts.
[7] Point J represents Wasque Point, Chappaquiddick Island, Massachusetts.
[8] From Point J to Point K along the southern coastline of Martha's Vineyard.
[9] The western coastline of Martha's Vineyard.
[10] The southern coastline of Rhode Island.
[11] From Point M to Point N following the mainland coastline of Rhode Island.
[12] The southern coastline of Rhode Island.
[13] Southeast facing coastline of Long Island.
[14] From Point P back to Point A along the southern mainland coastline of Long Island.

* * * * *

(2) * * *

(ii) Closure Area 1 is comprised of Northeast Region Statistical Area #537, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM1 A	41°20′ N	(1)	
LAGC Dredge SNEYT AM1 B	41°20′ N	71°10′ W	
LAGC Dredge SNEYT AM1 C	41°10′ N	71°10′ W	
LAGC Dredge SNEYT AM1 D	41°10′ N	71°20′ W	
LAGC Dredge SNEYT AM1 E	40°50′ N	71°20′ W	
LAGC Dredge SNEYT AM1 F	40°50′ N	71°40′ W	
LAGC Dredge SNEYT AM1 G	39°50′ N	71°40′ W	
LAGC Dredge SNEYT AM1 H	39°50′ N	70°00′ W	
LAGC Dredge SNEYT AM1 I	(2)	70°00′ W	(3)
LAGC Dredge SNEYT AM1 J	41°16.76′ N	70°13.47′ W	(3) (4)
LAGC Dredge SNEYT AM1 K	41°18.01′ N	70°15.47′ W	(5)
LAGC Dredge SNEYT AM1 L	41°20.26′ N	70°18.30′ W	(6)
LAGC Dredge SNEYT AM1 M	41°21.09′ N	70°27.03′ W	(7) (8)
	(8)		
LAGC Dredge SNEYT AM1 A	41°20′ N	(1)	(8)

[1] The western coastline of Martha's Vineyard.
[2] The southern coastline of Nantucket.
[3] From Point I to Point J along the southern coastline of Nantucket.
[4] Point J represents Esther Island, Nantucket, Massachusetts.
[5] Point K represents Tuckernuck Island, Nantucket, Massachusetts.
[6] Point L represents Muskeget Island, Nantucket, Massachusetts.
[7] Point M represents Wasque Point, Chappaquiddick Island, Massachusetts.
[8] From Point M back to Point A along the southern coastline of Martha's Vineyard.

(iii) Closure Area 2 is comprised of Northeast Region Statistical Area #613, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM2 A	(1)	73°00′ W	
LAGC Dredge SNEYT AM2 B	40°00′ N	73°00′ W	

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM2 C	40°00′ N	71°40′ W	
LAGC Dredge SNEYT AM2 D	41°00′ N	71°40′ W	
LAGC Dredge SNEYT AM2 E	41°00′ N	(2)	(3)
LAGC Dredge SNEYT AM2 A	(1)	73°00′ W	(3)

1 The south facing mainland coastline of Long Island.
2 Southeast facing coastline of Long Island.
3 From Point E back to Point A along the southern mainland coastline of Long Island.

(iv) Closure Area 3 is comprised of Northeast Region Statistical Area #539, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM3 A	(1)	71°40′ W	
LAGC Dredge SNEYT AM3 B	40°50′ N	71°40′ W	
LAGC Dredge SNEYT AM3 C	40°50′ N	71°20′ W	
LAGC Dredge SNEYT AM3 D	41°10′ N	71°20′ W	
LAGC Dredge SNEYT AM3 E	41°10′ N	71°10′ W	
LAGC Dredge SNEYT AM3 F	(1)	71°10′ W	(2)
LAGC Dredge SNEYT AM3 A	(1)	71°40′ W	(2)

1 The southern coastline of Rhode Island.
2 From Point F back to Point A following the southern mainland coastline of Rhode Island.

* * * * *

■ 13. Section 648.65 is added:

§ 648.65 Windowpane flounder sub-ACL and AM for the scallop fishery.

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for SNE/MA stock of windowpane flounder. The sub-ACLs for the 2014 fishing year are specified in § 648.90(a)(4)(iii)(E) of the NE multispecies regulations.

(b) *Accountability measure.* (1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the SNE/MA windowpane flounder sub-ACL for the scallop fishery is exceeded and an accountability measure is triggered as described in § 648.90(a)(5)(iv), the area west of 71° W. long., shall be considered the SNE/MA windowpane flounder gear restricted area. Scallop vessels participating in the DAS, or LAGC IFQ scallop fishery for the period of time specified in paragraph (b)(2) of this section must comply with the gear restrictions specified in paragraph (b)(3) of this section when fishing in open areas. This accountability measure does not apply to scallop vessels fishing in Sea Scallop Access Areas.

(2) *Duration of gear restricted area.* The SNE/MA windowpane flounder accountability measure gear restricted area shall remain in effect for the period of time based on the corresponding percent overage of the SNE/MA windowpane flounder sub-ACL, as follows:

Percent overage of YTF	Length of closure
20 or less	February.
Greater than 20.	February through March.

(3) *Gear restriction.* When subject to the SNE/MA windowpane flounder accountability measure gear restricted area as described in paragraphs (b) and (b)(2) of this section, a vessel must fish with scallop dredge gear that conforms to the following restrictions:

(i) No more than 5 rows of rings shall be used in the apron of the dredge. The apron is on the top side of the dredge, extends the full width of the dredge, and is the rows of dredge rings that extend from the back edge of the twine top (i.e., farthest from the dredge frame) to the clubstick; and

(ii) The maximum hanging ratio for a net, net material, or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear does not exceed 1.5:1 overall. An overall hanging ratio of 1.5:1 means that the twine top is attached to the rings in a pattern of alternating 2 meshes per ring and 1 mesh per ring (counted at the bottom where the twine top connects to the apron), for an overall average of 1.5 meshes per ring for the entire width of the twine top. For example, an apron that is 40 rings wide (not including any ring in the side pieces) would only be able to use a twine top with 60 or fewer meshes so that the overall ratio of meshes to rings did not exceed 1.5 (60 meshes/40 rings = 1.5).

(iii) Vessels may not fish for scallops with trawl gear west of 71° W. Long when the gear restricted area accountability measure is in effect.

(c) *Process for implementing the AM*—(1) If reliable information is available to make a mid-year determination: On or about January 15 of each year, based upon catch and other information available to NMFS, the Regional Administrator shall determine whether the SNE/MA windowpane flounder sub-ACL was exceeded, or is projected to be exceeded, and if an accountability measure was triggered as described in § 648.90(a)(5)(iv), by scallop vessels prior to the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the SNE/MA windowpane flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this initial determination in mid-January, the Regional Administrator shall implement the AM in accordance with the APA and attempt to notify owners of limited access and LAGC scallop vessels by letter identifying the length of the gear restricted area and a summary of the SNE/MA windowpane flounder catch, overage, and projection that resulted in the gear restricted area.

(2) If reliable information is not available to make a mid-year determination: Once NMFS has compiled the necessary information (e.g., when the previous fishing year's observer and catch data are fully available), the Regional Administrator shall determine whether the SNE/MA windowpane flounder sub-ACL was

exceeded and if an accountability measure was triggered as described in § 648.90(a)(5)(iv), by scallop vessels following the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage, specified as a percentage of the overall sub-ACL for the SNE/MA windowpane flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this information, the Regional Administrator shall implement the AM in accordance with the APA in Year 3 (e.g., an accountability measure would be implemented in fishing year 2016 for an overage that occurred in fishing year 2014) and attempt to notify owners of limited access and LAGC scallop vessels by letter identifying the length of the gear restricted area and a summary of the SNE/MA windowpane flounder catch and overage information.

[FR Doc. 2014–10324 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 90

Friday, May 9, 2014

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

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Sauter Farms Inc. of Bennett, Colorado, an exclusive license to the feed barley variety named ''Mesa.''

DATES: Comments must be received on or before June 9, 2014.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: Brian Nakanishi of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this plant variety as Sauter Farms Inc. of Bennett, Colorado has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2014–10690 Filed 5–8–14; 8:45 am]

BILLING CODE 3410–03–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Tennessee Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Tennessee Advisory Committee (Committee) to the Commission will convene by conference call at 12:00 noon Central Time on Monday, June 9, 2014. The purpose of the meeting is for the Committee to plan future projects with the Committee receiving reports from its sub-committee on religious discrimination and accommodation, its sub-committee on GLBT issues in public schools and higher education, and its sub-committee on voting rights for persons with disabilities.

This meeting is available to the public through the following toll-free call-in number: 877–446–3914, conference ID: 2895602. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by July 9, 2014. The address is U.S. Commission on Civil Rights, Southern Regional Office, 61 Forsyth St., Suite 16T126, Atlanta, GA 30303. Comments may also be emailed to *pminarik@usccr.gov.*

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

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

Dated in Chicago, IL: May 6, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–10664 Filed 5–8–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Generic Clearance for Data User Evaluation Surveys.

OMB Control Number: 0607–0760.

Form Number(s): Various.

Type of Request: Extension of a currently approved collection.

Burden Hours: 15,000.

Number of Respondents: 30,000.

Average Hours per Response: 30 minutes.

Needs and Uses: The U.S. Census Bureau requests an extension for an additional three years of its generic clearance to conduct customer/product-based research. This extension will allow us to continue to use customer satisfaction surveys, personal interviews, web-based interviews, or focus group research to effectively improve and make more customer-oriented programs, products, and services.

Extended clearance for data collections would continue to cover customer/program-based research for any Census Bureau program area that needs to measure customer needs, uses, and preferences for statistical information and services. The customer base includes, but is not limited to

previous, existing, and potential businesses and organizations, alternate Census Bureau data disseminators like State Data Centers, Business and Industry Data Centers, Census Information Centers, Federal or Census Depository Libraries, educational institutions, and not-for-profit or other organizations.

The Census Bureau's Forms Clearance Officer and the Customer Liaison and Marketing Services Office (CLMSO) jointly administer the generic clearance. Census Bureau offices requiring customer and/or product-based research contact the CLMSO to help them determine the best strategy for fulfilling their information needs and then develop an appropriate collection mechanism, ensuring conformance with OMB requirements and Census Bureau strategic goals and objectives and to avert duplication or repetitive data collection. CLMSO also assists in the preparation of supporting documentation which, together with draft research documents are submitted to OMB for review two weeks in advance of any information collection activity. The Forms Clearance Officer approves and forwards this documentation to the OMB.

The CLMSO also prepares an annual report to OMB fully describing work done under the generic clearance, including:

- Descriptions of individual research conducted
- numbers of respondents and respondent burden hours used
- dates of each survey
- individual and aggregated costs of surveys
- individual summaries of results and program/product decisions that were made based upon customer responses and feedback

Information collected from customer research helps the Census Bureau to measure its customer base–their use, satisfaction, and preferences for existing and future programs, products and services.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; Federal Government; State, local or Tribal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Executive Order 12862.

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

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

Dated: May 5, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–10654 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[05/01/2014 through 05/05/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
The Pearl Girls, LLC	585 Barber Street, Suite D, Athens, GA 30601.	5/2/2014	The firm manufactures cultured and natural jewelry.
Martin Sports, Inc. (dba) Martin Archery	3134 Heritage Road, Walla Walla, WA 99362.	5/5/2014	The firm manufactures archery products and accessories.
Cotta Transmission Company, LLC	1301 Prince Hall Drive, Beloit, WI 53511.	5/2/2014	The firm manufactures speed changers for the power transmission industry.
Fiberoptic Lighting, Inc.	950 Southeast M Street, Grants Pass, OR 97526.	5/5/2014	The firm manufactures fiber optic signs and displays.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: May 5, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–10676 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review and Rescission of New Shipper Review; 2012–2013

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

SUMMARY: The Department of Commerce (the Department) is partially rescinding its administrative review and rescinding the new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) for the period September 1, 2012, through August 31, 2013.

DATES: *Effective Date:* May 9, 2014.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Minoo Hatten, AD/CVD Operations Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477 and (202) 482–1690 respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2013, we published a notice of opportunity to request an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC for the period of review (POR) September 1, 2012, through August 31, 2013.[1] On November 8, 2013, in response to requests from the petitioner, Crawfish Processors Alliance (CPA), and Chinese producers and exporters of subject merchandise, Hubei Zhenghe Food Co., Ltd. (Hubei Zhenghe) and Xiping Opeck Food Co., Ltd. (Xiping Opeck), and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the order on freshwater crawfish tail meat from the PRC with respect to eight companies: China Kingdom (Beijing) Import & Export Co., Ltd. (China Kingdom); Deyan Aquatic Products and Food Co., Ltd. (Deyan Aquatic); Hubei Zhenghe, Shanghai Ocean Flavor International Trading Co., Ltd. (Shanghai Ocean Flavor); Nanjing Gemsen International Co., Ltd. (Nanjing Gemsen); Xiping Opeck; Xuzhou Jinjiang Foodstuffs Co., Ltd. (Xuzhou Jinjiang); and Yancheng Hi-King Agriculture Developing Co., Ltd. (Yancheng Hi-King).[2]

On November 14, 2013, in response to requests from Hubei Nature Agriculture Industry Co., Ltd. (Hubei Nature) and Hubei Zhenghe, Chinese producers and exporters of subject merchandise, and in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i), we initiated new shipper reviews of the order on freshwater crawfish tail meat from the PRC with respect to these two companies for the POR September 1, 2012, through August 31, 2013.[3]

On January 6, 2014, Hubei Zhenghe withdrew its request for an administrative review.[4] On January 13, 2014, Hubei Zhenghe withdrew its request for a new shipper review.[5] On February 6, 2014, the CPA withdrew its request for an administrative review on six companies: China Kingdom; Deyan Aquatic; Nanjing Gemsen; Shanghai Ocean Flavor; Xuzhou Jinjiang; and Yancheng Hi-King.[6]

Partial Rescission of Administrative Review and Rescission of New Shipper Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, ''in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' The CPA withdrew its request for an administrative review, covering six companies of the seven companies for which it requested a review, within the 90-day time limit, and Hubei Zhenghe withdrew its request for an administrative review and new shipper review within the 90-day time limit. Because we received timely withdrawal requests from the CPA and Hubei Zhenghe, we are partially rescinding the administrative review with respect to China Kingdom, Deyan Aquatic, Nanjing Gemsen, Shanghai Ocean Flavor, Xuzhou Jinjiang, Yancheng Hi-King and Hubei Zhenghe, and rescinding the new shipper review of Hubei Zhenghe with respect to the order. This rescission is in accordance with 19 CFR 351.213(d)(1).

Accordingly, the Department intends to issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after publication of this notice.

Notifications

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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or 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 sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: May 6, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–10712 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 78 FR 54235 (September 3, 2013).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 67104 (November 8, 2013).

[3] *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of Antidumping Duty new Shipper Reviews,* 78 FR 68411 (November 14, 2013).

[4] *See* letter from Hubei Zhenghe to the Department, ''Withdrawal of Review Request in Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat From the People's Republic of China, 09/01/2012–08/31/13'' (January 6, 2014).

[5] *See* letter from Hubei Zhenghe to the Department, ''Withdrawal of Review Request in the New Shipper Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China, 09/01/12–08/31/13'' (September 30, 2013).

[6] *See* letter from the CPA to the Department, ''Freshwater Crawfish Tail Meat From the People's Republic of China: 2012–13 Administrative Review'' (February 6, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012

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

SUMMARY: On November 25, 2013, the Department of Commerce (''the Department'') published its *Preliminary Results* of the 2011–2012 administrative review of the antidumping duty order on multilayered wood flooring (''MLWF'') from the People's Republic of China (''the PRC'').[1] This review

[1] *See Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 70267 (November 25, 2013) (''*Preliminary Results*'').

covers 76 companies. The mandatory respondents in this review are: (1) Armstrong Wood Products (Kunshan) Co., Ltd. (''Armstrong''); (2) Fine Furniture (Shanghai) Limited (''Fine Furniture''); and (3) Nanjing Minglin Wooden Industry Co. Ltd. (''Minglin''). The period of review (''POR'') is May 26, 2011, through November 30, 2012. We invited interested parties to comment on our *Preliminary Results.* Based on our analysis of the comments received, we made changes to the margin calculations for these final results of the antidumping duty administrative review. The final dumping margins are listed below in the ''Final Results'' section of this notice.

DATES: *Effective Date:* May 9, 2014.

FOR FURTHER INFORMATION CONTACT: James Martinelli, Lilit Astvatsatrian or Magd Zalok, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2923, (202) 482–6412 or (202) 482–4162, respectively.

Background

On November 25, 2013, the Department published its *Preliminary Results.* On January 13, 2014, the Department received case briefs from Armstrong, Fine Furniture, Minglin and Chinafloors Timber (China) Co., Ltd. On January 14, 2014, the Department received a case brief from the Coalition for American Hardwood Parity (''CAHP'').[2] On January 22, 2014, the Department received rebuttal briefs from Armstrong, CAHP, Fine Furniture and Minglin. Between December 16, 2013 and December 23, 2013, the Department received requests for a hearing from Fine Furniture, CAHP and Armstrong. All parties withdrew their requests for a hearing between February 12, 2014 and February 19, 2014. On March 14, 2014, we extended the time period for issuing the final results of this review by 30 days, until April 24, 2014. On April 23, 2014, we extended the time period for issuing the final results of this review by an additional seven days, until May 1, 2014. On April 23, 2014, the United States Court of International Trade entered final judgments in *Baroque Timber Industries (Zhongshan) Company, Limited, et. al.* v. *United States* and *Zhejiang Layo Wood Industry Co., Ltd.* v. *United States.*[3] As a result of these judgments, the Department is amending the amended final less than fair value determination,[4] and because the revised weighted-average dumping margins for Zhejiang Layo Wood Industry Co., Ltd. and The Samling Group[5] are *de minimis,* merchandise produced and exported by Layo Wood and merchandise produced and exported by The Samling Group is excluded from the antidumping duty order on MLWF from the PRC.

Scope of the Order

The merchandise covered by the order includes MLWF, subject to certain exceptions.[6] Imports of the subject merchandise are provided for under the following subheadings of the HTSUS: 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.[7] While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Final Determination of No Shipments

For these final results of review, we continue to find that Changzhou Hawd Flooring Co., Ltd. (''Changzhou''); Dalian Jiuyuan Wood Industry Co., Ltd. (''Jiuyuan''); Jiaxing Brilliant Import & Export Co. Ltd. (''Jiaxing Brilliant''); Polywell Global Limited (''Polywell''); and Vicwood Industry (Suzhou) Co., Ltd. (''Vicwood'') had no shipments during the POR.[8]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the 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 electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

[2] The Coalition for American Hardwood Parity consists of the following domestic producers of the like product: Anderson Hardwood Floors, LLC, From the Forest, Howell Hardwood Flooring, Mannington Mills, Inc., Nydree Flooring, and Shaw Industries Group, Inc.

[3] These cases were formerly consolidated under Consol. Court No. 12–00007, *Baroque Timber Industries (Zhongshan) Company, Limited, et. al.* v. *United States.*

[4] *See Multilayered Wood Flooring From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 76 FR 76690 (December 8, 2011) (''*MLWF Amended Final Determination*'').

[5] The Samling Group consists of the following companies: Baroque Timber Industries (Zhongshan) Co., Ltd, Riverside Plywood Corporation, Samling Elegant Living Trading (Labuan) Limited, Samling Riverside Co., Ltd, and Suzhou Times Flooring Co., Ltd.

[6] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice, regarding ''Issues and Decision Memorandum for Final Results of 2011–2012 Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China,'' issued concurrently with this notice for a complete description of the Scope of the Order (''Issues and Decision Memorandum'').

[7] On August 28, 2013, in consultation with CBP, the Department added the following HTSUS classification to the AD/CVD module for wood flooring: 9801.00.2500. *See* Letter to the File from Lilit Astvatsatrian, Case Analyst, Enforcement and Compliance, Office IV, regarding ''Multilayered Wood Flooring from the PRC, Modification of the Case Reference File in ACE,'' (November 18, 2013).

[8] *See Preliminary Results,* 78 FR at 70267, 70268, n.4.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our preliminary results, we made revisions to the margin calculations for Armstrong, Fine Furniture and Minglin.[9]

Separate Rates

In our *Preliminary Results,* we determined that 13 separate rate applicant companies and 55 separate rate certifier companies demonstrated their eligibility for separate rate status.[10] Subsequent to the publication of the *Preliminary Results,* we clarified the names of five companies eligible for a separate rate and also determined that an additional company was no longer eligible for a separate rate and would be placed in the PRC-wide entity.[11] Additionally, the company incorrectly identified in the *Preliminary Results* as Changbai Mountain Development and Protection Zone Hongtu Wood Industry Co., Ltd. has been corrected for the final results to Changbai Mountain Development and Protection Zone Hongtu Wood Industrial Co., Ltd.[12] Finally, we determined that Jilin Xinyuan Wooden Industry Co., Ltd. is the correct name for the company that was also referred to in the *Preliminary Results,* incorrectly, as Xinyuan Wooden Industry Co., Ltd.[13]

Final Results

We determine that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percent)
Armstrong Wood Products (Kunshan) Co., Ltd	0.00
Nanjing Minglin Wooden Industry Co. Ltd	0.00
Fine Furniture (Shanghai) Limited	5.74
Anhui Longhua Bamboo Product Co., Ltd	5.74
A&W (Shanghai) Woods Co., Ltd	5.74
Baishan Huafeng Wood Product Co., Ltd	5.74
Benxi Wood Company	5.74
Changbai Mountain Development and Protection Zone Hongtu Wood Industrial Co., Ltd	5.74
Chinafloors Timber (China) Co., Ltd	5.74
Dalian Dajen Wood Co., Ltd	5.74
Dalian Huilong Wooden Products Co., Ltd	5.74
Dalian Kemian Wood Industry Co., Ltd	5.74
Dalian Penghong Floor Products Co., Ltd	5.74
Dasso Industrial Group Co., Ltd	5.74
Dongtai Fuan Universal Dynamics, LLC.	5.74
Dunhua City Hongyuan Wood Industry Co., Ltd	5.74
Dunhua City Jisen Wood Industry Co., Ltd	5.74
Dunhua City Wanrong Wood Industry Co., Ltd	5.74
Dunhua City Dexin Wood Industry Co., Ltd	5.74
Dun Hua Sen Tai Wood Co., Ltd	5.74
Fujian Wuyishan Werner Green Industry Co., Ltd	5.74
Fusong Jinlong Group[14]	5.74
GTP International	5.74
Guangdong Fu Lin Timber Technology Limited	5.74
Guangdong Yihua Timber Industry Co., Ltd	5.74
Guangzhou Panyu Kangda Board Co., Ltd	5.74
Guangzhou Panyu Southern Star Co., Ltd	5.74
HaiLin LinJing Wooden Products, Ltd	5.74
Hangzhou Hanje Tec Co., Ltd	5.74
Hunchun Forest Wolf Wooden Industry Co., Ltd	5.74
Huzhou Chenghang Wood Co., Ltd	5.74
Huzhou Fulinmen Imp & Emp. Co., Ltd	5.74
Huzhou Jesonwood Co., Ltd	5.74
Huzhou Sunergy World Trade Co., Ltd	5.74
Jianfeng Wood (Suzhou) Co., Ltd	5.74
Jiangsu Senmao Bamboo and Wood Industry Co., Ltd	5.74
Jiangsu Simba Flooring Industry Co., Ltd	5.74
JiaShan FengYun Timber Company Ltd	5.74
Jiashan HuiJiaLe Decoration Material Co., Ltd	5.74
Jiaxing Hengtong Wood Co., Ltd	5.74
Jilin Forest Industry Jinqiao Flooring Group Co., Ltd	5.74
Jilin Xinyuan Wooden Industry Co., Ltd	5.74
Karly Wood Product Limited	5.74

[9] *See* Issues and Decision Memorandum.

[10] *See* Preliminary Decision Memorandum.

[11] *See* Memorandum to The File from James Martinelli, International Trade Compliance Analyst, AD/CVD Enforcement, Office IV, Enforcement and Compliance through Robert Bolling, Program Manager, AD/CVD Enforcement, Office IV, Enforcement and Compliance, regarding ''Comments on Company Names in Preliminary Results'' (December 17, 2013); *see also* Memorandum to the File from James Martinelli, International Trade Compliance Analyst, AD/CVD Enforcement, Office IV, Enforcement and Compliance through Robert Bolling, Program Manager, AD/CVD Enforcement, Office IV, Enforcement and Compliance, regarding ''Comments on Dunhua Jisheng Wood Industry Co., Ltd.'' (December 17, 2013).

[12] *See* Letter to the Department from Changbai Mountain Development and Protection Zone Hongtu Wood Industrial Co., Ltd., regarding ''Request for Correction of Name'' (December 31, 2013).

[13] *See* Memorandum to the File from Charles Riggle, AD/CVD Enforcement, Office IV, Enforcement and Compliance, regarding ''2011–2012 Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China'' (December 23, 2013).

[14] The following companies are collectively known as The Fusong Jinlong Group (''Fusong Jinlong Group''): Dalian Qianqiu Wooden Product Co., Ltd.; Fusong Jinlong Wooden Group Co., Ltd.; Fusong Jinqiu Wooden Product Co., Ltd.; and Fusong Qianqiu Wooden Products Co., Ltd.

Exporter	Weighted-average dumping margin (percent)
Kemian Wood Industry (Kunshan) Co., Ltd	5.74
Kunming Alston (AST) Wood Products Co., Ltd	5.74
Kunshan Yingyi-Nature Wood Industry Co., Ltd	5.74
Metropolitan Hardwood Floors, Inc	5.74
Mudanjiang Bosen Wood Industry Co., Ltd	5.74
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd	5.74
Pinge Timber Manufacturing (Zhejiang) Co., Ltd	5.74
Puli Trading Limited	5.74
Scholar Home (Shanghai) New Material Co. Ltd	5.74
Shanghai Eswell Timber Co., Ltd	5.74
Shanghai Lairunde Wood Co., Ltd	5.74
Shanghai Lizhong Wood Products Co., Ltd/The Lizhong Wood Industry Limited Company of Shanghai	5.74
Shanghai New Sihi Wood Co., Ltd	5.74
Shanghai Shenlin Corp	5.74
Shenyang Senwang Wooden Industry Co., Ltd	5.74
Shenzhenshi Huanwei Woods Co., Ltd	5.74
Suzhou Dongda Wood Co., Ltd	5.74
Xiamen Yung De Ornament Co., Ltd	5.74
Xuzhou Shenghe Wood Co., Ltd	5.74
Yixing Lion-King Timber Industry Co., Ltd	5.74
Zhejiang Biyork Wood Co., Ltd	5.74
Zhejiang Dadongwu Greenhome Wood Co., Ltd	5.74
Zhejiang Desheng Wood Industry Co., Ltd	5.74
Zhejiang Fudeli Timber Industry Co., Ltd	5.74
Zhejiang Fuma Warm Technology Co., Ltd	5.74
Zhejiang Longsen Lumbering Co., Ltd	5.74
Zhejiang Shiyou Timber Co., Ltd	5.74
Zhejiang Tianzhen Bamboo & Wood Development Co., Ltd	5.74
Zhejiang Yongyu Bamboo Joint-Stock Co., Ltd	5.74
PRC-Wide Entity [15]	58.84

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review, excluding any sales that entered during the gap period.[16] Where an assessment rate is above *de minimis* (*de minimis* being less than 0.5 percent in a review), we will instruct CBP to assess duties on all entries of subject merchandise for that importer during the period from December 7, 2011 through November 30, 2012. For entries made during the provisional-measures period (*i.e.,* May 26, 2011 through November 21, 2011), we will instruct CBP to liquidate the entries at the proper assessment rates, pursuant to section 737(a) of the Tariff Act of 1930, as amended (the ''Act''). In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales.[17] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies not selected for individual examination, we will instruct CBP to apply the rates listed above to the entries of subject merchandise exported by such companies and entered during the period from December 7, 2011 through November 30, 2012. The rates were obtained by averaging the above-*de minimis* cash-deposit rates calculated for the companies selected for individual examination as mandatory respondents. For entries made during the provisional-measures period, we will instruct CBP to apply the lower of the rates assigned to the companies as a result of the final

[15] The following companies were named in the *Initiation Notice* but did not submit a certification of no shipment, separate rate application or separate rate certification; therefore the Department has determined that they are part of the PRC-wide entity: Baiying Furniture Manufacturer Co., Ltd.; Dazhuang Floor Co. (dba Dasso Industrial Group Co., Ltd.); Dunhua Jisheng Wood Industry Co., Ltd.; Fu Lik Timber (HK) Co., Ltd.; Furnco International (HK) Company Limited; Fusong Qianqiu Wooden Group Co., Ltd.; Guangdong Jiasheng Timber Industry Co., Ltd.; Guanghzhou Panyu Shatou Trading Co., Ltd.; Huzhou Fuma Wood Bus. Co., Ltd.; Jiazing Brilliant Import & Export Co., Ltd.; Puli Trading Co., Ltd.; Sennorwell International Group (Hong Kong) Limited; Shanghai Demeijia Wooden Co., Ltd.; Shenyang Haobainian Wood Co.; Shenyang Sende Wood Co., Ltd.; Suzhou Anxin Weiguang Timber Co., Ltd.; Yekalon Industry, Inc.; Zhejiang AnJi XinFeng Bamboo & Wood Co., Ltd.; Zhejiang Haoyun Wood Co., Ltd.; Zhejiang Jeson Wood Co., Ltd.; and Zhejiang Jiechen Wood Industry Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 6291 (January 30, 2013); *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 13633 (February 28, 2013) (''*Initiation Notice*'').

[16] The gap period represents the period of time after the expiration of the 180-day provisional measures period during the original investigation, to the day prior to the publication in the **Federal Register** of the U.S. International Trade Commission's final determination. In the instant case, the gap period is November 22, 2011, to December 6, 2011.

[17] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

results of this review or the cash deposit rate collected as security for an estimated dumping duty. The Department announced a refinement to its assessment practice in non-market economy (''NME'') cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see Assessment in NME Antidumping Proceedings.*[18]

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 from the PRC 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) Armstrong, Fine Furniture, Minglin and the non-examined, separate rate respondents, the cash deposit rate will be equal to their weighted-average dumping margins established in the final results of this review, except if the rate is zero or *de minimis,* then no cash deposit will be required; (2) for Changzhou, Jiuyuan, Jiaxing Brilliant, Polywell and Vicwood, which claimed no shipments, the cash deposit rate will remain unchanged from their rate assigned in the most recently completed review of the company; (3) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (4) for all PRC exporters of subject merchandise that have not been found to be entitled a separate rate, the cash deposit rate will be that for the PRC-wide entity established in the final determination of the less than fair value investigation (*i.e.,* 58.84 percent); and (5) 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. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed regarding these final results within five days of the date of publication of this notice in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

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

Administrative Protective Order

This notice also serves as a reminder to parties subject to 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 or 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 administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: May 1, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

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[FR Doc. 2014–10698 Filed 5–8–14; 8:45 am]

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[18] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*Assessment in NME Antidumping Proceedings*).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Certain Cut-to-Length Carbon Quality Steel Plate From the Republic of Korea: Rescission of Countervailing Duty Administrative Review; 2013

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

DATES: *Effective Date:* May 9, 2014.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2014, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the countervailing duty order on certain cut-to-length carbon quality steel plate from the Republic of Korea (Korea).[1]

Pursuant to a request from Dongkuk Steel Mill Co., Ltd. (DSM), the Department published in the **Federal Register** the notice of initiation of this countervailing duty administrative review with respect to DSM for the period January 1, 2013, through December 31, 2012.[2] On April 28, 2014, DSM withdrew its request for review in a timely manner.[3] DSM was the only interested party to submit a request for this administrative review.

Rescission of the 2013 Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. The Department published the *Initiation* on April 1, 2014.[4] DSM's withdrawal of its review request was submitted within the 90-day period following the publication of the *Initiation* and, thus, is timely. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review of the countervailing duty order on certain cut-to-length carbon quality steel plate from Korea in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. For the company for which this review is rescinded countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2013, through December 31, 2013, in accordance with 19 CFR 351.212(c)(1)(i).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under an 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 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: May 5, 2014.

Gary Taverman,

Senior Advisor for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–10701 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 79 FR 6159 (February 3, 2014).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 79 FR 18262 (April 1, 2014) (*Initiation*).

[3] *See* DSM's April 28, 2014, submission.

[4] *See Initiation.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–851–803]

Grain-Oriented Electrical Steel From the Czech Republic: Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that grain-oriented electrical steel (GOES) from the Czech Republic is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2012, through June 30, 2013. The estimated weighted-average dumping margins of sales at LTFV are listed in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* May 9, 2014.

FOR FURTHER INFORMATION CONTACT: Dennis McClure at (202) 482–5973 or Stephen Bailey at (202) 482–0193, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated this investigation on October 24, 2013.[1] For a complete description of the events that followed the initiation of this investigation, see the memorandum that is dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).[2] The

[1] *See Grain-Oriented Electrical Steel From the People's Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Initiation of Antidumping Duty Investigations,* 78 FR 65283 (Oct. 31, 2013) (*Initiation Notice*). AK Steel Corporation, Allegheny Ludlum, LLC, and the United Steelworkers (collectively, the petitioners) filed the underlying petitions. *Id.* at 65283.

[2] *See* memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled: ''Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel

Continued

Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov*, and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The scope of the investigation covers GOES, which is a flat-rolled alloy steel product containing by weight specific levels of silicon, carbon and aluminum. For a complete description of the scope of the investigation, see Appendix I to this notice.

Various parties submitted comments on the scope. For discussion of these comments, see the Preliminary Decision Memorandum.

Tolling and Postponement of Deadline for Preliminary Determination

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the partial closure of the Federal Government from October 1, through October 16, 2013. Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.[3] If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.[4]

On February 10, 2014, the petitioners made a timely request for a 50-day postponement of the preliminary determinations for this and the other concurrent GOES antidumping duty investigations, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).[5] On February 20, 2014, we postponed the preliminary determinations by 50 days.[6] As a result of the postponement and aforementioned tolling, the revised deadline for the preliminary determination of this investigation is now May 2, 2014.

Methodology

The Department conducted this investigation in accordance with section 731 of the Act. Export price (EP) and constructed export price (CEP) are calculated in accordance with section 772 of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Negative Preliminary Determination of Critical Circumstances

On February 24, 2014, the petitioners filed a timely allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration.[7] In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. We conducted an analysis of critical circumstances in accordance with section 733(e) of the Act and 19 CFR 351.206, and preliminarily determined that critical circumstances do not exist for imports of GOES from the Czech Republic. For a full description of the methodology and results of our analysis, see the Preliminary Decision Memorandum.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated dumping margin for all other producers or exporters.

We based our calculation of the ''All Others'' rate on the weighted-average of the margins calculated for ArcelorMittal Frýdek-Místek (AMFM) and Sujani Enterprises, Inc. (Sujani) using publicly-ranged data. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for these respondents.[8] For further discussion of this calculation, see memorandum entitled ''Calculation of the All Others Rate for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel From the Czech Republic,'' dated concurrently with this notice.

Preliminary Determination

The preliminarily estimated weighted-average dumping margins are as follows:

Manufacturer/ exporter	Weighted-average dumping margin (percent)
ArcelorMittal Frýdek-Místek ..	11.45
Sujani Enterprises, Inc.	10.35
All Others	10.38

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

from the Czech Republic'' (Preliminary Decision Memorandum).

[3] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated October 18, 2013.

[4] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[5] *See* letter from the petitioners entitled, ''Antidumping Investigations of Grain-Oriented Electrical Steel (''GOES'') From China, Czech Republic, Germany, Japan, South Korea, Poland, and Russia: Petitioners' Request for Extension of the Preliminary Determination,'' dated February 10, 2014.

[6] *See Grain-Oriented Electrical Steel From the People's Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Postponement of Preliminary Determinations in the Antidumping Duty Investigations,* 79 FR 11082 (February 27, 2014).

[7] *See* letter from the petitioners, ''Grain-Oriented Electricl {sic} Steel from the Czech Republic, Poland, and the Russian Federation—Critical Circumstances Allegations,'' dated February 24, 2014 (the petitioners' Critical Circumstances Allegation).

[8] *See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination,* 76 FR 41203, 41205 (July 13, 2011).

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs.[9] A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department.[10] Executive summaries should be limited to five pages total, including footnotes. Interested parties who wish to comment on the preliminary determinations must file briefs electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time on the date the document is due.

In accordance with section 774 of the Act, the Department will hold a hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party.[11] Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically-filed request must be received successfully in its entirety by IA ACCESS by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[12] Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.[13] If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[14] Parties should confirm by telephone the date, time, and location of the hearing.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from the Czech Republic entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits [15] equal to the dumping margins, as indicated in the chart above, as follows: (1) The rate for the mandatory respondents listed above will be the respondent-specific rate we determined in this preliminary determination; (2) if the exporter is not a mandatory respondent identified above, but the producer is, the rate will be the specific rate established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be the all others rate. These suspension of liquidation instructions will remain in effect until further notice.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Respondents AMFM and Sujani requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.,* to 135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[16] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producer or exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[17]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination in this investigation is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of GOES from the Czech Republic before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: May 2, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The scope of the investigation covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to this investigation is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff

[9] *See* 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2).

[10] *See* 19 CFR 351.309(c)(2).

[11] *See also* 19 CFR 351.310.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[16] *See* letters from AMFM and Sujani entitled, ''Grain-Oriented Electrical Steel From The Czech Republic: Request To Postpone Final Determination,'' dated April 30, 2014.

[17] *See* 19 CFR 351.210(b)(2) and (e).

Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive. Excluded are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the HTSUS as a transformer part (*i.e.,* laminations).

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Period of Investigation
4. Scope of the Investigation
5. Scope Comments
6. Product Comparisons
7. Respondent Selection
8. Critical Circumstances
9. Discussion of the Methodology
   a. Determination of the Comparison Method
   b. Results of the Differential Pricing Analysis
   c. Date of Sale
   d. Export Price/Constructed Export Price
   i. AMFM
   ii. Sujani
e. Normal Value
   i. Home Market Viability
   ii. Particular Market Situation
   iii. Affiliated-Party Transactions and Arm's-Length Test
   iv. Level of Trade
   1. AMFM
   2. Sujani
   f. Cost of Production Analysis
   i. Calculation of Cost of Production
   ii. Test of Comparison Market Prices
   iii. Results of COP Test
   g. Calculation of NV Based on Comparison Market Prices
   i. AMFM
   ii. Sujani
10. Currency Conversion
11. Conclusion

[FR Doc. 2014–10700 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 140318257–4257–01]

Differential Pricing Analysis; Request for Comments

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Request for comments.

SUMMARY: The Department of Commerce (the Department) seeks public comment on its ''differential pricing'' analysis. This analysis is currently being applied in less-than-fair-value investigations and certain reviews, including administrative reviews to determine when it may be appropriate to use an alternative comparison method based on the average-to-transaction comparison method in making comparisons of export price or constructed export price and normal value. The differential pricing analysis addresses the criteria set forth in section 777A(d)(1)(B) of the Tariff Act of 1930, as amended (the Act), and is applied in accordance with 19 CFR 351.414. Previously, the Department has addressed these criteria using its ''targeted dumping'' analysis.

DATES: To be assured of consideration, comments must be received no later than June 23, 2014.

ADDRESSES: You may submit comments electronically or in writing. Electronic comments should be submitted to *ECWeb@trade.gov.* If you submit comments electronically, you do not need to also submit comments in writing. Parties wishing to comment in writing should file, by the date specified above, a signed original and four copies of each set of comments at the address listed below. The Department will not accept nor consider comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments will be made available to the public in Portable Document Format (PDF) on the Internet at the Enforcement and Compliance Web site at the following address: *http://www.trade.gov/enforcement/.* Accordingly, do not submit any information you do not want to become public; i.e., confidential business information, personally identifiable information, etc. Additionally, all comments will be available for public inspection at Enforcement and Compliance's Central Records Unit, Room 7045, between the hours of 8:30 a.m. and 5 p.m. on business days. To the extent possible, all comments will be posted within 48 hours.

FOR FURTHER INFORMATION CONTACT: Charles Vannatta at (202) 482–4036 or Melissa Brewer at (202) 482–1096.

SUPPLEMENTARY INFORMATION:

Background

By way of background, the sections below describe: (A) The basis for determining whether to apply an alternative comparison methodology under the statute and regulations; (B) the background of the Department's prior targeted dumping regulation and publication of the final rule withdrawing that regulation; and (C) a summary of the Department's targeted dumping analysis as it existed during the time between the *2008 Withdrawal Notice* and the application of the Department's differential pricing analysis

A. Determination To Apply an Alternative Comparison Method

Pursuant to 19 CFR 351.414(c), the Department calculates dumping margins by comparing weighted-average export prices (or constructed export prices) to weighted-average normal values (the average-to-average method) unless the Secretary determines another method is appropriate in a particular case.[1] The Department's regulations also provide that dumping margins may be calculated by comparing the export prices (or constructed export prices) of individual transactions with normal values of individual transactions (the transaction-to-transaction method) or by comparing the export prices (or constructed export prices) of individual transactions with the weighted-average normal value (the average-to-transaction method).[2] Application of the transaction-to-transaction method is addressed in the Department's regulations at 19 CFR 351.414(c)(2).

Section 777A(d)(1)(B) of the Act mandates that certain criteria be satisfied for the Department to use the average-to-transaction method as an alternative to the standard average-to-average method in a less-than-fair-value investigation. In particular, if the Department finds that there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods,[3] and the Department explains why such differences cannot be taken into account using the average-to-average method,[4] then the average-to-transaction method may be applied as an alternative comparison method in less-than-fair-value investigations. In the past, the Department satisfied these statutory requirements through the use of its targeted dumping analysis.

B. Withdrawal of Regulatory Provisions Regarding Targeted Dumping for Less-Than-Fair-Value Investigations

On December 10, 2008, the Department promulgated an interim

[1] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (''*Final Modification for Reviews''*).

[2] *See* 19 CFR 351.414(b)(2) and (3).

[3] *See* Section 777A(d)(1)(B)(i) of the Act.

[4] *See* Section 777A(d)(1)(B)(ii) of the Act.

final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions regarding targeted dumping, and the corresponding regulation governing the deadline for the submission of targeted dumping allegations, 19 CFR 351.301(d)(5).[5] In that rule, the Department explained that it ''believes that the withdrawal of the provisions will provide the agency with an opportunity to analyze extensively the concept of targeted dumping'' and develop its approach further as it gains experience in evaluating these allegations. The Department invited public comment on the interim final rule, and received comments from a number of parties. These comments have been posted on the Internet for review by the public at *http://enforcement.trade.gov/download/targeted-dumping/comments-20090123/td-cmt-20090123-index.html.* These comments have helped to inform the Department as it further develops its approach with respect to the use of the alternative comparison method.

In addition, on April 22, 2014, the Department promulgated a final rule not to apply the previously withdrawn regulatory provisions governing targeted dumping in less-than-fair-value investigations,[6] after the U.S. Court of International Trade's decision in *Gold East (Jiangsu) Paper Co.* v. *United States.*[7] The Department explained that it continues to defend its position that the withdrawal of the targeted dumping regulations in the *2008 Withdrawal Notice* was proper, and that the withdrawn regulations are not operative. However, the Department also recognized that the U.S. Court of International Trade in *Gold East (Jiangsu) Paper Co.* v. *United States* agreed with Gold East's argument that the withdrawn regulations should be applied to its dumping margin calculations in that proceeding because there was a procedural defect in the rulemaking process that withdrew the targeted dumping regulations. Therefore, without prejudice to the United States government's right to appeal the decision in *Gold East (Jiangsu) Paper Co.* v. *United States,* or in other proceedings on that issue, the Department promulgated a rule to clarify the status of the previously withdrawn regulations pursuant to the notice and comment procedures of the Administrative Procedures Act (APA) and to invite comment. The Department received comments from a number of parties concerning whether the previously withdrawn targeted dumping regulations should still be withdrawn, and other comments on the Department's recent approach regarding the alternative comparison method. These comments have also been posted on the internet for review by the public at *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=PS;D=ITA-2013-0002*; and have also helped to inform the Department as it further develops its approach regarding the alternative comparison method.

C. The Targeted Dumping Analysis

1. Examination Based Upon An Allegation: In less-than-fair-value investigations since the *2008 Withdrawal Notice,*[8] before considering whether to apply an alternative comparison method, the Department required that an allegation of targeted dumping be filed as stated in the notice of initiation for the investigation.[9]

2. The Nails Test: When sufficiently alleged, the Department employed the *Nails* test [10] to determine whether a pattern of prices that differ significantly among purchasers, regions, or periods of time existed within the U.S. market, which was a two-step process.

First, the standard deviation test identified whether the product-specific, weighted-average price to the allegedly targeted group was more than one standard deviation below the product-specific, weighted-average price for all transactions. The alleged targeted group was found to have passed the standard deviation test when more than 33 percent of the sales to the allegedly targeted group passed this test.

Second, those sales passing the standard deviation test were then evaluated to determine whether they passed the ''gap'' test, which determined whether the weighted-average prices of the identified sales to the allegedly targeted group were not typical. Where the gap (or difference) between the weighted-average prices of the identified sales to the allegedly targeted group and the next highest weighted-average prices to a non-targeted group exceeded the average gap among the weighted-average prices between the non-targeted groups, these identified sales passed the ''gap'' test. The sales passing the ''gap'' test were evaluated to determine whether they exceeded five percent of the allegedly targeted group's total purchases of all products subject to investigation. If the sales passing the gap test were sufficient, then the Department considered whether the standard average-to-average method could account for the observed differences.

If the Department's two-step analysis confirmed the allegation of targeted dumping and the sales found to be targeted were of sufficient quantity, then the Department evaluated the difference between the weighted-average dumping margin calculated with the average-to-average method and the weighted-average dumping margin calculated using the average-to-transaction method. Where there was a meaningful difference between the results of the average-to-average method and the average-to-transaction method, the average-to-transaction method was applied to all sales to determine the appropriate weighted-average margin of dumping for the respondent in question.[11]

[5] *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008) (*2008 Withdrawal Notice*).

[6] *See Non-Application of Previously Withdrawn Provisions Governing Targeted Dumping in Antidumping Investigations: Final Rule,* 79 FR 22371 (April 22, 2014).

[7] *Gold East (Jiangsu) Paper Co.* v. *United States,* 918 F. Supp. 2d 1317 (Ct. Int'l Trade 2013).

[8] Until the implementation of the *Final Modification for Reviews,* the average-to-average comparison methodology was used by the Department only in less-than-fair-value investigations, and, therefore, the use of the targeted dumping provisions was likewise only relevant to these investigations.

[9] *See, e.g., Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 74 FR 19049 (April 27, 2009); *Oil Country Tubular Goods From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 74 FR 20671 (May 5, 2009); *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia and the People's Republic of China: Initiation of Antidumping Duty Investigations,* 74 FR 53710 (October 20, 2009); *Certain Stilbenic Optical Brightening Agents From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations,* 76 FR 23554 (April 27, 2011).

[10] *See Certain Steel Nails From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33977 (June 16, 2008) and *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008) (collectively, *Nails*), as modified in *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011); *see also Mid Continent Nail Corp.* v. *United States,* Slip. Op. 2010–47 (Ct. Int'l Trade May 4, 2010) and *Mid Continent Nail Corp.* v. *United States,* Slip. Op. 2010–48 (Ct. Int'l Trade May 4, 2010).

[11] *See, e.g., Polyethylene Retail Carrier Bags From Taiwan: Final Determination of Sales at Less Than Fair Value,* 75 FR 14569 (March 26, 2010); *Certain Oil Country Tubular Goods From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping,* 75 FR 20335 (April 19, 2010); *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final*

Continued

Differential Pricing Analysis

While the *Nails* test is a statutorily consistent and statistically sound methodology for identifying whether the average-to-transaction method might be appropriate, the Department has continued to seek to refine its approach with respect to the use of an alternative comparison method. Given the Department's experience over the last several years, and based on the Department's further research, analysis and consideration of the numerous comments and suggestions on what guidelines, thresholds, and tests should be used in determining whether to apply an alternative comparison method based on the average-to-transaction method, the Department is developing a new approach for determining whether application of such a comparison method is appropriate in a particular segment of a proceeding pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. The new approach is referred to as the ''differential pricing'' analysis, as a more precise characterization of the purpose and application of section 777A(d)(1)(B) of the Act. After obtaining some experience with this new approach,[12] the Department is now seeking public comment on the possible further development of its approach for use of an alternative comparison method.

Normally, the Department makes these types of changes in the context of its proceedings, on a case-by-case basis.[13] For these particular changes, however, the Department is seeking comments to further develop and/or refine its differential pricing analysis, even though the notice and comment requirements of the APA do not apply ''to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' such as these.[14] As the Department gains greater experience with addressing potentially hidden or masked dumping that can occur when the Department determines weighted-average dumping margins using the average-to-average comparison method, the Department expects to continue to develop its approach with respect to the use of an alternative comparison method. The Department is requesting comments on this analysis to facilitate that development as the Department expects to take account of all comments received, as appropriate. Further, in the context of ongoing and future proceedings, parties to the particular proceeding will have an opportunity to provide comments that are relevant to the possible use of an alternative comparison method in that proceeding.

Unlike under the targeted dumping analysis, the differential pricing analysis does not require an allegation, but instead would be conducted in each segment of a proceeding. The recent investigations of *Xanthan Gum from China* and *Xanthan Gum from Austria,* in which the Department employed a differential pricing analysis, are instructive, and can help the public understand the analysis. There, the Department explained that the differential pricing analysis requires a finding of a pattern of export prices (or constructed export prices) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, differential pricing analysis helps the Department evaluate whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin.

As explained in the *Xanthan Gum* investigations, this analysis evaluates all purchasers, regions, and time periods to determine whether there exists a pattern of prices that differ significantly. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the consolidated customer codes (or, if unavailable, the customer code) reported by the respondent. Regions are defined using the reported destination code (*e.g.,* zip code) and are grouped into regions based upon standard definitions provided by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation or administrative review based upon the reported date of sale. Comparable merchandise is defined as the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price (or constructed export price) and normal value for the individual dumping margins. During the course of an investigation or administrative review, as in the investigation in *Xanthan Gum,* interested parties would be given the opportunity to present arguments and justifications for modifying these default group definitions.

The Department further explained in *Xanthan Gum* that in the first stage of the differential pricing analysis, the Department uses two tests—the ''Cohen's *d* test'' and the ''ratio test''—to determine whether there is a pattern of prices that differ significantly. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference in the means between a test group and a comparison group. The Department calculates the Cohen's *d* coefficient with respect to comparable merchandise if the test and comparison groups of data each have at least two observations, and if the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. The Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. In a Cohen's *d* test analysis, the extent of these differences can be quantified by one of three fixed thresholds: Small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. The Department finds that the difference is significant, and that the sales of the test group pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large threshold.

The Department next uses a ''ratio test'' to assess the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of export prices that differ significantly supports the

Determination of Sales at Less Than Fair Value, 75 FR 59217 (September 27, 2010); *Certain Stilbenic Optical Brightening Agents From Taiwan: Final Determination of Sales at Less Than Fair Value,* 77 FR 17027 (March 23, 2012).

[12] *See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 78 FR 33351 (June 4, 2013) and issues and decision memorandum cmt. 3; *Xanthan Gum From Austria: Final Determination of Sales at Less Than Fair Value,* 78 FR 33354 (June 4, 2013); *Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review;* 2011–2012, 78 FR 65272 (October 31, 2013); *Final Determination of Sales at Less Than Fair Value: Silica Bricks and Shapes From the People's Republic of China,* 78 FR 70918 (November 27, 2013); *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 79662 (December 31, 2013); *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 79665 (December 31, 2013).

[13] In the context of its proceedings, Commerce is entitled to make changes and adopt a new approach provided it explains the basis for the change, and the change is a reasonable interpretation of the statute. *Saha Thai Steel Pipe Company* v. *United States,* 635 F.3d 1335, 1341 (2011).

[14] *See* 5 U.S.C. 553(b)(3)(A).

consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.,* the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department determines whether using an alternative comparison method yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two weighted-average dumping margins is meaningful, then this demonstrates that the average-to-average method cannot account for the observed price differences, and, therefore, an alternative comparison method would be appropriate. In determining whether a difference in the two weighted-average dumping margins is meaningful, the Department considers whether (1) the resulting weighted-average dumping margin moves across the *de minimis* threshold, or (2) there is a 25 percent or greater relative change in the weighted-average dumping margins between the average-to-average method and an appropriate alternative comparison method where both rates are not zero or *de minimis.*

The Department is interested in public comments on the differential pricing analysis described above for the purpose of determining whether to apply an alternative comparison method. To assist commenters, the Department has made available on its Web site, *http://www.trade.gov/enforcement/*, SAS programs which the Department currently use to conduct its differential pricing analysis. Also available on the Web site is the definition of the regions from the U.S. Census Bureau.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Moustapha Sylla, Enforcement and Compliance Webmaster at (202) 482–0866, email address: *webmaster-support@ita.doc.gov*.

Dated: April 28, 2014.

Paul Piquado,

Assistant Secretary, for Enforcement and Compliance.

[FR Doc. 2014–10487 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Implantation and Recovery of Archival Tags for Highly Migratory Species

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 8, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Craig Cockrell, (301) 427–8503, or *craig.cockrell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. The National Oceanic and Atmospheric Administration (NOAA) allows scientists to implant archival tags in, or affix archival tags to, selected Atlantic Highly Migratory Species (tunas, sharks, swordfish, and billfish). Archival tags collect location, temperature, and water depth data that is useful for scientists researching the movements and behavior of individual fish. It is often necessary to retrieve the tags in order to collect the data. Therefore, the National Marine Fisheries Service (NMFS) exempts persons catching tagged fish from certain otherwise applicable regulations at 50 CFR 635 (e.g., immediate release of the fish, minimum size, prohibited species, retention limits). These participants must notify NOAA, return the archival tag or make it available to NOAA personnel, and provide information about the location and method of capture if they harvest a fish that has an archival tag. The information obtained is used by NOAA for international and domestic fisheries policy and regulations.

Scientists not employed by NOAA must obtain NOAA authorization before affixing or implanting archival tags and submit subsequent reports about the tagging of fish. NOAA needs that information to evaluate the effectiveness of archival tag programs, to assess the likely impact of regulatory allowances for tag recovery, and to ensure that the research does not produce excessive mortality.

II. Method of Collection

Tags and associated information are either mailed to NOAA and/or information may be collected via telephone.

III. Data

OMB Control Number: 0648–0338.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Time per Response: 30 minutes for reporting an archival tag recovery; 40 minutes each for notification of planned archival tagging activity and three reports.

Estimated Total Annual Burden Hours: 63.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 6, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–10665 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD254

Greater Atlantic Regional Fisheries Office's Geographic Information Systems Program; Availability of Files

Correction

In notice document 2014–10229 appearing on page 25582 in the issue of Monday, May 5, 2014, make the following correction:

On page 25582, in the first column, in the **DATES** section ''May 5, 2014'' should read ''June 4, 2014''.

[FR Doc. C1–2014–10229 Filed 5–8–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA713

Endangered Species; File No. 16436–01

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

ACTION: Notice; receipt of application for permit modification.

SUMMARY: Notice is hereby given that the New York State Department of Environmental Conservation, 21 South Putt Corners Road, New Paltz, NY 12561 [Kathryn Hattala: Responsible Party], has applied in due form for a permit modification to take Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before June 9, 2014.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16436–01 from the list of available applications.

These documents are also available upon written request or by appointment in the following office:

- Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376.

Written comments on either application should be submitted to the Chief, Permits and Conservation Division

- By email to *NMFS.Pr1Comments@noaa.gov* (include the File No. in the subject line of the email);
- By facsimile to (301)713–0376; or
- At the address listed above.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on the application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead at (301)427–8401.

SUPPLEMENTARY INFORMATION: The subject permit modification is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 16436 was issued April 6, 2012 (77 FR 21754) to capture Atlantic sturgeon life stages in the Hudson River estuary to assess juvenile abundance, characterize the adult spawning stock, and generate population estimates. Atlantic sturgeon are authorized to be captured with gill nets, trammel nets, and trawls; measured, weighed, genetic tissue sampled, fin ray clipped for aging; PIT tagged and Floy tagged, internally and externally acoustic tagged; anesthetized with up to 150 ppm MS–222; and gastric lavaged. The Permit Holder now proposes to consolidate takes of shortnose sturgeon, currently authorized separately in Permit No. 16439 with the takes of Atlantic sturgeon authorized in Permit No. 16436. The shortnose sturgeon Permit No. 16439 would be terminated upon issuance of the modification to Permit No. 16436. The Permit Holder also requests increasing the numbers and procedures for taking both Atlantic and shortnose sturgeon to meet further objectives, including understanding the impacts of both species to the (1) construction of the Tappan Zee Bridge, (2) laying of high voltage cable in the Hudson River by the Champlain Hudson Power Express project, and (3) impacts of high loads of contaminants identified in the Hudson River. New methods introduced in the modification would include contaminant research, incorporating laparoscopic liver biopsy, and anesthetizing animals with 250 mg/l MS–222 and electro-narcosis. A total of three incidental mortalities of shortnose and Atlantic sturgeon are anticipated annually as a result of increased research activity. The modification would be valid through the expiration date of the original Permit No. 16436 on April 5, 2017.

Dated: May 5, 2014.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–10655 Filed 5–8–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0013]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by June 9, 2014.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Warranty Tracking of Serialized Items; Warranty Attachment; OMB Control Number 0704–0481.

Type of Request: Extension.

Number of Respondents: 38,000.

Responses per Respondent: 1.4.

Annual Responses: 54,000.

Average Burden per Response: Approximately .5 hours.

Annual Burden Hours: 27,000.

Needs and Uses: DoD needs this information to identify items purchased with a warranty and to ensure that the Government has the information necessary to take advantage of warranties provided by the contractor.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Amy G. Williams,

Deputy Director, Defense Acquisition Regulations System.

[FR Doc. 2014–10667 Filed 5–8–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: DoD is hosting a public meeting to obtain the views of experts and interested parties in Government and the private sector regarding further implementation of the requirement for detection and avoidance of counterfeit electronic parts, as required by a section of the National Defense Authorization Act for Fiscal Year 2012.

DATES: June 16, 2014, from 8:30 a.m.to 12:30 p.m., EDT.

ADDRESSES: The public meeting will be held at the National Aeronautics and Space Administration Headquarters Auditorium, 300 E Street SW., Washington, DC 20546. Visitor's entrance is on the West side of the building.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, DPAP/DARS, at 571–372–6106. Please cite Public Meeting—Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation.

SUPPLEMENTARY INFORMATION: DoD is interested in continuing a dialogue with experts and interested parties in Government and the private sector about further implementation of the requirements for detection and avoidance of counterfeit electronic parts in DoD contracts.

On March 27, 2014, DoD held an initial public meeting on further implementation of the requirements for detection and avoidance of counterfeit parts. DoD has now published the final rule under DFARS Case 2012–D055, Detection and Avoidance of Counterfeit Electronic Parts, which is a partial implementation of the requirements at section 818, entitled ''Detection and Avoidance of Counterfeit Electronic Parts,'' of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81).

DoD is particularly interested in recommendations for further implementation of the requirements of section 818, now that the final rule under DFARS Case 2012–D055 is in effect.

Individuals wishing to attend the public meeting should register by June 9, 2014, to ensure adequate room accommodations and to facilitate entry to the meeting. Interested parties may register at this Web site, *http://www.acq.osd.mil/dpap/dars/counterfeit_electronic_parts_further_implementation.html,* by providing the following information:

- (1) Company or organization name.
- (2) Names and email addresses of persons planning to attend.
- (3) Identify if desiring to make a presentation; limit to a 5-minute presentation per company or organization.

One valid government-issued photo identification card will be required in order to enter the building. Attendees are encouraged to arrive at least 30 minutes early to accommodate security procedures.

If you wish to make a presentation, please submit an electronic copy of your presentation (not greater than 19 MB) to *osd.pentagon.ousd-atl.mbx.dfars@mail.mil* no later than June 11, 2014. When submitting presentations, provide presenter's name, organization affiliation, telephone number, and email address on the cover page. Please submit presentations only and cite ''Public Meeting—Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation'' in all correspondence related to the public meeting. There will be no transcription of the meeting. The submitted presentations will be the only record of the public meeting.

Special accommodations: The public meeting is physically accessible to people with disabilities. Requests for reasonable accommodations, sign language interpretation or other auxiliary aids should be directed to Amy Williams at 571–372–6106, at least 10 working days prior to the meeting date.

The TTY number for further information is: 1–800–877–8339. When the operator answers the call, let them know the agency is the Department of

Defense; the point of contact is Amy Williams at 571–372–6106.

Amy G. Williams

Deputy Director, Defense Acquisition Regulations System.

[FR Doc. 2014–10680 Filed 5–8–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities—National Center on Accessible Educational Materials for Learning

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

Educational Technology, Media, and Materials for Individuals with Disabilities—National Center on Accessible Educational Materials for Learning.

Notice inviting applications for a new award for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.327Z.

DATES:

Applications Available: May 9, 2014.

Deadline for Transmittal of Applications: June 23, 2014.

Deadline for Intergovernmental Review: August 22, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Educational Technology, Media, and Materials for Individuals with Disabilities Program [1] are to improve results for children with disabilities by: (1) Promoting the development, demonstration, and use of technology; (2) supporting educational media activities designed to be of educational value in the classroom for students with disabilities; (3) providing support for captioning and video description that is appropriate for use in the classroom; and (4) providing accessible educational materials to students with disabilities in a timely manner.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674 and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.)).

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Educational Technology, Media, and Materials for Individuals with Disabilities—National Center on Accessible Educational Materials for Learning.

Background:

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Center on Accessible Educational Materials for Learning (Center). The Center will work with State educational agencies (SEAs), local educational agencies (LEAs), and other stakeholders to improve the quality, availability, and timely delivery of accessible educational materials and technologies for use by infants, toddlers, children, and youth with disabilities (hereafter referred to as ''children with disabilities'' and includes children who are blind or other persons with print disabilities). The Center's efforts will help support equitable opportunities for children with disabilities to: (1) Participate in high-quality early learning programs, (2) be involved in and progress in the general education curriculum, (3) prepare to meet college- and career-ready standards, (4) participate in assessments, and (5) transition to postsecondary education and the workforce.

The Center will achieve these results by: (1) Providing information to OSEP on how the technical specifications of the National Instructional Materials Accessibility Standards (NIMAS) can be improved to ensure digital files meet the same standard and can be easily converted into whatever accessible format meets the unique needs of children who are blind or other persons with print disabilities; (2) providing technical assistance (TA) to build the capacity of stakeholders to design, develop, procure, and maintain technologies for use in schools and workplaces that conform to robust accessibility standards and, as appropriate, NIMAS; (3) providing TA to SEAs, LEAs, and other stakeholders to ensure the adoption and implementation of efficient, effective, and unified distribution systems or to ensure the improvement of existing systems for the timely delivery of accessible educational materials and technologies to children with disabilities, including those children with disabilities who may be underserved; [2] and (4) providing TA to postsecondary education and workforce development agencies or offices to ensure the availability and use of accessible educational materials and technologies by children with disabilities transitioning to postsecondary education and the workforce.

Under section 612(a)(1) of the Individuals with Disabilities Education Act (IDEA), States must ensure that a free appropriate public education (FAPE) be made available to all children with disabilities.[3] IDEA also requires that all children with disabilities are included in all general State and districtwide assessment programs (see section 612(a)(16)). Accessible educational materials and technologies enable children with disabilities to have access to, and be involved in and make progress in, the general education curriculum (or for a preschool child, to participate in appropriate activities) and assessments. The 2004 amendments to IDEA required the Secretary to establish, and States to adopt, the NIMAS to improve the timely production and dissemination of educational materials in accessible formats for students who are blind or other persons with print disabilities (see sections 612(a)(23) and 674(e) of IDEA). The NIMAS ensures that digital files meet a consistent standard and can be easily converted into whatever accessible format meets the unique needs of these students. In addition, SEAs and LEAs are responsible for ensuring that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities, or who need materials that cannot be produced from NIMAS files, also receive those instructional materials in a timely manner (34 CFR 300.172(b)(3) and 300.210(b)(3)).

To support SEAs' and LEAs' efficient and timely distribution of accessible materials, OSEP established the National Instructional Materials Access

[1] This program was formerly called ''Technology and Media Services for Individuals with Disabilities.'' The Department has changed the name to Educational Technology, Media, and Materials for Individuals with Disabilities and updated the purposes of the program to more clearly convey that the program includes accessible educational materials. The program's activities and statutory authorization (20 U.S.C. 1474) remain unchanged.

[2] As used in this priority and in a manner consistent with 20 U.S.C. 7255(a) of the Elementary and Secondary Education Act of 1965, as amended, ''underserved populations'' include disadvantaged, illiterate, limited English proficient populations, and individuals with disabilities.

[3] FAPE involves providing special education, related services, and supplementary aides and services, including educational materials in accessible formats for children with disabilities who are blind or other persons with print disabilities who are eligible for services under Part B of IDEA.

Center (NIMAC) to serve as a national repository to receive and store NIMAS source files and make them available to States. Currently, SEAs and LEAs obtain NIMAS files directly from publishers or from the NIMAC and convert those files into specialized formats for use exclusively by children who are blind or other persons with print disabilities.

OSEP currently funds cooperative agreements to support the NIMAS Center and the National Center on Accessible Instructional Materials (AIM Center). The NIMAS Center provides information on improving [4] the technical specifications of the NIMAS to ensure children who are blind or other persons with print disabilities have access to as broad a range of print educational materials as possible through the use of electronic file formatting technology. To support the implementation of NIMAS, the AIM Center provides a continuum of TA and resources to SEAs, LEAs, and other stakeholders to develop and implement efficient, unified distribution systems to support and improve the timely delivery of high quality accessible educational materials to all children with disabilities who need educational materials in accessible formats. Both grants are scheduled to end in FY 2014. However, SEAs, LEAs, and other stakeholders will continue to need support to ensure the timely delivery of accessible educational materials and technologies to children with disabilities, including a national repository to receive and store NIMAS source files.

Current reform initiatives are transforming the learning environment and may provide opportunities for SEAs, LEAs, and other stakeholders to leverage the potential educational benefits of emerging and innovative technologies. These reform initiatives call for high-quality early learning programs and development opportunities for infants and toddlers (Preschool Curriculum Evaluation Research Consortium, 2008; U.S. Department of Education, 2013) and they also include ambitious academic content and performance expectations that call for teaching methods and learning strategies that promote student mastery of those expectations and the ability to apply what has been learned to real-world situations and problems (Darling-Hammond & Pecheone, 2010; Herman & Linn, 2013; National Research Council, 2000, 2012a, 2012b; Sato, Lagunoff, & Worth, 2011; and U.S. Department of Education, 2010). The efficient delivery of accessible educational materials and technologies to children with disabilities helps to support their ability to participate in high-quality early learning programs, be involved in, and make progress in, the general education curriculum, meet college- and career-ready standards, and participate in assessments.

Today's learning tasks increasingly leverage the power of technology to transform early learning programs, the way teachers teach, how children learn, and how assessments are used (Bailey, Henry, McBride, & Puckett, 2011; Duffey & Fox, 2012; Fletcher, Schaffhauser, & Levi, 2012; Johnson, Adams, & Cummins, 2012; National Center for Education Statistics, 2012; Project Tomorrow, 2011; U.S. Department of Education, 2010, 2013). As recipients of Federal financial assistance, SEAs and LEAs that choose to incorporate technology into their instruction or other developmental activities for all students will need support to ensure those technologies conform to nationally accepted accessibility standards in order to meet the needs of students with disabilities (U.S. Department of Justice, 2012). Accessible formats of electronic textbooks and other emerging technologies may require NIMAS convergence with nationally accepted accessibility standards for electronic and information technologies. To ensure accessibility, the Center, working closely with the electronic publishing industry, will facilitate the alignment of the NIMAS standard with electronic publishing standards.

In 2010, the U.S. Department of Education's Office for Civil Rights issued a Dear Colleague Letter [5] informing colleges and universities that ''[e]nsuring equal access to emerging technology in university and college classrooms is a means to the goal of full integration and equal educational opportunity for this nation's students with disabilities.'' Similarly, the U.S. Department of Labor's Office of Disability Employment Policy [6] (ODEP) has a long history of exploring the law, policies, practices, and procedures to advance the development and adoption of accessible, interoperable, and usable workplace technologies. Addressing the availability, use, and updating of accessible educational materials and technologies to support students with disabilities who transition to postsecondary education settings and the workplace remains a critically important task.

Priority:

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Center on Accessible Educational Materials for Learning (Center) that, at a minimum—

(a) Provides information to OSEP on how the NIMAS technical specifications can be improved to ensure children who are blind or other persons with print disabilities, have access to as broad a range of print educational materials as possible through the use of electronic file formatting technology; [7]

(b) Increases the capacity of stakeholders [8] to design, develop, maintain, and distribute technologies that conform to robust accessibility standards [9] and, as appropriate, NIMAS;

[4] In June 2012, after reviewing information provided by the NIMAS Center, OSEP issued a Dear Colleague Letter encouraging publishers to use the most current version of MathML, currently MathML3, for the markup of mathematics and scientific content in NIMAS filesets. The OSEP Dear Colleague Letter, dated June 22, 2012, is available at *http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osers-nimas.pdf.*

[5] U.S. Department of Education's Office for Civil Rights, 2010. The Dear Colleague Letter is available at *http://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100629.pdf.*

[6] U.S. Department of Labor's Office of Disability Employment Policy. Framework for Designing and Implementing Accessible Information and Communication Technology Strategic Plans: Accessible Technology in the Workplace Initiative is available at *www.dol.gov/odep/pdf/20120224FDIA-ICT-StrategicPlans.pdf.*

[7] As used in this priority, ''technology'' means any equipment or interconnected system or subsystem for which the principal function is the creation, conversion, duplication, movement, control, display, switching, interchange, transmission, reception, or broadcast of data or information. It includes, but is not limited to, electronic content; telecommunication products; computers and ancillary equipment; software; information kiosks; transaction machines; videos; information technology services; and multifunction office machines that copy, scan, and fax documents.

[8] As used in this priority, the term ''stakeholders'' includes, but is not limited to, children with disabilities; parents; educational materials designers, developers, and distributors; educational publishers; authorized users; accessible media producers; agencies or organizations responsible for establishing accessibility standards for commercial electronic publications and instructional materials; institutions of higher education; workforce development agencies or offices; and other OSEP-funded projects.

[9] As used in this priority, ''accessibility standards'' means current or revised electronic and information technology accessibility standards (EITAS) developed and implemented under the authority of Section 508 of the Rehabilitation Act (29 U.S.C. 794d(2)(A)) as well as interstate and international communication access guidelines authorized under the Telecommunication Act Accessibility Guidelines (47 U.S.C. 255). The use of designs or technologies as alternatives to the EITAS is permitted provided they result in substantially equivalent or greater access to and use of a product for individuals with disabilities (36 CFR part 1194.5). The annual Section 508 Report to the President and Congress indicated the most common accessibility standards used by recipients of Federal financial assistance are Section 508 EITAS and the Web Content Accessibility Guidelines (see *www.ada.gov/508/508_Report.htm*).

(c) Achieves the adoption and implementation of efficient, effective, and unified distribution systems or the improvement of existing systems by SEAs, LEAs, and other stakeholders to ensure the timely delivery of accessible educational materials [10] and technologies to children with disabilities; [11] and

(d) Improves the capacity of postsecondary education and workforce development agencies or offices to ensure the availability and use of accessible educational materials and technologies by children with disabilities who are transitioning to postsecondary education settings and workplaces.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority. OSEP encourages innovative approaches to meet these requirements, which are to:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the need for accessible educational materials and technologies to support equitable opportunities in early learning programs, schools, and workplaces. To meet this requirement the applicant must—

(i) Present applicable national, State, regional, or local data demonstrating the need for accessible educational materials and technologies in schools and workplaces for children with disabilities, including children with disabilities who may be underserved; and

(ii) Demonstrate knowledge of the following:

(A) Benefits, services, or opportunities that are available through the use of educational materials and technologies in schools and workplaces that are fully accessible to children with disabilities, including children with disabilities who may be underserved;

(B) Standards and technical specifications used to support the preparation of electronic files and used solely for efficient conversion into specialized formats to provide access to printed and electronic textbooks and related core materials;

(C) Accepted accessibility standards and industry-developed specifications for technologies used in schools and workplaces; and

(D) TA resources available to stakeholders and personnel in early learning programs, schools and workplaces, to support the design, development, maintenance, distribution, timely delivery, and use of accessible educational materials and technologies;

(2) Increase the capacity of stakeholders to design, develop, maintain, and distribute technologies that conform to robust accessibility standards and, as appropriate, NIMAS. To address this requirement the applicant must—

(i) Identify current policies, procedures, and practices used by early learning programs, schools, workplaces, and other stakeholders to ensure the availability and use of accessible educational materials and technologies; and

(ii) Identify strategies to address gaps or challenges faced by early intervention programs, schools, workplaces, and other stakeholders to ensure the availability and use of accessible educational materials and technologies; and

(3) Increase knowledge and identify dissemination strategies to enable SEAs, LEAs, and other stakeholders to develop, implement, and sustain efficient, unified distribution systems and improve existing systems to ensure the availability and use of accessible educational materials and technologies in early learning programs, schools, and workplaces.

(b) Demonstrate, in the narrative section of the application under ''Quality of Project Services,'' how the project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services [12] meet the needs of the intended recipients (e.g., by creating materials in formats and languages accessible to the stakeholders served by the intended recipients);

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model on how the proposed project will achieve its intended outcomes;

(3) Use a conceptual framework to develop project plans and activities describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

(4) Be based on current research and make use of evidence-based practices. To meet this requirement, the applicant must describe—

(i) The current research and evidence-based practices related to the benefits, services, or opportunities that are available through the use of educational materials and technologies in schools and workplaces;

(ii) The accessibility standards and industry-developed guidelines used in the design, development, maintenance, and distribution of accessible educational materials and technologies;

(iii) The current state of SEA distribution systems to ensure the quality, availability, and timely delivery of accessible educational materials and technologies to children with disabilities, including children with disabilities who may be underserved;

(iv) Workplace policies, procedures, and practices for the adoption and implementation of accessible workplace technologies; and

(v) The process the proposed project will use to incorporate current research and evidence-based practices to guide the development and delivery of its products and services;

(5) Develop new products and services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed activities to identify, develop, or expand the knowledge base of SEAs, LEAs, and other stakeholders

[10] As used in this priority, ''accessible educational materials'' means print- and technology-based educational materials, including printed and electronic textbooks and related core materials that are required by SEAs and LEAs for use by all students, produced or rendered in accessible media, written and published primarily for use in early learning programs, elementary, or secondary schools to support teaching and learning.

[11] As used in this priority, ''children with disabilities'' includes children who are blind or other persons with print disabilities. As used in this priority, the term ''blind or other persons with print disabilities'' means children served under IDEA and who may qualify under the Act entitled ''An Act to Provide Books for the Adult Blind,'' approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487), to receive books and other publications produced in specialized formats. (see Section 20 U.S.C. 1474(e)(3)(A)).

[12] As used in this priority, a ''product'' means a piece of work, in tangible or electronic form developed and disseminated by an OSEP-funded project to contribute to improved outcomes for children with disabilities. As used in this priority, ''service'' means work performed by an OSEP-funded project to provide information or assistance to a specific audience to contribute to improved outcomes for children with disabilities.

on accessible educational materials and technologies in early learning programs, schools, and workplaces;

(ii) Its proposed plan to identify educational benefits, services, and opportunities for using accessible educational materials and technologies in early learning programs, schools, and workplaces;

(iii) Its proposed plan to identify systemic barriers to and critical components of efficient, unified, and effective State distribution systems;

(iv) Its proposed plan to identify policies, procedures, and practices addressing accessible workplace technologies;

(v) Its proposed plan to identify technology design criteria that conform to accepted accessibility standards, NIMAS, and when appropriate, widely used electronic publishing industry standards;

(vi) Its proposed approach to universal, general TA,[13] including the intended recipients of the products and services under this approach. To address this requirement, the applicant must, at a minimum, describe—

(A) The proposed project's plan to disseminate information gained from the knowledge development activities;

(B) The proposed plan to meet the needs of multiple audiences using information collected in paragraph (b)(4) of this priority so that the data and information are easily accessible by multiple audiences (e.g., Web sites, newsletters, guidebooks, research syntheses, conference presentations, and published articles); and

(C) The proposed project's plan to increase access to comprehensive and accurate information on implementing relevant legal requirements [14] and on the use of effective strategies by early learning programs, schools, and workplaces, and, as appropriate, by other stakeholders to support the design, development, maintenance, distribution, procurement, timely delivery, and use of accessible educational materials and technologies;

(vii) Its proposed approach to targeted, specialized TA,[15] including the recipients of the products and services under this approach. To address this requirement, the applicant must describe—

(A) The proposed project's plan to provide support and coordinate with federally funded projects and national professional organizations and their State and local affiliates to increase their efficiency and effectiveness in disseminating their products and delivering their services within State systems for the development, maintenance, distribution, and procurement of accessible educational technologies and technologies in early learning programs, schools, and workplaces; and

(B) The proposed project's plan to facilitate communication and increased collaboration among multiple stakeholders to problem-solve together, share information and materials, and deliver a consistent message on the importance of supporting the implementation of this priority (see paragraph (b)(5)(vi)(C)) to ensure full benefits, services, and supports to intended audiences, as appropriate, in early learning programs, schools, and workplaces.

(viii) Its approach to intensive, sustained TA,[16] including the intended recipients of the products and services under this approach. To address this requirement, the applicant must describe—

(A) The proposed project's plan for selecting SEAs with whom they will work; and

(B) The proposed project's plan for assisting the selected SEAs to develop, implement, and sustain efficient, effective, and unified distribution systems to ensure the timely delivery of accessible educational materials and technologies to children with disabilities, including children with disabilities who may be underrepresented;

(6) Develop products and implement services that maximize the project's efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use accessible, existing, emerging, and innovative technology to achieve the intended project outcomes;

(ii) The collaboration of appropriate partners for maximizing the effectiveness of the project's products and services. The Center must identify the members of this group to OSEP within eight weeks after receipt of the award;

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(iv) How the proposed project will improve the likelihood that the products and services will be used effectively in a variety of other settings.

(c) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed key personnel, consultants, and contractors have the qualifications, experience, and commitment to carry out the proposed activities and achieve the project's intended outcomes;

(2) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, linguistic diversity, gender, age, or disability, as appropriate;

(3) The applicant and key partners have adequate resources to carry out proposed project activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(d) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key personnel, consultants, and contractors will be sufficiently allocated

[13] As used in this priority, ''universal, general TA'' means passive technical assistance (TA) and information provided to independent users through their own initiative resulting in minimal interaction with TA Center staff and includes one-time, invited or offered conference presentations by TA Center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA Center's Web site by independent users. Brief communications by TA Center staff with recipients, either by telephone or email, are also considered ''universal, general TA.''

[14] As used in this priority, the term ''legal requirements'' includes, but is not limited to: IDEA, Elementary and Secondary Education Act, Higher Education Improvement Act, Workforce Improvement Act, Rehabilitation Act, Telecommunication Act, Assistive Technology Act, and the Americans with Disabilities Act.

[15] As used in this priority, ''targeted, specialized TA'' means technical assistance (TA) service developed based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA Center staff. This category of TA can be one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national meetings. They can also be episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered ''targeted, specialized TA.''

[16] As used in this priority, ''intensive, sustained TA'' means TA services often provided onsite and requires a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in a change to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including, but not limited to, families; early intervention service providers; educators; publishers; designers; developers; vendors; researchers; parent training and information centers; policy makers; the business community; SEAs and lead agencies; and other OSEP-funded projects.

(e) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the extent to which the project's products and services have reached its target population; and measures of intended outcomes or results of the project's activities in order to assess the effectiveness of those activities.

In designing the evaluation plan, the project must—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),[17] the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (e.g., preparing evaluation questions about significant program processes and outcomes, developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of effectiveness, selecting respondent samples if appropriate, designing instruments or identifying data sources, and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (e)(1) of this priority; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (e)(1) and (e)(2) of this priority and implementing the evaluation plan.

(f) In the narrative under ''Required Project Assurances'' or appendices as directed, the applicant must—

(1) Include in Appendix A a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

Note: The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.tadnet.org/pages/589;*

(2) Include in Appendix A a conceptual framework for the project;

(3) Include in Appendix A person-loading charts and timelines to illustrate the management plan described in the narrative;

(4) Include in the budget attendance at the following:

(i) A one and one-half day kick-off meeting to be held in Washington, DC, after receipt of the award, and an annual planning meeting held in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A three-day project directors' conference in Washington, DC, during each year of the project period;

(iii) One trip annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Ensure that the budget includes—

(i) A line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's activities, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP project officer, the Center should reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(ii) A line item for a summative evaluation to be conducted by an independent third party; and

(6) Ensure that the project maintains a Web site that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project:

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period.

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's activities and products and the degree to which the project's activities and products are aligned with the project's objectives and likely to result in the project achieving its proposed outcomes.

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[17] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (i.e., those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased technical assistance in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

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Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priorities in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative Agreement.

Estimated Available Funds: $1,200,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding $1,200,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months with an optional additional 24 months based on performance. Applications must include plans for both the 36 month award and the 24 month extension.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other General Requirements:*

(a) Recipients of funding under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this competition must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html*. To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.327Z.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc)

by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- *Double-space* (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirement does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirement does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section; or if you apply standards other than those specified in the application package.

3. *Submission Dates and Times:*

Applications Available: May 9, 2014.

Deadline for Transmittal of Applications: June 23, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice. *Deadline for Intergovernmental Review:* August 22, 2014.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the National Center on Accessible Educational Materials for Learning competition, CFDA number 84.327Z, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the

electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the National Center on Accessible Educational Materials for Learning competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.327, not 84.327Z).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Carmen Sanchez, U.S. Department of Education, 400 Maryland

Avenue SW., room 4057, Potomac Center Plaza (PCP), Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327Z), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327Z), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure

information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials for Individuals with Disabilities program. These measures are included in the application package and focus on the extent to which projects are of high quality, are relevant to improving outcomes of children with disabilities, contribute to improving outcomes for children with disabilities, and generate evidence of validity and availability to appropriate populations. Projects funded under this competition are required to submit data on these measures as directed by OSEP:

Program Performance Measure #1: The percentage of educational technology, media, and materials projects judged to be of high quality.

Program Performance Measure #2: The percentage of educational technology, media, and materials projects judged to be of high relevance to improving outcomes of infants, toddlers, children, and youth with disabilities.

Program Performance Measure #3: The percentage of educational technology, media, and materials projects that are judged to be of high usefulness in improving results for infants, toddlers, children, and youth with disabilities.

Program Performance Measure #4: The percentage of educational technology, media, and materials projects that validate their products and services.

Program Performance Measure #5: The percentage of educational technology, media, and materials projects that make validated technologies available for widespread use.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 4057, PCP, Washington, DC 20202–2600. Telephone: (202) 245–6595.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 5, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–10646 Filed 5–8–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology Meeting

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of Open Teleconference.

SUMMARY: This notice sets forth the schedule and summary agenda for a conference call of the President's Council of Advisors on Science and Technology (PCAST) and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The purpose of this conference call is to discuss PCAST's antimicrobial resistance report and advanced manufacturing reports.

DATES: The public conference call will be held on Wednesday, May 28, 2014 from 3:00 p.m. to 4:00 p.m., Eastern Time (ET). To receive the call-in information, attendees should register for the conference call on the PCAST Web site, *http://www.whitehouse.gov/ostp/pcast* no later than 12:00 p.m. ET on Friday, May 23, 2014.

FOR FURTHER INFORMATION CONTACT: Information regarding the call agenda, time, and how to register for the call is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* Questions about the conference call should be directed to Dr. Ashley Predith, PCAST Assistant Executive Director, by email at: *apredith@ostp.eop.gov,* or telephone: (202) 456–4444.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House and from cabinet departments and other Federal agencies. See the Executive Order at the following Web site: *http://www.whitehouse.gov/ostp/pcast.* PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is co-chaired by

Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of the Massachusetts Institute of Technology and Harvard.

Type of Meeting: Open.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to hold a conference call in open session on Wednesday, May 28, 2014 from 3:00 p.m. to 4:00 p.m.

During the conference call, PCAST will discuss its antimicrobial resistance report and advanced manufacturing reports. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast*.

Public Comments: PCAST's policy is to accept written public comments of any length and to accommodate oral public comments, whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on May 28, 2014 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast*. This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at: *http://www.whitehouse.gov/ostp/pcast,* no later than 12:00 p.m. ET on Wednesday, May 21, 2014. Phone or email reservations to be considered for the public speaker list will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 10 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee as described below.

Written Comments: Although written comments are accepted until the date of the meeting, written comments should be submitted to PCAST no later than 12:00 p.m. ET on Friday, May 23, 2014, so that the comments may be made available to the PCAST members prior to the meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled ''Connect with PCAST.''

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Predith at least ten business days prior to the meeting so that appropriate arrangements can be made.

Issued in Washington, DC, on May 6, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–10699 Filed 5–8–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Quadrennial Energy Review: Notice of Public Meeting

AGENCY: Office of Energy Policy and Systems Analysis, Secretariat, Quadrennial Energy Review Task Force, Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: At the direction of the President, the U.S. Department of Energy (DOE or Department), as the Secretariat for the Quadrennial Energy Review Task Force (QER Task Force will convene a series of public meetings to discuss and receive comments on issues related to the Quadrennial Energy Review.

DATES: The Department, as the Secretariat for the QER Task Force, is convening additional meetings relating to the Quadrennial Energy Review. The third public meeting will be held on Tuesday, May 27, 2014, beginning at 9 a.m. Written comments are welcome, especially following the public meeting, and should be submitted within 60 days of the meeting.

The precise, times, dates and addresses of additional meetings will be announced in later **Federal Register** notices.

ADDRESSES: The May 27, 2014 meeting will be held at the Louisiana State University Health Sciences Center New Orleans, Lecture Room, Medical Education Building, 1901 Perdido Street, New Orleans, LA 70112.

You may submit written comments, to: *QERComments@hq.doe.gov* or by U.S. mail to the Office of Energy Policy and Systems Analysis, EPSA–60, QER Meeting Comments, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121.

For the May 27, 2014 Public Meeting, please title your comment ''Quadrennial Energy Review: Comment on the Public Meeting ''Petroleum Product Transmission & Distribution (including CO2/EOR)'' held May 27, 2014, Washington, DC.''.

FOR FURTHER INFORMATION CONTACT: Ms. Adonica Renee Pickett, EPSA–90, U.S. Department of Energy, Office of Energy Policy and Systems Analysis, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* (202) 586–9168 *Email: Adonica.Pickett@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 9, 2014, President Obama issued a *Presidential Memorandum—Establishing a Quadrennial Energy Review.* To accomplish this review, the Presidential Memorandum establishes a Quadrennial Energy Review Task Force to be co-chaired by the Director of the Office of Science and Technology Policy, and the Director of the Domestic Policy Council. Under the Presidential Memorandum, the Secretary of Energy shall provide support to the Task Force, including support for coordination activities related to the preparation of the Quadrennial Energy Review Report, policy analysis and modeling, and stakeholder engagement.

The DOE, as the Secretariat for the Quadrennial Energy Review Task Force, will hold a series of public meetings to discuss and receive comments on issues related to the Quadrennial Energy Review. In this **Federal Register** notice, DOE is announcing the general locations and topics for additional meetings as follows:

Topic	Location
Infrastructure Constraints—Bakken	North Dakota.
Electricity TS&D—West	Portland, OR.
Electricity TS&D—East	New Jersey.
Rail, Barge, Truck Transportation	Chicago, IL.

Topic	Location
Water-Energy Nexus	California.
Finance and Market Incentives	New York, NY.
Natural Gas TS&D	Pittsburgh, PA.
Propane Distribution and North American TS&D	Minneapolis, MN.
State, Local and Tribal Issues	New Mexico.
Gas-Electricity Interdependence	Colorado.
Infrastructure Siting	Wyoming.
Rural Electricity Issues, Biomass Processing and Transportation	Iowa.
Business/Economic Development	Atlanta, GA.
Final Meeting	Washington, DC.

The initial focus for the Quadrennial Energy Review will be our Nation's infrastructure for transporting, transmitting, storing and delivering energy. Our current infrastructure is increasingly challenged by transformations in energy supply, markets, and patterns of end use; issues of aging and capacity; impacts of climate change; and cyber and physical threats. Any vulnerability in this infrastructure may be exacerbated by the increasing interdependencies of energy systems with water, telecommunications, transportation, and emergency response systems. The first Quadrennial Energy Review Report will serve as a roadmap to help address these challenges.

The Department of Energy has a broad role in energy policy development and the largest role in implementing the Federal Government's energy research and development portfolio. Many other executive departments and agencies also play key roles in developing and implementing policies governing energy resources and consumption, as well as associated environmental impacts. In addition, non-Federal actors are crucial contributors to energy policies. Because most energy and related infrastructure is owned by private entities, investment by and engagement of the private sector is necessary to develop and implement effective policies.

State and local policies; the views of nongovernmental, environmental, faith-based, labor, and other social organizations; and contributions from the academic and non-profit sectors are also critical to the development and implementation of effective energy policies.

An interagency Quadrennial Energy Review Task Force, which includes members from all relevant executive departments and agencies (agencies), will develop an integrated review of energy policy that integrates all of these perspectives. It will build on the foundation provided in the Administration's *Blueprint for a Secure Energy Future* of March 30, 2011, and *Climate Action Plan* released on June 25, 2013. The Task Force will offer recommendations on what additional actions it believes would be appropriate. These may include recommendations on additional executive or legislative actions to address the energy challenges and opportunities facing the Nation.

May 27, 2014 Public Meeting: Petroleum Product Transmission & Distribution (Including CO2/EOR)

On May 27, 2014, the DOE will hold a public meeting in New Orleans, Louisiana. The May 27, 2014 public meeting will feature facilitated panel discussions, followed by an open microphone session. Persons desiring to speak during the open microphone session at the public meeting should come prepared to speak for no more than 3 minutes and will be accommodated on a first-come, first-serve basis, according to the order in which they register to speak on a sign-in sheet available at the meeting location, on the morning of the meeting.

In advance of the meeting, DOE anticipates making publicly available a briefing memorandum providing useful background information regarding the topics under discussion at the meeting. DOE will post this memorandum on its Web site: *http://energy.gov.*

Submitting comments via email. Submitting comments by email to the QER email address will require you to provide your name and contact information in the transmittal email. Your contact information will be viewable to DOE staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). Your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to the QER email address (*QERcomments@hq.doe.gov*) information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted to the QER email address cannot be claimed as CBI. Comments received through the email address will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section, below.

If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Confidential Business Information. Pursuant to *10 CFR 1004.11,* any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should

submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. Confidential information should be submitted to the Confidential QER email address: *QERConfidential@hq.doe.gov.*

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest. It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on May 6, 2014.

Michele Torrusio,

QER Secretariat, QER Interagency Task Force, U.S. Department of Energy.

[FR Doc. 2014–10736 Filed 5–8–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC14–7–000]

Commission Information Collection Activities (FERC–603); Comment Request

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC–603, Critical Energy Infrastructure Information Request, to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (79 FR 8181, 2/11/2014) requesting public comments. FERC received one comment in response to the notice and has addressed the comment below and in the supporting statement submitted to OMB.

DATES: Comments on the collection of information are due by June 9, 2014.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0197, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC14–7–000, by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov*, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov*, by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–603, Critical Energy Infrastructure Information Request.

OMB Control No.: 1902–0197.

Type of Request: Three-year extension of the FERC–603 information collection requirements with no changes to the current reporting requirements.

Abstract: This collection is used by the Commission to implement procedures for gaining access to critical energy infrastructure information (CEII) that would not otherwise be available under the Freedom of Information Act (5 U.S.C. 552). On February, 21, 2003, the Commission issued Order No. 630 (66 FR 52917) to address the appropriate treatment of CEII in the aftermath of the September 11, 2001 terrorist attacks and to restrict unrestrained general access due to the ongoing terrorism threat. These steps enable the Commission to keep sensitive infrastructure information out of the public domain, decreasing the likelihood that such information could be used to plan or execute terrorist attacks. The process adopted in Order No. 630 is a more efficient alternative for handling requests for previously public documents than FOIA. The Commission has defined CEII to include information about ''existing or proposed critical infrastructure that (i) relates to the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act, and (iv) does not simply give the location of the critical infrastructure. Critical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. A person seeking access to CEII may file a request for that information by providing information about their identity and reason as to the need for the information. Through this process, the Commission is able to review the requester's need for the information against the sensitivity of the information. Compliance with these requirements is mandatory.

The CEII request form (hard copy and electronic version) and other materials are located at *http://www.ferc.gov/legal/ceii-foia/ceii.asp.*

Type of Respondents: Persons seeking access to CEII.

[1] The Commission defines burden as 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. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

Estimate of Annual Burden: [1] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–603—CRITICAL ENERGY INFRASTRUCTURE INFORMATION REQUEST

	Number of respondents (A)	Number of responses per respondent (B)	Total number of responses (A) × (B) = (C)	Average burden hours per response (D)	Estimated total annual burden (C) × (D)
Persons seeking access to CEII	200	1	200	0.3	60

The total estimated annual cost burden per respondents is approximately $21 (0.3 hours * $70.50/hour [2] = $21.15). The total estimated annual cost burden is $4,230 (60 hours * $70.50/hour = $4,230).

Comment received in response to initial notice: Southern Company Services, Inc. (SCS) submitted comments. SCS, as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Power Company, serves the electricity needs of more than 4.4 million retail customers in the southeastern United States. SCS is a NERC-registered entity subject to the mandatory NERC reliability standards for generation and transmission owners and operators as well as other NERC-registered functions.

SCS states that it agrees with Acting Chairman LaFleur's recent statement on the publication of the Wall Street Journal article about Grid Security (March 12, 2014), as well as her call for a more clearly defined exemption under FOIA for CEII. SCS states that until such an exemption is legislatively created, one additional step the Commission should consider to protect CEII and other sensitive information would be to only collect such information when absolutely necessary. Instead, where appropriate, the Commission may consider alternatives such as on-site reviews, webinars, and other technological solutions that allow the Commission to view such information without having to possess the information in its records. Such steps may mitigate the chances that CEII and other sensitive information could end up in the wrong hands or be released to the public, thereby endangering the reliability of the electric grid.

SCS also states that the more steps the Commission can take to minimize inappropriate public access to CEII and other sensitive information, the less likely it is that such information can be used to harm the electric reliability of the grid, thereby imposing additional costs on generation and transmission owners and operators, and thus the ratepayer. By leveraging emerging technologies in ways that allow the Commission to view sensitive CEII and other information, without necessarily collecting or possessing it, the Commission should be able to fulfill its compliance and enforcement responsibilities while avoiding the risk of public disclosure of sensitive information under FOIA requests in ways that could harm or create risk to the reliability of the electric grid.

Response: The Commission is committed to ensuring security by pursuing the practices that SCS advocates. The Commission is conducting an ongoing assessment of how best to keep CEII secure while allowing those in the industry who need the information to access it.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 1, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10611 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

[1] The Commission defines burden as 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. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[2] $70.50/hour is the FERC staff average, including benefits. Staff assumes that respondents for this collection are in a similar wage category.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2678–006]

Pacific Gas and Electric Company; Notice of Application Tendered for Filing With the Commission, and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following transmission line only project application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License—Transmission Line Only.

b. *Project No:* P–2678–006.

c. *Date Filed:* April 24, 2014.

d. *Applicant:* Pacific Gas and Electric Company (PG&E).

e. *Name of Project:* Narrows No. 2 Transmission Line Project.

f. *Location:* The Narrows No. 2 Transmission Line Project is located within the Yuba River watershed, in Yuba and Nevada counties, California. The project originates on public land administered by the United States Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. Mark Stewart, Pacific Gas and Electric Company, 4636 Missouri Flat Road, Placerville, CA, 95667. Tel: (530) 621–7243 or by email at *m9s5@pge.com*.

i. *FERC Contact:* Jim Fargo, (202) 502–6095 or *james.fargo@ferc.gov*.

j. *Status:* This application is not ready for environmental analysis at this time.

k. *Description of Project:* The project includes about 1,638 feet (0.31 mile) of three-phase, 60-kilovolt transmission line from the Yuba County Water Authority's (YCWA) Narrows No. 2 Powerhouse (a component of FERC Project No. 2246), in Yuba County, to PG&E's Narrows No. 2 substation. The

Narrows No. 2 transmission line is not included as part of the Narrows No. 2 development. PG&E is not proposing to modify the existing project and does not plan any changes to the operation or maintenance of the transmission line.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

n. Procedural schedule and final amendments: This application will be processed according to the following Licensing Schedule. Revisions to the schedule will be made if the Commission determines it necessary to do so.

Milestone	Tentative date
Notice of Acceptance/Notice of Ready for Environmental Analysis.	May 2014.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	July 2014.
Commission issues EA.	September 2014.
Comments on EA	October 2014.
Modified Terms and Conditions.	December 2015.
Commission Issues Final EA.	February 2015.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice soliciting final terms and conditions.

Dated: May 5, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10706 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–609–000.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission, LLC's Operational Purchases & Sales Report.
Filed Date: 4/30/13.
Accession Number: 20130430–5046.
Comments Due: 5 p.m. ET 5/5/14.

Docket Numbers: RP14–569–000.
Applicants: Millennium Pipeline Company, LLC.
Description: RAM 2014—Compliance Filing.
Filed Date: 4/29/14.
Accession Number: 20140429–5213.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–782–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Cap Rel Neg Rate Agmts (QEP 37657 to Texla 42401; BP 42402, 42403) to be effective 5/1/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5069.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–783–000.
Applicants: Elba Express Company, L.L.C.
Description: Fuel Tracker Filing—2014 to be effective 6/1/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5076.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–784–000.
Applicants: Texas Eastern Transmission, LP.
Description: TETLP Reverse Flow Filing to be effective 6/1/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5268.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–785–000.
Applicants: Elba Express Company, L.L.C.
Description: Map Update—2014 to be effective 6/1/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5290.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–786–000.
Applicants: Horizon Pipeline Company, L.L.C.
Description: Nicor Gas Negotiated Rate to be effective 5/1/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5318.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–787–000.
Applicants: ANR Pipeline Company.
Description: Cashout 2014 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5028.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–788–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Cap Rel Neg Rate Agmt (JW 34690 to QWest 42411) to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5049.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–789–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: Fuel Filing on 04–30–14 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5050.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–790–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: Fayetteville Express Pipeline LLC submits tariff filing per 154.204: Fuel Filing on 4–30–2014 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5057.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–791–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Ozark Gas Transmission, L.L.C. submits tariff filing per 154.204: Munich Re Trading Negotiated Rate 5–1–2014 to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5080.
Comments Due: 5 p.m. ET 5/12/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 30, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10703 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–294–000.
Applicants: Gulf South Pipeline Company, LP.
Description: ENS Activity Report for 2013.
Filed Date: 2/7/14.
Accession Number: 20140207–5024.
Comments Due: 5 p.m. ET 5/5/14.

Docket Numbers: RP14–759–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Report of Operational Imbalances and Cash-out Activity of Cameron Interstate Pipeline, LLC.
Filed Date: 4/18/14.
Accession Number: 20140418–5102.
Comments Due: 5 p.m. ET 4/30/14.

Docket Numbers: RP14–761–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Report of Penalty Revenues for Cameron Interstate Pipeline, LLC.
Filed Date: 4/18/14.
Accession Number: 20140418–5109.
Comments Due: 5 p.m. ET 4/30/14.

Docket Numbers: RP14–774–000.
Applicants: Portland Natural Gas Transmission System.
Description: Maps 2014 to be effective 6/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5063.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–775–000.
Applicants: Alliance Pipeline L.P.
Description: May 1–14 2014 Auction to be effective 5/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5080.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–776–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: ConEd Ramapo Release May 1, 2014 to be effective 5/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5223.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–777–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Brooklyn Union Ramapo Release May 1, 2014 to be effective 5/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5233.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–778–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Keyspan Ramapo Release May 1, 2014 to be effective 5/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5237.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–779–000.
Applicants: Texas Eastern Transmission, LP.
Description: EQT Negotiated Rate Release 5–1–2014 to be effective 5/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5247.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–780–000.
Applicants: Texas Eastern Transmission, LP.
Description: 2014 Maps to be effective 5/29/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5270.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–781–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: 2014 Map to be effective 5/29/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5271.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–90–000.
Applicants: Texas Gas Transmission, LLC.
Description: Motion to Place Tariff Records into Effect May 1, 2014 in RP14–90 to be effective 5/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5096.
Comments Due: 5 p.m. ET 5/12/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–573–001.
Applicants: KPC Pipeline, LLC.
Description: KPC Fuel Reimbursement Adjustment—Compliance Filing to be effective 4/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5194.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–768–001.
Applicants: Natural Gas Pipeline Company of America.
Description: Amended Macquarie Energy Negotiated Rate to be effective 5/1/2014.
Filed Date: 4/28/14.
Accession Number: 20140428–5239.
Comments Due: 5 p.m. ET 5/12/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 29, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10702 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1380–000; ER14–500–000.
Applicants: New York Independent System Operator, Inc.
Description: Emergency Motion of Central Hudson Gas & Electric Corporation for Expeditious Rulings or, Alternatively, for a Stay of Capacity Auctions for the NCZ in New York's Lower Hudson Valley and Motion for Shortened Response Time of Three Business Days.
Filed Date: 4/30/14.
Accession Number: 20140430–5551.
Comments Due: 5 p.m. ET 5/7/14.

Docket Numbers: ER14–1683–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per: 2014–05–02_SA Geronimo-ITC GIA (J281 J282) Supplement to be effective N/A.
Filed Date: 5/2/14.
Accession Number: 20140502–5177.
Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1858–000.
Applicants: Consolidated Power Co., LLC.
Description: Consolidated Power Co., LLC FERC Tariff Filing to be effective 5/15/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5096.
Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1859–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–02 Tx Developer Sector to Advisory Committee to be effective 7/2/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5111.
Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1860–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: BPA AC Intertie Agreement 10th Revised to be effective 7/2/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5143.
Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1861–000.
Applicants: ITC Great Plains, LLC.
Description: ITC Great Plains, LLC submits tariff filing per 35.13(a)(2)(iii: Joint Ownership Agreement to be effective 7/1/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5152.
Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1862–000.
Applicants: Virginia Electric and Power Company.
Description: Virginia Electric and Power Company submits tariff filing per 35: Compliance Filing—VEPCO MBR Tariff Bus. Development Waiver to be effective 5/5/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5153.
Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1863–000.
Applicants: Kiwi Energy Inc.
Description: Kiwi Energy Inc. submits tariff filing per 35.15: Notice of Cancellation to be effective 7/1/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5176.
Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1864–000.
Applicants: Virginia Electric and Power Company.
Description: Virginia Electric and Power Company submits tariff filing per 35: Compliance Filing—VEPCO MBS Tariff Bus. Development Waiver to be effective 5/3/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5202.
Comments Due: 5 p.m. ET 5/23/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 2, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10708 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–792–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Negotiated Rates—Cherokee AGL—Replacement Shippers—May 2014 to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5117.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–793–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Negotiated Rate Release eff 5–1–14 to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5147.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–794–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Keyspan Ramapo Release eff 5–1–14 to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5151.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–795–000.
Applicants: Cheyenne Plains Gas Pipeline Company, L.
Description: FL&U and EPC Filing effective June 1, 2014 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5152.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–796–000.
Applicants: Dominion Transmission, Inc.
Description: DTI—System Map Update 2014 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5153.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–797–000.
Applicants: TC Offshore LLC.
Description: Cashout 2014 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5163.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–798–000.
Applicants: Rockies Express Pipeline LLC.
Description: Neg Rate 2014–4–30 Marathon and WIC to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5167.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–799–000.
Applicants: Questar Overthrust Pipeline Company.
Description: Non-Conforming TSA # 5164, Marathon Oil to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5192.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–800–000.
Applicants: Chandeleur Pipe Line, LLC.
Description: Chandeleur Section 4 System Map Annual Filing to be effective 5/30/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5228.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–801–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: Neg Rate 2014–04–30 Valero to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5236.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–802–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: TIGT System Maps and Terms & Conditions Tariff Update to be effective 5/30/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5244.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–803–000.
Applicants: WBI Energy Transmission, Inc.
Description: 2014 System Maps to be effective 4/30/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5275.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–804–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Map Filing on 4–30–14 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5328.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–805–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Map Filing on 4–30–14 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5334.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–806–000.
Applicants: Empire Pipeline, Inc.
Description: System Map (Empire) 04–30–14 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5372.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–807–000.
Applicants: Dominion Transmission, Inc.
Description: DTI—April 30, 2014 Negotiated Rate & Nonconforming Service Agreements to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5385.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–808–000.
Applicants: TransColorado Gas Transmission Company L.
Description: TransColorado System Map Update to be effective 5/31/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5405.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–809–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: EPNG System Map Update to be effective 5/31/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5409.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–810–000.
Applicants: Mojave Pipeline Company, L.L.C.
Description: Mojave System Map Update to be effective 5/31/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5412.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–811–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: System Map Update to be effective 5/31/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5414.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–812–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: WIC System Map Update to be effective 5/31/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5415.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–813–000.
Applicants: Rockies Express Pipeline LLC.
Description: Neg Rate 2014–04–30 ConocoPhillips to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5420.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–814–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: Fuel Tracking Filing April 2014 to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5423.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–815–000.
Applicants: National Fuel Gas Supply Corporation.
Description: Tariff Maps (04–30–14) to be effective 6/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5468.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–816–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: Neg Rate 2014–04–30 Ethanol Shippers to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5479.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–817–000.
Applicants: Equitrans, L.P.
Description: Equitrans' Tariff Clean-Up Filing-April 2014 to be effective 5/30/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5517.
Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: RP14–818–000.
Applicants: Equitrans, L.P.
Description: Errata Equitrans' Tariff Clean-Up Filing-April 2014 to be effective 5/30/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5066.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–819–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Cap Rel Neg Rate Agmt (QWest 42411 to Texla 42426) to be effective 5/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5070.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–820–000.
Applicants: Chandeleur Pipe Line, LLC.
Description: Annual True Up Filing and Request for Waiver of Surcharge Requirement of Chandeleur Pipe Line, LLC.
Filed Date: 4/30/14.
Accession Number: 20140430–5561.
Comments Due: 5 p.m. ET 5/12/14.

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Filings in Existing Proceedings

Docket Numbers: RP14–118–002.
Applicants: WBI Energy Transmission, Inc.
Description: Motion Filing to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5492.
Comments Due: 5 p.m. ET 5/12/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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Dated: May 1, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10704 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–1036–000.
Applicants: Petal Gas Storage, L.L.C.
Description: 2013 Operational Purchases and Sales Report.
Filed Date: 5/1/14.
Accession Number: 20140501–5125.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP12–609–000.
Applicants: Texas Gas Transmission, LLC.
Description: 2013 Operational Purchases and Sales Report.
Filed Date: 5/1/14.
Accession Number: 20140501–5126.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP13–212–000.
Applicants: Boardwalk Storage Company, LLC.
Description: Operational Purchases and Sales Report for 2013.
Filed Date: 5/1/14.
Accession Number: 20140501–5122.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–822–000.
Applicants: Gulf South Pipeline Company, LP.
Description: New Services & Tariff Changes Associated w/Merger of Petal into Gulf South to be effective 1/1/2015.
Filed Date: 5/1/14.
Accession Number: 20140501–5111.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–823–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Non-Conf Agmts Filing in compliance with Gulf South/Petal Merger Application to be effective 1/1/2015.
Filed Date: 5/1/14.
Accession Number: 20140501–5116.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–824–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: 2014 GNGS TUP/SBA Filing to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5118.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–825–000.
Applicants: Southeast Supply Header, LLC.
Description: 2014 TUP/SBA Annual Filing to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5127.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–826–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Quarterly Recomputation of FL&U Percentages and Index Price Development Update to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5197.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–827–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Wacker Recourse Rates—CP12–484–000 Compliance Filing to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5221.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–828–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Non-Conforming Agreements Update (UNS_APS) to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5246.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–829–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Station 87—Zone 1 Supply Area Pooling Area to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5247.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–830–000.
Applicants: ANR Pipeline Company.
Description: ANR Pipeline Company Operational Purchases and Sales of Gas Report.
Filed Date: 5/1/14.
Accession Number: 20140501–5262.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–831–000.
Applicants: Blue Lake Gas Storage Company.
Description: Blue Lake Gas Storage Company Operational Purchases and Sales of Gas Report.
Filed Date: 5/1/14.
Accession Number: 20140501–5266.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–832–000.
Applicants: East Cheyenne Gas Storage, LLC.
Description: ECGS Operational Purchases and Sales Report 2014 Filing.
Filed Date: 5/1/14.
Accession Number: 20140501–5268.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–833–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Rate Adjustment for Eminence Insurance Proceeds to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5271.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–834–000.
Applicants: Enable Gas Transmission, LLC.
Description: Negotiated Rate Filing—May 2014 to be effective 5/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5355.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–835–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Clean-Up Filing—2014 to be effective 6/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5365.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–836–000.
Applicants: Enable Mississippi River Transmission, L.
Description: Negotiate Rate Filing to Add CES #5677 & LER #5680 Effective 5–1–14 to be effective 5/1/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5373.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–837–000.
Applicants: TC Offshore LLC.
Description: TC Offshore LLC Operational Purchases and Sales of Gas Report.
Filed Date: 5/1/14.
Accession Number: 20140501–5427.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–838–000.
Applicants: ANR Storage Company.
Description: ANR Storage Company Operational Purchases and Sales Report.
Filed Date: 5/1/14.
Accession Number: 20140501–5428.
Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: RP14–839–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Errata to System Map Update to be effective 5/31/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5193.
Comments Due: 5 p.m. ET 5/14/14.

Docket Numbers: RP14–840–000.
Applicants: Young Gas Storage Company, Ltd.
Description: Young System Map Update to be effective 6/2/2014.
Filed Date: 5/2/14.
Accession Number: 20140502–5209.
Comments Due: 5 p.m. ET 5/14/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and

385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–584–002.
Applicants: Columbia Gas Transmission, LLC.
Description: Revenue Sharing Report 2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5085.
Comments Due: 5 p.m. ET 5/13/14.

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Dated: May 5, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10705 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1845–000.
Applicants: PacifiCorp.
Description: Termination of PAC Energy Construction Agreements (Leaning Juniper & Goodnoe Hill to be effective 7/15/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5354.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1846–000.
Applicants: Independence Energy Group LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5359.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1847–000.
Applicants: Norwalk Power LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5360.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1848–000.
Applicants: NRG New Jersey Energy Sales LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5361.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1849–000.
Applicants: Reliant Energy Northeast LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5362.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1850–000.
Applicants: NRG Sterlington Power LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5363.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1851–000.
Applicants: NRG Wholesale Generation LP.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5364.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1852–000.
Applicants: Louisiana Generating LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5366.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1853–000.
Applicants: Cottonwood Energy Company LP.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5367.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1854–000.
Applicants: Big Cajun I Peaking Power LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5368.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1855–000.
Applicants: North Community Turbines LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5369.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1856–000.
Applicants: North Wind Turbines LLC.
Description: Revised Market-Based Rate Tariff to be effective 5/2/2014.
Filed Date: 5/1/14.
Accession Number: 20140501–5370.
Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER14–1857–000.
Applicants: Southern California Edison Company.
Description: Request for recovery in formula rate for incurred abandoned costs associated in the City of Chino Hills, California Underground Project of Southern California Edison Company.
Filed Date: 5/1/14.
Accession Number: 20140501–5421.
Comments Due: 5 p.m. ET 5/22/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA14–1–000.
Applicants: Macho Springs Solar, LLC., SG2 Imperial Valley, LLC.
Description: Quarterly Land Acquisition Report of First Solar Inc.
Filed Date: 5/1/14.
Accession Number: 20140501–5426.
Comments Due: 5 p.m. ET 5/22/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: May 2, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10707 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–2124–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–04–29_ER13–2124–002_Amended Compliance Filing RSG Netting to be effective 3/17/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5330.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER14–221–000.
Applicants: Covanta Haverhill Associates, LP.
Description: Covanta Haverhill Associates, LP submits tariff filing per 35.19a(b): Supplement to Refund Report to be effective N/A.
Filed Date: 4/30/14.
Accession Number: 20140430–5238.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1206–001.
Applicants: California Independent System Operator Corporation.
Description: 2014–04–30_Competitive Transmission Improvements_Compliance to be effective 4/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5140.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1245–000.
Applicants: FirstEnergy Solutions Corp.
Description: Supplement to January 31, 2014 Application of FirstEnergy Solutions Corp. for authorization to sell electricity to The Potomac Edison Company, an affiliate.
Filed Date: 4/29/14.
Accession Number: 20140429–5378.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER14–1805–000.
Applicants: Black Hills Power, Inc.
Description: Amedment to Schedule B of GDEMA with Cheyenne Light, Fuel and Power Company to be effective 4/30/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5339.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER14–1806–000.
Applicants: Black Hills Power, Inc.
Description: Amedment to Schedule B of GDEMA with City of Gillette, Wyoming to be effective 4/30/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5340.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER14–1807–000.
Applicants: Black Hills Power, Inc.
Description: Amedment to Schedule B of GDEMA with Black Hills Wyoming, LLC to be effective 4/30/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5341.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER14–1808–000.
Applicants: Black Hills Power, Inc.
Description: Amedment to Schedule B of GDEMA with Black Hills/Colorado Electric Utility, L.P. to be effective 4/30/2014.
Filed Date: 4/29/14.
Accession Number: 20140429–5342.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER14–1809–000.
Applicants: Pacific Gas and Electric Company.
Description: E&P Agreement for California Flats Solar, LLC to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5002.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1810–000.
Applicants: Unitil Power Corp.
Description: Unitil Power Corp submits Statement of all billing transactions under the Amended Unitil System Agreement for the period January 1, 2013 to December 31, 2013 etc.
Filed Date: 4/29/14.
Accession Number: 20140429–5357.
Comments Due: 5 p.m. ET 5/20/14.

Docket Numbers: ER14–1811–000.
Applicants: PJM Interconnection, L.L.C.
Description: First Revised Service Agreement No. 3147; Queue No. W4–103 to be effective 4/3/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5125.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1812–000.
Applicants: MidAmerican Energy Company.
Description: Ottumwa GS Unit 1-Facilities & Oper Agr—Concurrence to be effective 6/24/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5184.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1813–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2014–04–30 Attachment O–AIC Depreciation Rate Update to be effective 1/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5229.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1814–000.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii): Emergency Interchange Service Schedule A&B—2014 (Bundled) to be effective 5/1/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5241.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1815–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii): CCSF IA—45th Quarterly Filing of Facilities Agreements to be effective 3/31/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5270.
Comments Due: 5 p.m. ET 5/21/14.

Docket Numbers: ER14–1816–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): Tariff clarification on EDRP bids to be effective 6/29/2014.
Filed Date: 4/30/14.
Accession Number: 20140430–5290.
Comments Due: 5 p.m. ET 5/21/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA14–1–000.
Applicants: Beech Ridge Energy LLC, Bishop Hill Energy LLC, Bishop Hill Energy III LLC, California Ridge Wind Energy LLC, Forward Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Grays Harbor Energy LLC, Hardee Power Partners Limited, Invenergy Cannon Falls LLC, Invenergy TN LLC, Judith Gap Energy LLC, Prairie Breeze Wind Energy LLC, Sheldon Energy LLC, Spring Canyon Energy LLC, Spindle Hill Energy LLC, Stony Creek Energy LLC, Vantage Wind Energy LLC, Willow Creek Energy LLC, Wolverine Creek Energy LLC.
Description: Quarterly Land Acquisition Report of Beech Ridge Energy LLC, et. al.
Filed Date: 4/30/14.
Accession Number: 20140430–5340.
Comments Due: 5 p.m. ET 5/21/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's

Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 30, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10614 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–45–000]

Duke Energy Corporation, Duke Energy Commercial Asset Management, Inc., Duke Energy Lee II, LLC v. PJM Interconnection, L.L.C., PJM Settlement, Inc.; Notice of Complaint

Take notice that on May 5, 2014, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), Duke Energy Corporation, Duke Energy Commercial Asset Management, Inc., and Duke Energy Lee II, LLC (Complainants or Duke) filed a formal complaint against PJM Interconnection, L.L.C. and PJM Settlement, Inc. (Respondents or PJM) alleging that, Respondents failed to fulfil its obligation under the PJM Open Access Transmission Tariff section 10.3 to indemnify Complainants for its obligation to third parties arising out of its good faith performance of a PJM directive.

The Complainants certify that copies of the complaint were served on the contacts for the Respondents as listed in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 27, 2014.

Dated: May 5, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10709 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–44–000]

Transmission Agency of Northern California v. Pacific Gas and Electric Company; Notice of Complaint

Take notice that on April 30, 2014, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), Transmission Agency of Northern California (Complainant) filed a formal complaint against Pacific Gas and Electric Company (Respondent) alleging an anticipated violation by the Respondent of its rate schedule providing for coordinated operation of the high voltage AC interconnection (interconnection) between California and the Pacific Northwest, due to Respondent's failure to adequately develop, maintain, and support the import capability of its portion of the interconnection.

The Complainant states that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 20, 2014.

Dated: May 1, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10615 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13124–015]

Copper Valley Electric Association, Inc.; Notice of Application To Amend License and Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment to License.

b. *Project No:* 13124–015.

c. *Date Filed:* April 14, 2014.

d. *Applicant:* Copper Valley Electric Association, Inc.

e. *Name of Project:* Allison Creek Hydroelectric Project.

f. *Location:* On Allison Creek in Valdez, Alaska. This project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert A. Wilkinson, CEO, Copper Valley Electric Association, Inc., P.O. Box 45, Mile 187 Glenn Highway, Glennallen, AK 99588, (907) 822–3211.

i. *FERC Contact:* Steven Sachs at (202) 502–8666; or *Steven.Sachs@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file any motion to intervene, protest, comments, and/or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–13124–005.

k. Description of Request: As licensed, the unconstructed project includes two 3.25-megawatt (MW) turbine-generator units, a 120-foot-long tailrace exiting the west side of the powerhouse, and a 3.8-mile-long, 34.5-kilovolt (kV) transmission line following an existing right-of-way. In its application, the licensee proposes to install a single 6.5-MW turbine-generator unit, construct a 70.5-foot-long tailrace extending from the north side of the powerhouse, and erect a 3.8-mile-long, 25-kV transmission line south of the original location and following a utility easement entirely on land owned by the State of Alaska. The new transmission line routing would interconnect with the grid at the same location as originally proposed.

l. Locations of the Application: This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number P–13124 in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 1, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10612 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14578–000]

Telluride Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 15, 2014, Telluride Energy, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Buchanan Dam Hydroelectric Project (Buchanan Dam Project or project) at the U.S. Army Corps of Engineers' (Corps) Eastman Lake and Buchanan dam on the Chowchilla River, near the city of Chowchilla in Madera County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new penstock that

would take water from the existing Eastman Lake; (2) a new powerhouse at the base of the existing Buchanan dam containing a 2.98-megawatt turbine-generator; (3) a new estimated 0.5-mile-long primary transmission line connecting the project to Pacific Gas and Electric Company's transmission lines south of the project; and; (4) appurtenant facilities. The proposed project would have an estimated average annual generation of 11,258 megawatt-hours and operate utilizing releases from Eastman Lake, as directed by the Corps.

Applicant Contact: Mr. Kurt Johnson, Telluride Energy, LLC, 100 West Colorado, Suite 222, P.O. Box 1646, Telluride, CO 81435; phone: (970) 729–5051.

FERC Contact: Shana Murray; phone: (202) 502–8333.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14578) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 1, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10616 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14577–000]

Telluride Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 15, 2014, Telluride Energy, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Hidden Dam Hydroelectric Project (Hidden Dam Project or project) at the U.S. Army Corps of Engineers' (Corps) Lake Hensley and Hidden dam on the Fresno River, near the city of Madera in Madera County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new penstock that would take water from the existing Hensley Lake; (2) a new powerhouse at the base of the existing Hidden dam containing a 2.48-megawatt turbine-generator; (3) a new estimated 0.25-mile-long primary transmission line connecting the project to Pacific Gas and Electric Company's transmission lines west of the project; and; (4) appurtenant facilities. The proposed project would have an estimated average annual generation of 9,350 megawatt-hours and operate utilizing releases from Lake Hensley, as directed by the Corps.

Applicant Contact: Mr. Kurt Johnson, Telluride Energy, LLC, 100 West Colorado, Suite 222, P.O. Box 1646, Telluride, CO 81435; phone: (970) 729–5051.

FERC Contact: Shana Murray; phone: (202) 502–8333.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14577) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 1, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10610 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14571–000]

Archon Energy 1, Inc.: Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications

On December 16, 2013, Archon Energy 1, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Stony Creek Hydropower Project (Stony Creek Project or project) to be located on Stony Creek, near the city of Orland, Glenn County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary

permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 650-feet-wide and up to 7-feet-high concrete diversion structure; (2) a 6-mile-long penstock that would feed up to five, 1-mile-long pressurized, reinforced concrete pipes creating approximately 125 feet of head; (3) a powerhouse, containing up to four turbine-generators; and (4) an undefined interconnection point to the grid within five to eight miles of the proposed powerhouse. The estimated annual generation of the Stony Creek Project would be 100,000 megawatt-hours.

Applicant Contact: Mr. Paul Grist, President, Archon Energy 1, Inc., 101 E. Kennedy Blvd., Suite 2800, Tampa, Florida 33602; phone: (415) 377–2460.

FERC Contact: Shana Murray; phone: (202) 502–8333.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14571–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14571) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 1, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10613 Filed 5–8–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9014–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 04/28/2014 through 05/02/2014

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20140132, Final EIS, FHWA, TX, Grand Parkway Segments H and I–1, *Review Period Ends:* 06/09/2014, *Contact:* Gregory S. Punske 512–536–5900.

EIS No. 20140133, Final EIS, FERC, LA, Cameron Liquefaction Project, *Review Period Ends:* 06/09/2014, *Contact:* Danny Laffoon 202–502–6257.

EIS No. 20140134, Draft Supplement, BPA, ID, Hooper Springs Transmission Project, *Comment Period Ends:* 08/07/2014, *Contact:* Tish Eaton 503–230–3469.

EIS No. 20140135, Draft EIS, RUS, SC, McClellanville 115 kV Transmission Project, *Comment Period Ends:* 06/23/2014, *Contact:* Lauren McGee Rayburn 202–695–2540.

EIS No. 20140136, Draft EIS, FTA, WA, Link Light Rail Operations and Maintenance Satellite Facility, *Comment Period Ends:* 06/23/2014, *Contact:* James Saxton 206–220–7954.

EIS No. 20140137, Draft Supplement, BLM, ID, Cottonwood Resource Management Plan Amendment for Domestic Sheep Grazing, *Comment Period Ends:* 08/07/2014, *Contact:* Scott Pavey 208–769–5059.

EIS No. 20140138, Final EIS, FHWA, OH, Cleveland Opportunity Corridor, *Contact:* Naureen Dar 614–280–6846.

Under MAP–21 section 1319, FHWA has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20140139, Draft EIS, USAF, FL, Gulf Regional Airspace Strategic Initiative Landscape Initiative, *Comment Period Ends:* 06/23/2014, *Contact:* Michael Spaits 850–882–2836.

EIS No. 20140140, Draft EIS, CALTRANS, CA, Centennial Corridor Project, *Comment Period Ends:* 07/08/2014, *Contact:* Jennifer Taylor 559–445–6455.

EIS No. 20140141, Final EIS, NPS, NJ, Gateway National Recreation Area Final General Management Plan, *Review Period Ends:* 06/09/2014, *Contact:* Jennifer Nersesian 718–354–4664.

EIS No. 20140142, Draft Supplement, STB, UT, Six County Association of Governments Proposed Rail Line between Levan and Salina, *Comment Period Ends:* 06/23/2014, *Contact:* Phillis Johnson-Ball 202–245–0304.

EIS No. 20140143, Draft EIS, BR, CA, Contra Loma Reservoir and Recreation Area Resource Management Plan, *Comment Period Ends:* 07/02/2014, *Contact:* David Woolley 559–487–5049.

EIS No. 20140144, Draft EIS, USMC, BR, CA, Santa Margarita River Conjunctive Use Project, *Comment Period Ends:* 06/23/2014, *Contact:* Kristin Thomas 760–725–9741.

The U.S. Department of Defense's Marine Corps and the U.S. Department of the Interior's Bureau of Reclamation are joint lead agencies for the above project.

EIS No. 20140145, Final EIS, USFS, CO, Cumbres Vegetation Management Project, *Review Period Ends:* 06/20/2014, *Contact:* Diana McGinn 719–852–6241.

Amended Notices

EIS No. 20140086, Draft EIS, USFS, ID, Upper North Fork HFRA Ecosystem Restoration Project, *Comment Period Ends:* 05/05/2014, *Contact:* Maggie Seaberg 208–756–2711. Revision to FR Notice Published 3/21/2014; Extending Comment Period from 5/5/2014 to 5/19/2014.

EIS No. 20140087, Final EIS, FHWA, TX, Trinity Parkway, From IH–35E/SH–183 to US–17/SH–310, *Review Period Ends:* 05/09/2014, *Contact:* Salvador Deocampo 512–536–5950. Revision to the FR Notice Published 3/21/2014; Extending Review Period from 05/05/2014 to 05/09/2014.

Dated: May 6, 2014.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2014–10681 Filed 5–8–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9910–58–OW]

Notice of a Public Meeting: The National Drinking Water Advisory Council Lead and Copper Rule Working Group Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a public meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing a public meeting of the National Drinking Water Advisory Council (NDWC) Lead and Copper Rule Working Group (LCRWG). The meeting is scheduled for May 29 and 30, 2014, in Arlington, VA. During this meeting, the LCRWG and the EPA will focus discussions on the Lead and Copper Rule sample site selection criteria.

DATES: The meeting on May 29, 2014, will be held from 9 a.m. to 5 p.m., Eastern Time, and on May 30, 2014, from 9 a.m. to 3 p.m., Eastern Time.

ADDRESSES: The public meeting will be held at the Cadmus Group Inc., 1555 Wilson Blvd., Suite 300, Arlington, VA, and will be open to the public. All attendees must sign in with the security desk and show photo identification to enter the building.

FOR FURTHER INFORMATION CONTACT: For more information about this meeting or to request written materials contact Lameka Smith, Standards and Risk Management Division, Office of Ground Water and Drinking Water; by phone (202) 564–1629 or by email at *LCRWorkingGroup@epa.gov*. For additional information about the Lead and Copper Rule, please visit: *http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm*.

SUPPLEMENTARY INFORMATION:

Details about Participating in the Meeting: Members of the public who would like to register for this meeting should contact Lameka Smith by May 27th, 2014, by email at *LCRWorkingGroup@epa.gov* or by phone at 202–564–1629. The LCRWG will allocate time for the public's input at the meeting on May 29 and 30. Oral statements will be limited to five minutes at the meeting. It is preferred that only one person present the statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals or organizations interested in presenting an oral statement should notify Lameka Smith no later than May 22, 2014. Any person who wishes to file a written statement can do so before or after the LCRWG meeting. Written statements intended for the meeting must be received by May 22, 2014, to be distributed to all members of the working group before the meeting. Any statements received on or after the date specified will become part of the permanent file for the meeting and will be forwarded to the LCRWG members for their information.

Special Accommodations: For information on access or to request special accommodations for individuals with disabilities please contact Lameka Smith at (202) 564–1629 or by email at *LCRWorkingGroup@epa.gov* at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: April 30, 2014.

Peter Grevatt,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2014–10677 Filed 5–8–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2010–0108; FRL–9910–59–OAR]

Release of Final Policy Assessment Document Related to the Review of the National Ambient Air Quality Standards for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is announcing the availability of a final document titled *Policy Assessment for the Review of the Lead National Ambient Air Quality Standards.* The Policy Assessment (PA) has been prepared by staff in the EPA's Office of Air Quality Planning and Standards (OAQPS) as part of the agency's ongoing review of the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) for lead (Pb). It presents analyses and staff conclusions regarding the policy implications of the key scientific and technical information that informs this review.

DATES: The PA will be available on or about May 9, 2014.

ADDRESSES: This document will be available primarily via the Internet at the following Web site: *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Deirdre Murphy, Office of Air Quality Planning and Standards (mail code C504–06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–0729; fax number: 919–541–0237; email address: *murphy.deirdre@epa.gov.*

SUPPLEMENTARY INFORMATION: Two sections of the Clean Air Act (CAA) govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. section 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in her ''judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;'' ''the presence of which in the ambient air results from numerous or diverse mobile or stationary sources;'' and ''for which . . . [the Administrator] plans to issue air quality criteria. . . .'' Air quality criteria are intended to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . .'' 42 U.S.C. section 7408(b). Under section 109 (42 U.S.C. section 7409), the EPA establishes primary (health-based) and secondary (welfare-based) NAAQS for pollutants for which air quality criteria are issued. Section 109(d) requires periodic review and, if appropriate, revision of existing air quality criteria. The EPA is also required to periodically review and, if appropriate, revise the NAAQS based on the revised criteria. Section 109(d)(2) requires that an independent scientific review committee ''shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of existing criteria and standards as may be appropriate. . . .'' Since the early 1980's, this independent review function has been performed by the Clean Air Scientific Advisory Committee (CASAC).

Presently, the EPA is reviewing the NAAQS for Pb.[1] The document, whose

[1] The EPA's call for information for this review was issued on February 26, 2010 (75 FR 8934).

availability is being announced today, *Policy Assessment for the Review of the Lead National Ambient Air Quality Standards,* presents analyses and staff conclusions regarding the policy implications of the key scientific and technical information that informs this review. The PA is intended to ''bridge the gap'' between the relevant scientific evidence and technical information and the judgments required of the EPA Administrator in determining whether to retain or revise the current standards. The PA builds upon information presented in the *Integrated Science Assessment for Lead* prepared for this review by the EPA's Office of Research and Development (ORD) as well as scientific and technical assessments from prior Pb NAAQS reviews, including quantitative risk and exposure assessments developed in the last review. A draft of the PA document was released for CASAC review and public comment in January 2013 (78 FR 2394), and was the subject of a CASAC review meeting on February 5–6, 2013 (78 FR 938). In preparing the final PA, EPA has considered comments received from CASAC and the public on the earlier draft document. This final PA document will be available through the agency's Technology Transfer Network (TTN) Web site at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html.* This document may be accessed in the ''Documents from Current Review'' section under ''Policy Assessments.''

Dated: May 2, 2014.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–10679 Filed 5–8–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9910–61–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA''), notice is hereby given of a proposed partial consent decree to address lawsuits filed by the States of New York, Connecticut, Maryland, Oregon, Rhode Island, and Vermont; the Commonwealth of Massachusetts; and Puget Sound Clean Air Agency (collectively ''State Plaintiffs''); the American Lung Association, Environmental Defense Fund, Clean Air Council and Environment and Human Health, Inc. (collectively ''Environmental Plaintiffs''); and interveners the Hearth, Patio & Barbecue Association (''Association Plaintiff'') in the United States District Court for the District of Columbia: *State of New York, et al.* v. *McCarthy,* No. 13–1553 and consolidated case No. 13–1555 (D. D.C). Plaintiffs each filed a complaint alleging that EPA failed to perform a nondiscretionary duty to review, and, if necessary, revise the new performance standards for new residential wood heaters, at least every eight years. The consent decree would require EPA to sign a notice to take final action by February 3, 2015.

DATES: Written comments on the proposed consent decree must be received by June 9, 2014.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2014–0363, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* mailed 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: Scott Jordan, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–7508; fax number (202) 564–5603; email address: *jordan.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would settle claims by the State and Environmental Plaintiffs in deadline suits alleging that EPA failed to perform a nondiscretionary duty pursuant to section 111(b)(1)(B) of the Act, 42 U.S.C. 7411(b)(1)(B) to review, and, if necessary, revise, the new source performance standards for new residential wood heaters at least once every eight years. The Association Plaintiff has not agreed to settle its claims against EPA and does not join in this Consent Decree. The proposed consent decree would require EPA, by February 3, 2015, to sign a **Federal Register** notice taking final action with respect to the Wood Heater NSPS Standards, 40 CFR part 60, Subpart AAA, with such modifications as EPA deems appropriate under CAA section 111(b)(1)(B), 42 U.S.C. 7411(b)(l)(B). Under the proposed consent decree, once EPA has met its obligations, and the parties have resolved any claims for litigation costs, the State and Environmental Plaintiffs and EPA agree that this consent decree shall constitute a complete and final settlement of all claims that the State and Environmental Plaintiffs asserted against EPA, in *State of New York, et al.* v. *EPA,* Case No. 1:13–cv–1553–GK (and consolidated case).

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree 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 consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

Direct your comments to the official public docket for this action under Docket ID No. EPA–HQ–OGC–2014–0363 which contains a copy of the consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *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, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: April 30, 2014.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2014–10691 Filed 5–8–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0442; FRL–9906–48]

White Paper on Development of Community Water System Drinking Water Intake Percent Cropped Area Adjustment Factors for Use in Drinking Water Exposure Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency uses computer modeling to estimate human exposure to pesticides in drinking water. An input parameter for these exposure models is the percentage of a water supply's watershed area to which pesticides may be applied, a metric which EPA refers to as the ''percent cropped area'' (PCA). Recently, EPA has developed delineations of watersheds for surface water intakes of community water systems throughout the continental United States and has used this dataset to develop a corresponding dataset of watershed-specific PCAs. Development of this Community-Water System—Drinking Water Intake dataset is described in a draft white paper, which has been updated based on peer review comments. EPA is making this updated version available for public review and comment.

DATES: Comments must be received on or before July 8, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2013–0442, by one of the following methods:

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

FOR FURTHER INFORMATION CONTACT: Jim Carleton, Environmental Fate and Effects Division (4304T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0335; fax number: (703) 347–8011; email address: *carleton.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

C. How can I get copies of this document and other related information?

A copy of the draft white paper is available in the docket under docket ID number EPA–HQ–OPP–2013–0442.

II. Background

A. What action is the agency taking?

EPA uses PCA adjustment factors to modify modeled concentrations of pesticides in surface waters in accordance with land cover types (i.e., crops) associated with a pesticide's uses. PCA-adjusted concentrations are used as estimated drinking water concentrations in human health risk assessments. Previously, PCAs were generated for Hydrologic Unit Code 8 (HUC–8) regions (part of a hierarchical system for classifying and mapping drainage areas in the United States). In this current update, PCAs have been generated for watersheds delineated based on surface-source drinking water intakes (DWI) of community water systems (CWSs) across the United States

The new PCAs are an improvement over previously calculated PCAs in terms of their relevance to human health risk assessment because they were derived for known drinking water sources. Out of 6,550 DWI locations, which both met the selection criteria for watershed delineation and passed a Quality Assurance screen, 74% (4,840) had delineated watersheds that also passed a Quality Assurance screen. Summary values are presented in the draft white paper along with detailed descriptions of their development and suggested procedures for their routine use in pesticide risk assessment.

B. What is the agency's authority for taking this action?

The Agency's authority is FIFRA (7 U.S.C. 136–136y).

List of Subjects

Environmental protection, Community water systems, Drinking water exposure assessments, Health and safety, Percent cropped area, Pesticides and pests, Surface water intakes.

Dated: May 1, 2014.

Donald J. Brady,

Director, Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 2014–10693 Filed 5–8–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–9909–95]

Iprodione, Pendimethalin, and Permethrin; Notice of Receipt of Requests To Voluntarily Cancel and Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to voluntarily amend their Iprodione, Pendimethalin, and Permethrin product registrations to delete one or more uses. The requests would delete Iprodione use on rice, Pendimethalin use on alfalfa, corn, garlic, onions, peanuts, sorghum, sugarcane and sunflower, and Permethrin use on dogs. The requests would not terminate the last Iprodione, Pendimethalin, or Permethrin products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the use has been deleted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before June 9, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–1017, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; email address: *pates.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that

you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests To Cancel and/or Amend Registrations To Delete Uses

This notice announces receipt by EPA of requests from registrants FMC Agricultural Products, Drexel Chemical Company and Farnam Companies, Inc. to delete certain uses of Iprodione, Pendimethalin, and Permethrin product registrations. In letters dated April 3, 2014, February 6, 2014 and November 19, 2013, FMC Agricultural Products, Drexel Chemical Company and Farnam, respectively, requested EPA to delete certain uses of pesticide product registrations identified in Table 1 of Unit III. Specifically, FMC Agricultural Products Group voluntarily requested the deletion of Iprodione use on rice from several registrations listed in Table 1 of Unit II. The registrant also requested a 30-day comment period, and waived the 180-day comment period. Drexel Chemical Company voluntarily requested the deletion of Pendimethalin use on alfalfa, corn (field, pop, sweet), garlic, onions (dry bulb, green, welsh), peanuts, sorghum (grain), sugarcane and sunflower from the Drexel Pendimethalin Technical registration. The registrant requested a 30-day comment period, and waived the 180-day comment period. Farnam Companies, Inc. voluntarily requested the deletion of use on dogs from the Permethrin Farnam Purge Insecticide registration. The registrant waived any comment period associated with their request for voluntary use deletion. The requests would not terminate the last Iprodione, Pendimethalin, or Permethrin products registered in the United States, or the last Iprodione, Pendimethalin, or Permethrin pesticide products registered in the United States for these uses.

III. What action is the agency taking?

This notice announces receipt by EPA of requests from registrants to delete certain uses of Iprodione, Pendimethalin, or Permethrin product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order amending the affected registrations.

TABLE 1—IPRODIONE, PENDIMETHALIN, AND PERMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Product name	Company	Uses to be deleted
000270–00279	Farnam Purge Pesticide	Farnam Companies, Inc	Use on dogs.
000279–09562	Iprodione Technical	FMC Corp. Agricultural Products Group.	Use on rice.
000279–09564	Rovral® brand 4 Flowable Fungicide	FMC Corp. Agricultural Products Group.	Use on rice.
000279–09565	Rovral® R Flowable Fungicide	FMC Corp. Agricultural Products Group.	Use on rice.
000279–09566	Rovral® brand WG Fungicide	FMC Corp. Agricultural Products Group.	Use on rice.
000279–09567	Rovral® 50 SP Fungicide	FMC Corp. Agricultural Products Group.	Use on rice.
000279–09569	Rovral® brand 75WG Fungicide	FMC Corp. Agricultural Products Group.	Use on rice.
019713–00600	Drexel Pendimethalin Technical	Drexel Chemical Company	Use on alfalfa, corn (field, pop, sweet), garlic, onions (dry bulb, green, welsh), peanuts, sorghum (grain), sugarcane and sunflower.

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY AMENDMENTS

EPA company No.	Company name and address
270	Farnam Companies, Inc., 301 West Osborn Rd., Phoenix, AZ 85013.
279	FMC Corp. Agricultural Products Group, 1735 Market St., RM 1978, Philadelphia, PA 19103.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY AMENDMENTS—Continued

EPA company No.	Company name and address
19713	Drexel Chemical Company, P.O. Box 13327, Memphis, TN 38113–0327.

IV. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The Iprodione, Pendimethalin, and Permethrin registrants have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for use deletion should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for voluntary amendments to delete uses are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for amendments to delete uses, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit III.

Once EPA has approved product labels reflecting the requested amendments to delete uses, registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit III., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of products whose labels include the deleted uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the deleted uses.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 2, 2014.

Michael Goodis,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–10694 Filed 5–8–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF ENERGY

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB Control Number.

DATES: Written PRA comments should be submitted on or before June 9, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), at 202–418–0217, or via the Internet at: *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0972.

Title: Multi-Association Group (MAG) Plan Order, Parts 54 and 69 Filing Requirements for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 202 respondents; 69 responses.

Estimated Time per Response: 20 to 90 hours.

Frequency of Response: On occasion and three year reporting requirements.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 1,512 hours.

Total Annual Cost: $50,700.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Following the passage of the Telecommunications Act of 1996 (''1996 Act''), the Commission adopted interstate access charge and universal service support reforms. These reforms were designed to establish a ''pro-competitive, deregulatory national policy framework'' for the United States telecommunications industry. Specifically, the Commission aligned the interstate access rate structure more closely with the manner in which costs are incurred, and created a universal service support mechanism for rate-of-return carriers (Interstate Common Line Support (ICLS)) to replace implicit support in interstate access charges with explicit support that is portable to all eligible telecommunications carriers. To administer the ICLS mechanism, the Universal Service Administrative Company required, among other things, that rate-of-return carriers collect projected cost and revenue data. In addition, carriers were required to submit tariff data, including certain cost studies, to ensure that their rates are just and reasonable.

Pursuant to the November 18, 2011 *USF/ICC Transformation Order* (FCC 11–161), the Commission no longer requires rate-of-return carriers to conduct line port cost studies or cost studies to establish rates for certain optional switched access rate elements. Only two information collection requirements were retained:

GSF Allocation: Rate-of-return carriers that use general purpose computers to provide non-regulated billing and collection services are required to allocate a portion of their general purpose computer costs to the billing and collection category, which will require them to determine general purpose computer investment. Carriers may use the general purpose computer investment amount they develop for a period of three years. The *USF/ICC Transformation Order* does not affect the requirement that carriers allocate these costs as part of the rate development process for common line and special access services.

Transport and Special Access Deaveraging: Rate-of-return carriers may modify their access tariffs to offer transport and special access services at deaveraged rates. The carriers must have a tariffed cross-connect element and define their applicable zones. Rate-of-return carriers do not have to file for approval of their zone plans before making a tariff filing. The *USF/ICC Transformation Order* capped rate-of-return carriers' switched access rates. Thus, rate-of-return carriers should no longer incur the costs of studies otherwise needed to establish deaveraged switched access transport rates. These carriers, however, still are able to deaverage special access rates because the *USF/ICC Transformation Order* does not affect these rates.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–10674 Filed 5–8–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 8, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at Benish.Shah@fcc.gov. To submit your PRA comments by email send them to: PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0997.

Title: Section 52.15(k), Numbering Utilization and Compliance Audit.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 10 respondents; 10 responses.

Estimated Time per Response: 33 hours.

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 330 hours.

Total Annual Cost: $0.00.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Commission employees and the independent auditor are prohibited by 47 U.S.C. 220(f) from divulging any fact or information that may come to their knowledge in the course of performing the audit, except as directed by the Commission or a court.

Needs and Uses: The Commission will submit this expiring information collection after this 60 day comment period to the Office of Management and Budget (OMB) to obtain the full three year clearance. The Commission is reporting an adjustment which decreases the burden estimates to this information collection. The adjustment decreases the number of respondents from 25 to 10 (decrease of 15), and the annual hours are decreased from 825 to

330 hours (decrease of 495). The Commission has re-analyzed the burden for this collection and determined that the reporting requirements regarding the annual hourly burden are all attributable to third party disclosure requirements. There is no change in the reporting requirements.

The audit program, consisting of audit procedures and guidelines, is developed to conduct random audits. The random audits are conducted on the carriers that use numbering resources in order to verify the accuracy of numbering data reported on FCC Form 502, and to monitor compliance with FCC rules, orders and applicable industry guidelines. Failure of the audited carriers to respond to the audits can result in penalties. Based on the final audit report, evidence of potential violations may result in enforcement action.

Federal Communications Commission.

Marlene H. Dortch,

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

[FR Doc. 2014–10636 Filed 5–8–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 27, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *H. Ronnie Montgomery and Sandra W. Montgomery, both of Jonesville, Virginia; Julie Anne Montgomery, Abingdon, Virginia; Lee Memorial Gardens Inc., Pennington Gap, Virginia; and Terry M. Estep,* Ewing, Virginia, as a group acting in concert; to acquire voting shares of Farmers and Miners Bank, Pennington Gap, Virginia.

B. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Robert F. Wishek,* Ashley, as co-trustee of the McIntosh County Bank Holding Company, Inc., 2012 Voting Trust Agreement, both of Ashley, North Dakota; to retain voting shares of McIntosh County Bank Holding Company, Inc., and thereby indirectly retain voting shares of McIntosh County Bank, both in Ashley, North Dakota, and North Star Holding Company, Inc., and its subsidiary, Unison Bank, both in Jamestown, North Dakota.

Board of Governors of the Federal Reserve System, May 6, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–10670 Filed 5–8–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 5, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Entegra Financial Corp.,* Franklin, North Carolina; to become a bank holding company by acquiring 100 of the voting securities of Macon Bancorp, and thereby indirectly acquire Macon Bank, both in Franklin, North Carolina.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First American Bank Corporation,* Elk Grove Village, Illinois; to acquire 100 percent of the voting shares of Bank of Coral Gables, Coral Gables, Florida.

Board of Governors of the Federal Reserve System, May 6, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–10669 Filed 5–8–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED
APRIL 1, 2014 THRU APRIL 30, 2014

04/01/2014		
20140697	G	Lockheed Martin Corporation; Marc Turtletaub; Lockheed Martin Corporation.
20140715	G	Quinpario Acquisition Corp.; Jason Partners Holdings, LLC; Quinpario Acquisition Corp.
04/04/2014		
20140681	G	B/E Aerospace, Inc.; Vision Oil Tools, LLC; B/E Aerospace, Inc.
20140694	G	Comcast Corporation; FreeWheel Media, Inc.; Comcast Corporation.
20140703	G	Thoma Bravo Fund X, L.P.; Genstar Capital Partners V, L.P.; Thoma Bravo Fund X, L.P.
20140714	G	Terra Firma Capital Partners III, L.P.; Suzlon Energy Limited; Terra Firma Capital Partners III, L.P.
20140717	G	H-Food Holdings, LLC; Heartliside Holdco, LLC; H-Food Holdings, LLC.
20140718	G	Energy XXI (Bermuda) Limited; EPL Oil, & Gas, Inc.; Energy XXI (Bermuda) Limited.
20140726	G	KPS Special Situations Fund IV, LP; ECI Holdco, Inc.; KPS Special Situations Fund IV, LP.
04/07/2014		
20140732	G	Alfred E. Mann; MannKind Corporation; Alfred E. Mann.
04/09/2014		
20140692	G	John Wood Group PLC; A foreign JV Corporation; John Wood Group PLC.
20140706	G	The Goldman Sachs Group, Inc.; AvePoint, Inc.; The Goldman Sachs Group, Inc.
04/11/2014		
20140713	G	CCP IX LP No. 1; SSI Pooling, L.P.; CCP IX LP No. 1.
20140719	G	Foundation Capital VI, L.P.; Semantic Sugar, Inc.; Foundation Capital VI, L.P.
20140723	G	Clayton, Dubilier & Rice Fund IX, L.P.; Ashland Inc.; Clayton, Dubilier & Rice Fund IX, L.P.
20140737	G	Bala Venkataraman; Horizon Pharma, Inc.; Bala Venkataraman.
20140739	G	TPG Partners VI–AIV, LP; The Warranty Group, Inc.; TPG Partners VI–AIV, LP.
20140742	G	KKR 2006 Fund L.P.; Imagine Learning, Inc.; KKR 2006 Fund L.P.
20140744	G	Andre B. Lacy; Ralco Holdings, Inc.; Andre B. Lacy.
20140752	G	Zeus Holdings I Corp.; totes Isotoner Holdings Group, LLC; Zeus Holdings I Corp.
20140760	G	Finlay S.p.A.; Keurig Green Mountain, Inc.; Finlay S.p.A.
20140764	G	Glen A. Taylor; Star Tribune Media Holdings Company; Glen A. Taylor.
04/14/2014		
20140758	G	CEOF AIV Cayman, L.P.; T–II Holdings LLC; CEOF AIV Cayman, L.P.
04/15/2014		
20140716	G	Vestar Capital Partners VI, L.P.; MSCI Inc.; Vestar Capital Partners VI, L.P.
20140745	G	Schlumberger Oilfield Holdings Limited; SES Holdings Limited; Schlumberger Oilfield Holdings Limited.
20140762	G	TPG VI DE AIV II, L.P.; Encana Corporation; TPG VI DE AIV II, L.P.
04/16/2014		
20140763	G	TE Connectivity Ltd.; Patrick C. Simar; TE Connectivity Ltd.
20140765	G	TE Connectivity Ltd.; Denton S. Seilhan; TE Connectivity Ltd.
04/18/2014		
20140557	G	Blackstone Capital Partners V L.P.; Companhia Provedencia Industria E Comercio; Blackstone Capital Partners V L.P.
20140600	G	Stericycle, Inc.; Lindsay Goldberg III L.P.; Stericycle, Inc.
20140761	G	Magellan Health Services, Inc.; Susan Petrovas; Magellan Health Services, Inc.
20140772	G	Affiliated Managers Group, Inc.; Aviva plc; Affiliated Managers Group, Inc.
20140773	G	AEA Investors Fund V L.P.; Forstmann Little & Co. Equity Partnership—VII, L.P.; AEA Investors Fund V L.P.
20140780	G	Hi-Crush Partners LP; Hi-Crush Proppants LLC; Hi-Crush Partners LP.
20140782	G	Wellspring Capital Partners V. L.P.; Pouschine Cook Capital Partners II, LP; Wellspring Capital Partners V, L.P.
20140788	G	Select Milk Producers, Inc.; Continental Dairy Products, Inc.; Select Milk Producers, Inc.
20140789	G	Snow Phipps II AIV, L.P.; Feradyne Outdoors, LLC; Snow Phipps II AIV, L.P.
04/21/2014		
20140708	G	Precision Castparts Corp.; Madeline J. Gussman; Precision Castparts Corp.
20140709	G	Precision Castparts Corp.; Gerald M. Friedman; Precision Castparts Corp.
20140756	G	Mitsui & Co., Ltd.; C. Edward Hiler; Mitsui & Co., Ltd.
20140757	G	Nucor Corporation; C. Edward Hiler; Nucor Corporation.
20140770	G	Connolly Superholdings, Inc.; iHealth Technologies, Inc.; Connolly Superholdings, Inc.
20140795	G	Trivest Fund V, L.P.; Gregory C. and Welissa W. Rader; Trivest Fund V, L.P.

EARLY TERMINATIONS GRANTED—Continued
APRIL 1, 2014 THRU APRIL 30, 2014

04/22/2014		
20140722	G	Aceto Corporation; Pack Pharmaceuticals, LLC; Aceto Corporation.
20140741	G	Concordia Healthcare Corp.; Paul B. Manning; Concordia Healthcare Corp.
20140755	G	L. John Doerr; Essence Group Holdings Corporation; L. John Doerr.
20140779	G	Mr. Mark Zuckerberg; Oculus YR. Inc.; Mr. Mark Zuckerberg.
20140794	G	SiTV Media, Inc.; The Madison Square Garden Company; SiTV Media, Inc.
04/23/2014		
20140783	G	Stratasys Ltd.; Joseph Allison; Stratasys Ltd.
20140787	G	Joseph Allison; Stratasys Ltd.; Joseph Allison.
04/24/2014		
20140728	G	Catholic Health Initiatives; Memorial Health System of East Texas; Catholic Health Initiatives.
04/25/2014		
20140743	G	SCF–VII, L.P.; RedZone Coil Tubing, LLC; SCF–VII, L.P.
20140785	G	The Westaim Corporation; Houston International Insurance Group, Ltd.; The Westaim Corporation.
20140804	G	ASP VI Alternative Investments, L.P.; Wayzata Opportunities Fund II, L.P.; ASP VI Alternative Investments, L.P.
20140805	G	ON Semiconductor Corporation; Platinum Equity Capital Partners II, L.P.; ON Semiconductor Corporation.
04/28/2014		
20140792	G	Lone Star Fund VIII (Bermuda), L.P.; DFC Global Corp.; Lone Star Fund VIII (Bermuda), L.P.
20140811	G	Northwestern Corporation; PPL Corporation; Northwestern Corporation.
20140812	G	American Securities Partners VI, L.P.; Morgan Stanley; American Securities Partners VI, L.P.
04/29/2014		
20140777	G	SAP AG; Madison Dearborn Capital Partners VI–A, L.P.; SAP AG.
20140781	G	Intel Corporation; Cloudera, Inc.; Intel Corporation.
04/30/2014		
20140749	G	Celgene Corporation; Acceleron Phanna, Inc.; Celgene Corporation.
20140824	G	TreeHouse Foods, Inc.; PFF Capital Group, Inc.; TreeHouse Foods, Inc.
20140827	G	York Special Opportunities Fund II–A, L.P.; Fillmore WAC Management Investment, LLC; York Special Opportunities Fund II–A, L.P.

For Further Information Contact: Renee Chapman, Contact Representative or Theresa Kingsberry, Legal Assistant. Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–10645 Filed 5–8–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–0904]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

SEARCH for Diabetes in Youth Study (OMB No. 0920–0904, exp. 11/30/2014)—Revision—National Center for Chronic Disease Prevention and Health

Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Diabetes is one of the most common chronic diseases among children in the United States. Reports of increasing frequency of both type 1 and type 2 diabetes in youth have been among the most concerning aspects of the evolving diabetes epidemic. In response to this growing public health concern, the Centers for Disease Control and Prevention (CDC) and the National Institutes of Health (NIH) funded the SEARCH for Diabetes in Youth Study.

The SEARCH for Diabetes in Youth Study began in 2000 as a multi-center, epidemiological study, conducted in six geographically dispersed clinical study centers that reflected the racial and ethnic diversity of the U.S. Phases 1 (2000–2005) and 2 (2005–2010) produced estimates of the prevalence and incidence of diabetes among youth age <20 years, according to diabetes type, age, sex, and race/ethnicity, and characterized selected acute and chronic complications of diabetes and their risk factors, as well as the quality of life and quality of health care. In Phases 1 and 2, the clinical centers and a data coordinating center were funded through cooperative agreements. The information collected at that time was not provided directly to CDC.

Phase 3 (2011–present) builds upon previous efforts. Five clinical sites collect patient-level information that is compiled by a data coordinating center. CDC obtained OMB approval to receive the information in 2011 (SEARCH for Diabetes in Youth, OMB No. 0920–0904, exp. 11/30/2014). Phase 3 includes a case registry of youth <20 years of age who have been diagnosed with diabetes, and a longitudinal cohort research study about SEARCH cases whose diabetes was incident in 2002 or later. To date, SEARCH Phase 3 has identified an average of 1,361 incident cases of diabetes among youth under 20 years each year of the study and has completed an average of 1,088 participant surveys each year (80% participation rate among registry study participants). As of November 2013, SEARCH Phase 3 has completed visits for 1,839 cohort study participants.

CDC plans to continue information collection for two additional years, with minor changes. Participants in the registry study will continue to complete a Medication Inventory and an Initial Participant Survey; however, the in-person study examination will be discontinued. This change will result in a decrease in burden per respondent. CDC estimates that each clinical site will identify and register an average of 255 cases per year, for a total 1,275 cases across all sites.

No data collection changes are planned for the cohort study. CDC estimates that each clinical site will conduct follow-up on an average of 142 cases per year, for a total of 710 cases across all sites. The items collected for each case include a Health Questionnaire (Youth version), an additional Health Questionnaire (Parent version), Center for Epidemiologic Study-Depression, Quality of Care, Pediatric Quality of Life Survey (Peds QL), SEARCH Michigan Neuropathy Screening Instrument, Diabetes Eating Survey, Low Blood Sugar Survey, Supplemental Survey, Tanner Stage, Retinal Photo, Family Conflict Survey, Pediatric Diabetes Quality of Life Scale, Physical Exam, Specimen Collection, and Food Frequency Questionnaire.

Findings from the registry study will be used to estimate the incidence of diabetes in youth in the U.S. Findings from the cohort study will be used to estimate the prevalence and incidence of risk factors and complications associated with diabetes in youth, including chronic microvascular complications (retinopathy, nephropathy, and autonomic neuropathy) and selected markers of macrovascular complications (hypertension, arterial stiffness) of diabetes.

Participation is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden hours are 4,248.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
SEARCH Registry Study Participants	Medication Inventory	1,275	1	5/60
	Initial Participant Survey	1,275	1	10/60
SEARCH Cohort Study Participants	Health Questionnaire-Youth	710	1	15/60
	Health Questionnaire-Parent	710	1	15/60
	CES-Depression	710	1	4/60
	Quality of Care	710	1	13/60
	Peds QL	710	1	5/60
	SEARCH MNSI Neuropathy	710	1	10/60
	Diabetes Eating Survey	710	1	5/60
	Low Blood Sugar Survey	710	1	5/60
	Supplemental Survey	710	1	10/60
	Tanner Stage	710	1	5/60
	Retinal Photo	710	1	15/60
	Family Conflict Survey	710	1	5/60
	Pediatric Diabetes QOL Scale	710	1	5/60
	Physical Exam	710	1	3
	Specimen Collection	710	1	20/60
	Food Frequency Questionnaire	710	1	20/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–10618 Filed 5–8–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–14IZ]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Ready CDC—New—Office of Public Health Preparedness and Response (OPHPR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Under the Authority of Section 301 of the Public Health Service Act (42 U.S.C. 241), the Centers for Disease Control and Prevention is responsible for administering the Ready CDC program. Ready CDC is an educational intervention designed to increase awareness about personal and family preparedness and increase the number individuals who are prepared for a disaster in their community. As a response agency, CDC is responsible for responding to national and international disasters. One component of ensuring staff are prepared to respond to disasters is ensuring that the workforce has their personal and family preparedness plans in place. Research has shown that individuals are more likely to respond to an event if they perceive that their family is prepared to function in their absence during an emergency.

The Ready CDC educational intervention consists of a Personal Preparedness Workshop as well as three targeted communications to reinforce concepts discussed during the workshop. A pilot program has already been implemented, targeting only CDC federal employees with a responder role. The audience for this proposed intervention will be all CDC employees, including both federal staff and contractors.

CDC requests Office of Management and Budget (OMB) approval for three years to collect information that will measure the initial preparedness of participants, satisfaction with the Personal Preparedness Workshops, and the change in individual knowledge and behaviors related to personal and family preparedness.

CDC has developed three data collection instruments: (1) Pre-Workshop Survey; (2) Ready CDC Workshop Evaluation; and (3) Follow-Up Survey. Collectively, these instruments are needed to gather, process, aggregate, evaluate, and disseminate information describing the program's processes and outcomes. The information will be used by CDC to document progress toward meeting established program goals and objectives, to evaluate outcomes generated by the Ready CDC Personal Preparedness Workshops and to respond to data inquiries made by other agencies of the federal government.

Survey instrument questions will gather perceptions about personal and regional preparedness from the perspective of the participant. Each participant will be surveyed three times, once before and twice after their participation in the Personal Preparedness Workshop.

It is estimated that there will be a total of 600 respondents per year with an estimated time for data collection of twenty minutes each on the Pre-workshop survey, five minutes each on the Ready CDC Workshop Evaluation, and ten minutes each on the Follow-Up Survey.

Instruments will be administered electronically (by including a link to the survey Web site with the email invitation) with an option for paper copy administration. The Follow-Up Survey will be used to document changes in the categories of questions dealing with preparedness from the initial pre-workshop survey.

The estimated total time for data collection is 35 minutes, resulting in an annualized estimated burden of 350 hours.

There are no costs to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
CDC Federal Employees and Contractors	Pre-Workshop Survey	600	1	20/60
CDC Federal Employees and Contractors	Ready CDC Workshop Evaluation	600	1	5/60
CDC Federal Employees and Contractors	Follow-Up Survey	600	1	10/60

LeRoy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–10617 Filed 5–8–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2013–0024; Docket Number NIOSH–270]

Issuance of Final Publication

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of issuance of final publication.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), announces the availability of the following publication: ''NIOSH Center for Motor Vehicle Safety: Strategic Plan for Research and Prevention, 2014–2018'' [2014–122].

ADDRESSES: This document may be obtained at the following link: *http://www.cdc.gov/niosh/docs/2014-122/.*

FOR FURTHER INFORMATION CONTACT: Stephanie Pratt, NIOSH Division of Safety Research, 1095 Willowdale Road, Mail Stop H–1808, Morgantown, WV 26505. (304) 285–5992 (not a toll free number).

Dated: May 2, 2014.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2014–10666 Filed 5–8–14; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1467–N]

Medicare Program; The Advisory Panel on Hospital Outpatient Payment (HOP Panel) Summer Meeting, August 25–26, 2014

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the summer meeting of the Advisory Panel on Hospital Outpatient Payment (the Panel) for 2014. The purpose of the Panel is to advise the Secretary of the Department of Health and Human Services (DHHS) (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) (the Administrator) on the clinical integrity of the Ambulatory Payment Classification (APC) groups and their associated weights, and hospital outpatient therapeutic services supervision issues.

DATES: *Meeting Dates:* The second semi-annual meeting in 2014 is scheduled for the following dates and times. The times listed in this notice are Eastern Daylight Time (EDT) and are approximate times; consequently, the meetings may last longer than the times listed in this notice, but will not begin before the posted times:

- Monday, August 25, 2014, 9 a.m. to 5 p.m. EDT
- Tuesday, August 26, 2014, 9 a.m. to 5 p.m. EDT

Meeting Information Updates: The actual meeting hours and days will be posted in the agenda. As information and updates regarding the onsite, webcast, and teleconference meeting, and agenda become available, they will be posted to the CMS Web site at: *http://cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html*

Deadlines

Deadline for Presentations and Comments

Presentations and Comments can be submitted by email only. Presentations or comments and form CMS–20017 must be in the Designated Federal Official's (DFO's) email inbox (*APC Panel@cms.hhs.gov*) by 5 p.m. EDT, Friday, July, 25, 2014. Presentations and comments that are not received by the due date will be considered late and will not be included on the agenda. (See below for submission instructions for electronic submissions.)

Meeting Registration Timeframe: Monday, June 30, 2014 through Friday, August 01, 2014 at 5 p.m. EDT.

Participants planning to attend this meeting in person must register online, during the above specified timeframe at: *https://www.cms.gov/apps/events/default.asp*. On this Web page, double click the ''Upcoming Events'' hyperlink, and then double click the ''HOP Panel'' event title link and enter the required information. Include any requests for special accommodations.

Note: Participants who do not plan to attend this meeting in person should not register. No registration is required for participants who plan to view the meeting via webcast.

In commenting, please refer to file code CMS–1467–N. Because of staff and resource limitations, we cannot accept comments and presentations by facsimile (FAX) transmission or hard copy.

Meeting Location, Webcast, and Teleconference:

The meeting will be held in the Auditorium, CMS Central Office, 7500 Security Boulevard, Woodlawn, Maryland 21244–1850. Alternately, the public may either view this meeting via a webcast or listen by teleconference. During the scheduled meeting, webcasting is accessible online at: *http://cms.gov/live*. Teleconference dial-in information will appear on the final meeting agenda, which will be posted on the CMS Web site when available at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html*.

FOR FURTHER INFORMATION CONTACT: *DFO:* Carol Schwartz, DFO, 7500 Security Boulevard, Mail Stop: C4–04–25, Woodlawn, MD 21244–1850. Phone: (410) 786–3985. Email: *APCPanel@cms.hhs.gov*.

Send email copies to the following address: Email: *APCPanel@cms.hhs.gov*.

News Media: Representatives must contact our Public Affairs Office at (202) 690–6145.

Advisory Committees' Information Lines: The phone number for the CMS Federal Advisory Committee Hotline is (410) 786–3985.

Web sites:

For additional information on the Panel and updates to the Panel's activities, we refer readers to view our Web site at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html*.

Information about the Panel and its membership in the Federal Advisory Committee Act (FACA) database are also located at: *http://facadatabase.gov/*.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (DHHS) (the Secretary) is required by section 1833(t)(9)(A) of the Social Security Act (the Act) and section 222 of the Public Health Service Act (PHS Act) to consult with an expert outside the Advisory Panel on Hospital Outpatient Payment (the Panel) regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights. The Panel is governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), to set forth standards for the formation and use of advisory panels.

The Charter provides that the Panel shall meet up to 3 times annually. We consider the technical advice provided by the Panel as we prepare the proposed and final rules to update the outpatient prospective payment system (OPPS).

II. Agenda

The agenda for the August 25, 2014 through August 26, 2014 meeting will provide for discussion and comment on the following topics as designated in the Panel's Charter:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Evaluating APC group weights.
- Reviewing the packaging of OPPS services and costs, including the methodology and the impact on APC groups and payment.
- Removing procedures from the inpatient-only list for payment under the OPPS.
- Using single and multiple procedure claims data for CMS' determination of APC group weights.
- Addressing other technical issues concerning APC group structure.
- Recommending the appropriate supervision level (general, direct, or personal) for individual hospital outpatient therapeutic services.

The Agenda will be posted on the Centers for Medicare & Medicaid Services (CMS) Web site approximately one week before the meeting.

III. Presentations

The presentation subject matter must be within the scope of the Panel designated in the Charter. Any presentations outside of the scope of this Panel will be returned or requested for amendment. Unrelated topics include, but are not limited to, the conversion factor, charge compression, revisions to the cost report, pass-through payments, correct coding, new technology applications (including supporting information/documentation), provider payment adjustments, supervision of hospital outpatient diagnostic services and the types of practitioners that are permitted to supervise hospital outpatient services. The Panel may not recommend that services be designated as nonsurgical extended duration therapeutic services.

The Panel may use data collected or developed by entities and organizations, other than DHHS and CMS in conducting its review. We recommend organizations submit data for CMS staff and the Panel's review.

All presentations are limited to 5 minutes, regardless of the number of individuals or organizations represented by a single presentation. Presenters may use their 5 minutes to represent either one or more agenda items.

All presentations will be shared with the public. Presentations may not contain any pictures, illustrations, or personally identifiable information.

In order to consider presentations and/or comments, we will need to receive the following information by email only. We cannot accept hardcopy submittals.

1. An *email copy* of the presentation sent to the DFO mailbox, *APCPanel@cms.hhs.gov*.

2. Form *CMS–20017* with complete contact information that includes name, address, phone number, and email addresses for all presenters and a contact person that can answer any questions and or provide revisions that are requested for the presentation.

- Presenters must clearly explain the actions that they are requesting CMS to take in the appropriate section of the form. A presenter's relationship with the organization that they represent must also be clearly listed.
- The form is now available through the CMS Forms Web site. The Uniform Resource Locator (URL) for linking to this form is as follows: *http://www.cms.hhs.gov/cmsforms/downloads/cms20017.pdf*.

IV. Oral Comments

In addition to formal oral presentations, which are limited to 5 minutes total per presentation, there will be an opportunity during the meeting for public oral comments, which will be limited to 1 minute for each individual and a total of 3 minutes per organization.

V. Meeting Attendance

The meeting is open to the public; however, attendance is limited to space available. Priority will be given to those who pre-register, and attendance may be limited based on the number of registrants and the space available.

Persons wishing to attend this meeting, which is located on Federal property, must register by following the instructions in the *''Meeting Registration Timeframe''* section of this notice. A confirmation email will be sent to the registrants shortly after completing the registration process.

VI. Security, Building, and Parking Guidelines

The following are the security, building, and parking guidelines:

- Persons attending the meeting, including presenters, must be pre-registered and on the attendance list by the prescribed date.
- Individuals who are not pre-registered in advance may not be permitted to enter the building and may be unable to attend the meeting.
- Attendees must present a government issued photo identification to the Federal Protective Service or Guard Service personnel before entering the building. Without a current, valid photo ID, persons may not be permitted entry to the building.
- Security measures include inspection of vehicles, inside and out, at the entrance to the grounds.
- All persons entering the building must pass through a metal detector.
- All items brought into CMS including personal items, for example, laptops and cell phones are subject to physical inspection.
- The public may enter the building 30 to 45 minutes before the meeting convenes each day.
- All visitors must be escorted in areas other than the lower and first-floor levels in the Central Building.
- The main-entrance guards will issue parking permits and instructions upon arrival at the building.

VII. Special Accommodations

Individuals requiring special accommodations must include the request for these services during registration.

VIII. Panel Recommendations and Discussions

The Panel's recommendations at any Panel meeting generally are not final until they have been reviewed and approved by the Panel on the last day of the meeting, before the final adjournment. These recommendations

will be posted to our Web site after the meeting.

IX. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

Dated: May 2, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–10688 Filed 5–8–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0086]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Potential Tobacco Product Violations Reporting Form

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by June 9, 2014.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0716. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Potential Tobacco Product Violations Reporting Form—(OMB Control Number 0910–0716)—Extension

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) (Pub. L. 111–31) into law. The Tobacco Control Act amended section 201 *et seq.* of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 321 *et seq.*) by adding a new chapter granting FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. FDA is requesting an extension of OMB approval for the collection of information to accept consumer and other stakeholder feedback and notification of potential violations of the FD&C Act, as amended by the Tobacco Control Act.

FDA created a Tobacco Call Center (with a toll-free number: 1–877–CTP–1373). Callers are able to report potential violations of the Tobacco Control Act, and FDA will conduct targeted followup investigations based on information received. When callers report a violation, the caller will be asked to provide as much certain information as they can recall, including: The date the potential violation occurred; product type (e.g., cigarette, smokeless, roll-your-own); tobacco brand; potential violation type; type of potentially violative promotional materials; who potentially violated; and the name, address, phone number, and email address of the potential violator. The caller will also be asked to list the potential violator's Web site (if available), describe the potential violation, and provide any additional files or information pertinent to the potential violation.

FDA currently provides a form that may be used to solicit this information from the caller (Form FDA 3779, Potential Tobacco Product Violations Report), and seeks renewal of Form FDA 3779. This form is posted on FDA's Web site. The public and interested stakeholders are also able to report information regarding possible violations of the Tobacco Control Act through the following methods: Calling the Tobacco Call Center using the Center for Tobacco Products' (CTP) toll-free number; using a fillable Form FDA 3779 found on FDA's Web site; downloading a PDF version of the form to send via email or mail to FDA; requesting a copy of Form FDA 3779 by contacting CTP and sending by mail to FDA; and sending a letter to FDA's CTP. The public and interested stakeholders will also be able to report information regarding possible violations of the Tobacco Control Act in the future using FDA's tobacco violation reporting smartphone application.

In the **Federal Register** of February 18, 2014 (79 FR 9216), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity and Form FDA 3779	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Reporting violations of the FD&C Act, as amended by the Tobacco Control Act, by telephone, Internet form, mail, smartphone application, or email	400	2	800	[2] 0.25	200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] 15 minutes.

FDA estimates that submitting the information (by telephone, Internet, mail, smartphone application, or email) will take 0.25 hours (i.e., 15 minutes) per response. FDA estimates the number of annual respondents to this collection of information will be 400, who will each submit 2 reports by telephone, Internet, mail, smartphone application, or email. This estimate is based on the rate of reporting through Form FDA 3779, reports received from FDA's toll-

free telephone number and email address, and FDA experience. Each report is expected to take 0.25 hours to complete and submit; therefore, total burden hours for this collection of information is estimated to be 200 hours (800 responses × 0.25 hours per response). The total burden hours for this collection have decreased by 50 hours (from 250 to 200) because the number of estimated respondents decreased from 1,000 to 400, and the annual responses are expected to drop from 1,000 to 800. Based on past submissions to FDA, the number of estimated annual respondents is expected to decrease from 1,000 to 400 and each respondent's number of submissions is expected to increase from 1 to 2 annually. Therefore, the number of responses is expected to decrease from 1,000 to 800 annually (400 respondents × 2 responses).

Dated: May 5, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10657 Filed 5–8–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1478]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Providing Waiver-Related Materials in Accordance With Draft Guidance for Industry on Providing Postmarket Periodic Safety Reports in the International Conference on Harmonisation E2C(R2) Format

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by June 9, 2014.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Reporting in Accordance With International Conference on Harmonisation—Periodic Benefit Risk Evaluation Report (E2C(R2)) Guidance—(OMB Control Number 0910–NEW)

I. Background

The International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. In January 2012, the ICH Steering Committee agreed that the ''E2C(R2) Periodic Benefit-Risk Evaluation Report'' draft guidance (the draft PBRER guidance) should be made available for public comment. The PBRER is intended to provide a common standard for periodic reporting on approved drugs or biologics among the ICH regions. The harmonized PBRER is intended to promote a consistent approach to periodic postmarket safety reporting among the ICH regions and to enhance efficiency by reducing the number of reports generated for submission to the regulatory authorities.

The draft PBRER guidance revises an earlier version of this guidance issued in 1997 with an addendum issued in 2004. In the **Federal Register** of April 11, 2012 (77 FR 21782), FDA announced the availability of the draft PBRER guidance for public comment. FDA presented the comments received as part of the considerations by the E2C(R2) Expert Working Group for revisions of the guidance. A final version of the guidance was subsequently endorsed by the ICH on November 15, 2012, and published as the ICH harmonized tripartite guideline ''Periodic Benefit-Risk Evaluation Report (PBRER) E2C(R2)'' (the PBRER guidance), available at *http://www.ich.org/products/guidelines/efficacy/article/efficacy-guidelines.html.* FDA anticipates issuing final guidance on this topic that is consistent with the final ICH document, published November 2012, and thus is seeking PRA approval for information collections consistent with that document.

II. Voluntary Preparation of Periodic Safety Reports in Conformance With the ICH E2C(R2) PBRER Guidance, in Lieu of PADERs/PAERs Required Under 21 CFR 314.80(c)(2) and 600.80(c)(2)

FDA currently has OMB approval for the required submission of periodic adverse drug experience reports (PADER) for drugs subject to a new drug application (NDA) or an abbreviated new drug application (ANDA) (§ 314.80(c)(2) (21 CFR 314.80(c)(2)); OMB control number 0910–0230), and for the required submission of periodic adverse experience reports (PAER) for drugs subject to a biologics license application (BLA) (§ 600.80(c)(2) (21 CFR 600.80(c)(2)); OMB control number 0910–0308). Such reports include, for the reporting interval, reports of serious, expected adverse experiences and all non-serious adverse experiences and an index of these reports, a narrative summary and analysis of adverse experiences, an analysis of the 15-day Alert reports submitted during the reporting interval, and a history of actions taken because of adverse experiences. Applicants must submit each PADER/PAER to FDA quarterly for the first 3 years after the product is approved by FDA and annually thereafter. As described in the supporting documentation under OMB control numbers 0910–0230 and 0910–0308, FDA currently has OMB approval for approximately 60 hours for the preparation and submission of each PADER under § 314.80(c)(2) and 28 hours for the preparation and submission of each PAER under § 600.80(c)(2).

There is considerable overlap in the information required under §§ 314.80(c)(2) and 600.80(c)(2) and the information requested in a periodic safety report using the ICH E2C(R2) PBRER format. As a result, and as discussed further in this document, FDA, in the **Federal Register** of April 8, 2013 (78 FR 20926), announced the availability of a draft guidance to indicate its willingness to accept postmarket periodic safety reports using the ICH PBRER format in lieu of the

specific reports described in FDA regulations. (As described further in this document, the April 2013 draft guidance also addresses waiver-related information that should be submitted to FDA by companies who wish to exercise this alternative reporting.)

Companies who submit periodic reports on the same drug to multiple regulators, including not only the United States, but, also the European Union, Japan, and regulators in other countries who have elected to adopt the ICH standards, may find it in their interest to prepare a single PBRER, rather than preparing multiple types of reports for multiple regulators. Companies who choose to submit a PBRER to FDA would include some information beyond that required by FDA regulations, including worldwide marketing approval status; estimated exposure and use patterns; information from clinical trials, non-interventional studies, non-clinical data, and literature; benefit evaluation, and benefit-risk analysis for approved indications, and should use a particular format described in the draft PBRER guidance.

FDA is not proposing to require submission of the PBRER; applicants subject to periodic safety reporting requirements under FDA regulations could choose to continue to submit the reports as specified in those regulations, and would be permitted to alternate between submission of reports in the PBRER format and submission of reports as specified in FDA regulations with an approved waiver. Based on FDA's experience with submission of periodic safety reports under previous ICH periodic reporting guidance, FDA believes that applicants would elect to submit the PBRER to FDA only in cases where they are also submitting that report to other regulatory authorities, some of which have underlying legal requirements that closely parallel the elements of the PBRER. For this reason, FDA believes that the additional burden associated with preparation of a PBRER in lieu of existing PADERs/PAERs is not attributable to the proposed collection of information by FDA, but rather is a ''usual and customary'' expenditure of time, effort, and financial resources that would be ''incurred by persons in the normal course of their activities,'' and thus is excluded from the calculation of burden under the PRA (5 CFR 1320.5(b)(2).) Cf. 5 CFR 1320.5(b)(3) (permitting exclusion from Federal burden of burden incurred in complying with an information collection that is also conducted by a State or local government if the State or local requirement would be imposed even in the absence of a Federal requirement).

We therefore believe that the existing estimate of burden for submission of periodic safety reports, approved under OMB control numbers 0910–0230 and 0910–0308, would be unchanged by this proposed collection, which would permit, but not require, the substitution of a PBRER for the periodic safety report otherwise required. We request comment on the assumption that all PBRERs submitted to FDA would be prepared in any event to submit to other jurisdictions, or alternatively, on the number of PBRERs that applicants will choose to prepare solely for submission to FDA, and the estimated burden for submitting such a report.

III. Materials Related to Waivers Permitting Submission of a PBRER To Satisfy the Periodic Safety Reporting Requirements in §§ 314.80(c)(2) and 600.80(c)(2)

Because FDA regulations in §§ 314.80(c)(2) and 600.80(c)(2) include specific requirements for periodic safety reports, in order for an applicant to submit an alternative report, such as the PBRER, for a given product, FDA must grant a waiver. Existing regulations permit applicants to request waivers of any postmarketing safety reporting requirement, and the information collections associated with such waiver requests generally are approved under existing control numbers. (See § 314.90(a), waivers for drugs subject to NDAs and ANDAs (approved under OMB control number 0910–0001); and § 600.90(a), waivers for products subject to BLAs (approved under OMB control number 0910–0308).)

In the **Federal Register** of April 8, 2013, FDA announced the availability of a draft guidance entitled ''Providing Postmarket Periodic Safety Reports in the ICH E2C(R2) Format'', which indicates that FDA will be prepared to grant waivers to enable submission of the PBRER in the United States in place of a PADER required under § 314.80(c)(2) or in place of a PAER required under § 600.80(c)(2). The draft guidance both explains conditions under which applicants that have previously received waivers to submit reporting information in the format of the previous ICH guidance would be permitted to apply those existing waivers to the submission of PBRERs, and also advises how applicants that have not previously obtained a waiver may submit waiver requests to submit the PBRER. This **Federal Register** notice solicits comment on certain information collections proposed in the April 8, 2013, draft guidance that are related to waivers specifically to enable the submission of PBRERs, and that are not already addressed under approved control numbers covering waiver submissions and periodic safety reports generally.

FDA has previously granted waiver requests, submitted under §§ 314.90(a) and 600.90(a), that allow applicants to prepare and submit reports using the periodic safety update report (PSUR) format described in the 1997 and 2004 ICH E2C guidance. In accordance with the recommendations of the April 8, 2013, draft guidance, if an applicant already has a PSUR waiver in place for a given approved application, FDA will consider the existing PSUR waiver to allow the applicant to submit a PBRER instead of a PSUR because the PBRER replaces the PSUR for postmarketing periodic safety reporting for that application. The applicant would not need to submit a new waiver request unless the applicant wishes to change the frequency of reporting. FDA will consider requests to be waived of the quarterly reporting requirement but will not waive applicants of the annual reporting requirement.

If an applicant submits a PBRER in place of the PSUR and uses a different data lock point, the applicant should submit overlapping reports or submit a one-time PADER/PAER in order to cover the gap in reporting intervals. The applicant should submit notification to the application(s), indicating the change in data lock point and should include a description of the measures taken to ensure that there are no resulting gaps in reporting.

If an applicant submits a PBRER in place of the PSUR and uses a different reporting frequency for the PBRER than was used for the PSUR, the continued validity of the waiver will be conditioned on the submission of a PADER/PAER as needed to fulfill the reporting frequency requirement under FDA regulations. The applicant should submit a notification to the application(s), describing this change and the measures taken to ensure that the periodicity requirements are being met.

FDA expects approximately 187 waiver requests and notifications to include the additional information described previously in this document for using a different data lock point and/or for using a different reporting frequency when submitting a PBRER. FDA expects approximately 55 applicants to make these submissions, and we estimate that the time for submitting the additional information described previously would be on average approximately 1 hour for each waiver request or notification.

If an applicant does not have a PSUR waiver in place for an approved application, the applicant may submit a waiver request under § 314.90(a) or § 600.90(a) to submit a PBRER instead of the PADER/PAER. The applicant should submit a request to FDA for each approved application for which a waiver is requested, and a single waiver request letter can include multiple applications. Waiver requests should be submitted to each of the application(s) in the request, and may be submitted electronically or by mail as described in the April 8, 2013, draft guidance. Each PBRER waiver request should include the following information:

1. The product name(s) and application number(s);
2. A brief description of the justification for the request;
3. The U.S. approval date for the product(s) and current reporting interval used;
4. The reporting interval of the last PADER/PAER submitted for the product(s);
5. The data lock point that will be used for each PBRER. If a data lock point other than one aligned to the U.S. approval date is proposed, the applicant should describe how he/she will ensure that there are no gaps in reporting intervals (e.g., by submitting overlapping reports; submitting a one-time PADER/PAER to cover the gap period; or, if the gap is less than 2 months, extending the reporting interval of the final PADER/PAER to close the gap).
6. The frequency for submitting the PBRER, as described in section IV.C of the April 8, 2013, draft guidance.
7. The email address and telephone number for the individual who can provide additional information regarding the waiver request.

As explained earlier, existing regulations at §§ 314.90(a) or 600.90(a) permit applicants to request waivers of any postmarketing safety reporting requirement, and the information collections associated with such waiver requests generally are approved under OMB control numbers 0910–0001and 0910–0308. FDA believes that the information submitted under numbers 1 to 4 and number 7 in the list in the previous paragraph is information that is typical of any waiver request regarding postmarketing safety reporting and is accounted for in the existing approved collections of information for waiver requests and reports. Concerning numbers 5 and 6, FDA expects approximately 67 waiver requests to include the additional information for using a different data lock point and/or for using a different reporting frequency when submitting a PBRER. FDA expects approximately 29 applicants to make these submissions, and we estimate that the time for submitting the additional information described in the previous paragraph would be on average approximately 2 hours for each waiver request.

In the **Federal Register** of December 10, 2013 (78 FR 74151), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the additional burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Additional information and/or notifications for using a different data lock point and/or a different reporting frequency	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Applicants that have a PSUR waiver for an approved application	55	3.4	187	1	187
Applicants that do not have a PSUR waiver for an approved application	29	2.3	67	2	134
Total					321

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 5, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10658 Filed 5–8–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Organ Transplantation; Cancellation of Meeting

Name: Advisory Committee on Organ Transplantation.

Dates and Times: May 15, 2014, 10:00 a.m. to 4:00 p.m., Eastern Time.

Status: The meeting of the Advisory Committee on Organ Transplantation scheduled for May 15, 2014, is cancelled. This cancellation applies to all sessions of the meeting. The meeting was announced in the **Federal Register** on April 22, 2014 (79 FR 22507).

For Further Information Contact:

Patricia Stroup, MBA, MPA, Office of the Associate Administrator, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 17W43, Rockville, Maryland 20857; telephone (301) 443–1127.

Dated: May 5, 2014.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2014–10739 Filed 5–8–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2014–0022]

Privacy Act of 1974; Computer Matching Program

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

OVERVIEW INFORMATION: Privacy Act of 1974; Computer Matching Program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the Massachusetts Division of Unemployment Assistance.

SUMMARY: This document provides notice of the existence of a computer matching program between the Department of Homeland Security, U.S.

Citizenship and Immigration Services and the Massachusetts Division of Unemployment Assistance, titled ''Verification Division DHS–USCIS/MA–DUA.''

SUPPLEMENTARY INFORMATION: The Department of Homeland Security, U.S. Citizenship and Immigration Services provides this notice in accordance with The Privacy Act of 1974 (5 § U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular A–130, Appendix I, 65 FR 77677 (December 12, 2000).

Participating Agencies: The Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS–USCIS) is the source agency and the Massachusetts Division of Unemployment Assistance (MA–DUA) is the recipient agency.

Purpose of the Match: This Computer Matching agreement allows DHS–USCIS to provide MA–DUA with electronic access to immigration status information contained within the DHS–USCIS Verification Information System (VIS). The immigration status information will enable MA–DUA to determine whether an applicant is eligible for benefits under the Unemployment Compensation (UC) program administered by MA–DUA.

Authority for Conducting the Matching Program: Section 121 of the Immigration Reform and Control Act (IRCA) of 1986, Public Law 99–603, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), requires DHS to establish a system for the verification of immigration status of alien applicants for, or recipients of, certain types of benefits and to make this system available to state agencies that administer such benefits. Section 121(c) of IRCA amends Section 1137 of the Social Security Act and certain other sections of law that pertain to Federal entitlement benefit programs to require state agencies administering these programs to use the DHS–USCIS verification system to make eligibility determinations in order to prevent the issuance of benefits to alien and naturalized/derived United States citizen applicants who are not entitled to program benefits because of their immigration status. The VIS database is the DHS–USCIS system established and made available to MA–DUA and other covered agencies for use in making these eligibility determinations.

MA–DUA seeks access to the information contained in DHS–USCIS VIS database for the purpose of confirming the immigration status of alien applicants for, or recipients of, the benefits it administers, in order to discharge its obligation to conduct such verifications pursuant to Section 1137 of the Social Security Act, 42 U.S.C. 1320b-7, and to Mass. Gen. Laws ch. 151A, § 25(h).

Categories of Records and Individuals Covered: DHS/USCIS will provide the following to MA–DUA: Records in the DHS–USCIS VIS database containing information related to the status of aliens and other persons on whom DHS–USCIS has a record as an applicant, petitioner, or beneficiary. See DHS/USCIS–004 Systematic Alien Verification for Entitlements Program System of Records Notice, 77 FR 47415 (August 8, 2012).

MA–DUA will provide the following to DHS–USCIS: MA–DUA records pertaining to alien and naturalized/derived United States citizen applicants for, or recipients of entitlement benefit programs administered by the State.

MA–DUA will match the following records with DHS–USCIS records:

- Alien Registration Number
- 1–94 Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Nationality
- Social Security Number (SSN)

DHS–USCIS will match the following records with MA–DUA records:

- Alien Registration Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Country of Birth (not nationality)
- SSN (if available)
- Date of Entry
- Immigration Status Data
- Sponsorship Information (sponsor's full name, SSN, and address)

Inclusive Dates of the Matching Program: The inclusive dates of the matching program are from June 14, 2014, and continuing for 18 months through December 13, 2015. The matching program may be extended for up to an additional 12 months thereafter, if certain conditions are met.

Address for Receipt of Public Comments or Inquires: Individuals wishing to comment on this matching program or obtain additional information about the program, including requesting a copy of the computer matching agreement between DHS–USCIS and MA–DUA, may contact:

For general questions please contact: Donald K. Hawkins, 202–272–8030, Privacy Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529.

For privacy questions please contact: Karen L. Neuman (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Dated: April 29, 2014.

Karen L. Neuman

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2014–10594 Filed 5–8–14; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2014–0025]

Privacy Act of 1974; Computer Matching Program

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

Overview Information: Privacy Act of 1974; Computer Matching Program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the Texas Workforce Commission.

SUMMARY: This document provides notice of the existence of a computer matching program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the Texas Workforce Commission, titled ''Verification Division DHS–USCIS/TWC.''

SUPPLEMENTARY INFORMATION: The Department of Homeland Security, U.S. Citizenship and Immigration Services provides this notice in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular A–

130, Appendix I, 65 FR 77677 (December 12, 2000).

Participating Agencies: The Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS–USCIS) is the source agency and the Texas Workforce Commission (TWC) is the recipient agency.

Purpose of the Match: This Computer Matching Agreement allows DHS–USCIS to provide TWC with electronic access to immigration status information contained within the DHS–USCIS Verification Information System (VIS). The immigration status information will enable TWC to determine whether an applicant is eligible for benefits under the Unemployment Compensation (UC) program administered by TWC.

Authority for Conducting the Matching Program: Section 121 of the Immigration Reform and Control Act (IRCA) of 1986, Public Law 99–603, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), requires DHS to establish a system for the verification of immigration status of alien applicants for, or recipients of, certain types of benefits and to make this system available to state agencies that administer such benefits. Section 121(c) of IRCA amends Section 1137 of the Social Security Act and certain other sections of law that pertain to Federal entitlement benefit programs to require state agencies administering these programs to use the DHS–USCIS verification system to make eligibility determinations in order to prevent the issuance of benefits to alien applicants who are not entitled to program benefits because of their immigration status. The VIS database is the DHS–USCIS system established and made available to TWC and other covered agencies for use in making these eligibility determinations.

TWC seeks access to the information contained in DHS–USCIS VIS database for the purpose of confirming the immigration status of alien and naturalized/derived United States citizen applicants for, or recipients of, the benefits it administers, in order to discharge its obligation to conduct such verifications pursuant to Section 1137 of the Social Security Act, 42 U.S.C. 1320b–7 and to Texas Labor Code Section 207.043.

Categories of Records and Individuals Covered: DHS–USCIS will provide the following to TWC: Records in the DHS–USCIS VIS database containing information related to the status of aliens and other persons on whom DHS–USCIS has a record as an applicant, petitioner, or beneficiary. See DHS/USCIS–004 Systematic Alien Verification for Entitlements Program System of Records Notice, 77 FR 47415 (August 8, 2012).

TWC will provide the following to DHS–USCIS: TWC records pertaining to alien and naturalized/derived United States citizen applicants for, or recipients of entitlement benefit programs administered by the State.

TWC will match the following records with DHS–USCIS records:

- Alien Registration Number
- I–94 Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Nationality
- Social Security Number (SSN)

DHS–USCIS will match the following records with TWC records:

- Alien Registration Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Country of Birth (not nationality)
- SSN (if available)
- Date of Entry
- Immigration Status Data
- Sponsorship Information (sponsor's full name, SSN, and address)

Inclusive Dates of the Matching Program: The inclusive dates of the matching program are from June 8, 2014, and continuing for 18 months through December 7, 2015. The matching program may be extended for up to an additional 12 months thereafter, if certain conditions are met.

Address for Receipt of Public Comments Or Inquires: Individuals wishing to comment on this matching program or obtain additional information about the program, including requesting a copy of the computer matching agreement between DHS–USCIS and TWC.

For general questions please contact: Donald K. Hawkins, 202–272–8030, Privacy Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529.

For privacy questions please contact: Karen L. Neuman (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Dated: April 29, 2014.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2014–10596 Filed 5–8–14; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2014–0021]

Privacy Act of 1974; Computer Matching Program

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

Overview Information: Privacy Act of 1974; Computer Matching Program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the California Department of Health Care Services.

SUMMARY: This document provides notice of the existence of a computer matching program between the Department of Homeland Security, U.S. Citizenship and Immigration Services and the California Department of Health Care Services, titled ''Verification Division DHS–USCIS/CA–DHCS.''

SUPPLEMENTARY INFORMATION: The Department of Homeland Security, U.S. Citizenship and Immigration Services provides this notice in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular A–130, Appendix I, 65 FR 77677 (December 12, 2000).

Participating Agencies: The Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS–USCIS) is the source agency and the California Department of Health Care Services (CA–DHCS) is the recipient agency.

Purpose of the Match: This Computer Matching Agreement allows DHS–USCIS to provide CA–DHCS with electronic access to immigration status information contained within the DHS–USCIS Verification Information System (VIS). The immigration status information will enable CA–DHCS to determine whether an applicant is eligible for benefits under Medicaid Programs administered by CA–DHCS.

Authority for Conducting the Matching Program: Section 121 of the Immigration Reform and Control Act (IRCA) of 1986, Public Law 99–603, as amended by the Personal Responsibility

and Work Opportunity Reconciliation Act of 1996 (PRWORA), requires DHS to establish a system for the verification of immigration status of alien applicants for, or recipients of, certain types of benefits and to make this system available to state agencies that administer such benefits. Section 121(c) of IRCA amends Section 1137 of the Social Security Act and certain other sections of law that pertain to Federal entitlement benefit programs to require state agencies administering these programs to use the DHS–USCIS verification system to make eligibility determinations in order to prevent the issuance of benefits to alien applicants who are not entitled to program benefits because of their immigration status. The VIS database is the DHS–USCIS system established and made available to CA–DHCS and other covered agencies for use in making these eligibility determinations.

CA–DHCS seeks access to the information contained in the DHS–USCIS VIS database for the purpose of confirming the immigration status of alien and naturalized/derived United States citizen applicants for, or recipients of, the benefits it administers, in order to discharge its obligation to conduct such verifications pursuant to Section 1137 of the Social Security Act, 42 U.S.C. 1320b–7, and California Welfare and Institutions Code §§ 1104.1, 14007.5, and 14011.2.

Categories of Records and Individuals Covered: DHS–USCIS will provide the following to CA–DHCS: Records in the DHS–USCIS VIS database containing information related to the status of aliens and other persons on whom DHS–USCIS has a record as an applicant, petitioner, or beneficiary. See DHS/USCIS–004 Systematic Alien Verification for Entitlements Program System of Records Notice, 77 FR 47415 (August 8, 2012).

CA–DHCS will provide the following to DHS–USCIS: CA–DHCS records pertaining to alien and naturalized/derived United States citizen applicants for, or recipients of, entitlement benefit programs administered by the State.

CA–DHCS will match the following records with DHS–USCIS records:

- Alien Registration Number.
- I–94 Number.
- Last Name.
- First Name.
- Middle Name.
- Date of Birth.
- Nationality.
- Social Security Number (SSN).

DHS–USCIS will match the following records with CA–DHCS records:

- Alien Registration Number.
- I–94 Number.
- Last Name.
- First Name.
- Middle Name.
- Date of Birth.
- Country of Birth (not nationality).
- SSN (if available).
- Date of Entry.
- Immigration Status Data.
- Sponsorship Information (sponsor's full name, SSN, and address).

Inclusive Dates of the Matching Program: The inclusive dates of the matching program are from June 8, 2014, and continuing for 18 months through December 7, 2015. The matching program may be extended for up to an additional 12 months thereafter, if certain conditions are met.

Address for Receipt of Public Comments or Inquires: Individuals wishing to comment on this matching program or obtain additional information about the program, including requesting a copy of the Computer Matching Agreement between DHS–USCIS and CA–DHCS, may contact:

For general questions please contact: Donald K. Hawkins, 202–272–8030, Privacy Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529.

For privacy questions please contact: Karen L. Neuman (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Dated: April 29, 2014.

Karen L. Neuman

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2014–10595 Filed 5–8–14; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0067]

Agency Information Collection Activities: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions

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

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before July 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or recordkeepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.

OMB Number: 1651–0067

Form Number: None

Abstract: U.S. Customs and Border Protection (CBP) is responsible for determining whether imported articles that are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 9801.00.10, 9802.00.20, 9802.00.25, 9802.00.40, 9802.00.50, 9802.00.60 and 9817.00.40 are entitled to duty-free or reduced duty treatment. In order to file under these HTSUS provisions, importers, or their agents, must have the declarations that are provided for in 19 CFR 10.1(a), 10.8(a), 10.9(a) and 10.121 in their possession at the time of entry and submit them to CBP upon request. These declarations enable CBP to ascertain whether the requirements of these HTSUS provisions have been satisfied.

Current Actions: CBP proposes to extend the expiration date of this information collection with a no changes to the burden hours or to the information being collected.

Type of Review: Extension (without change)

Affected Public: Businesses

Estimated Number of Respondents: 19,445

Estimated Number of Responses per Respondent: 3

Estimated Number of Total Annual Responses: 58,335

Estimated Time per Response: 1 minute

Estimated Total Annual Burden Hours: 933

Dated: May 5, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–10678 Filed 5–8–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–19]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 1, 2014.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2014–10568 Filed 5–8–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD01000.L16100000.DU0000]

Notice of Intent To Prepare an Environmental Assessment To Amend the Resource Management Plan for the Pinedale Field Office, Pinedale, Wyoming.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Pinedale Field Office (PFO) intends to prepare a resource management plan (RMP) amendment with an associated environmental assessment (EA) to close approximately 5,120 acres to oil and gas leasing and by this notice is announcing the beginning of the scoping process.

DATES: Comments may be submitted in writing until June 9, 2014. Any scoping meetings will be announced at least 15 days in advance through local news media and the BLM Web site at *www.blm.gov/wy/st/en/programs/Planning/rmps/pinedale.html.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation as appropriate.

ADDRESSES: Written comments on issues and planning criteria may be submitted by any of the following methods:

- Email: *BLM_WY_Pinedale_RMP_Amendment@blm.gov*
- Fax: (307) 367–5329
- Mail or Delivery: BLM Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, WY 82941

All comments must include a legible full name and address on the envelope, letter, fax, postcard or email. Documents pertinent to this proposal may be examined at the PFO, 1625 West Pine Street, Pinedale, Wyoming.

FOR FURTHER INFORMATION CONTACT: Lauren McKeever, RMP Amendment Project Manager, at:

- Telephone: (307) 367–5352
- Email: *BLM_WY_Pinedale_RMP_Amendment@blm.gov*
- Address: P.O. Box 768, 1625 West Pine Street, Pinedale WY 82941

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM completed the Pinedale RMP in 2008. The purpose of the RMP amendment is to analyze the closure of approximately 5,120 acres to oil and gas leasing in Sublette County, Wyoming. The State of Wyoming has requested that this land be made unavailable for future mineral leasing and development due to its location immediately adjacent to United States Forest Service lands withdrawn from leasing by the Wyoming Range Legacy Act of 2009 and private split-estate lands that the 2008 Pinedale RMP determined not to be available for leasing. In accordance with 43 CFR 1610.5–5, an RMP may be changed through an amendment. An amendment may be initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. The BLM will use an interdisciplinary approach to develop

the RMP amendment in order to consider the variety of resource issues and concerns identified.

Preliminary issues have been identified by BLM personnel, federal, state and local agencies and other stakeholders and include:

- Compliance with NEPA, FLPMA, and other applicable laws, executive orders, regulations and policy;
- Recognition of valid existing rights;
- All lands that may affect or be affected by BLM management decisions. Planning decisions in the RMP amendment will apply only to BLM-administered lands and federal mineral estate; and
- A collaborative and multi-jurisdictional approach, when possible, to jointly determine the desired future condition and management direction for the public lands. To the extent possible and within legal and regulatory parameters, the BLM management and planning decisions will complement the planning and management decisions of other agencies, state and local governments, and jurisdictions intermingled with, and adjacent to, the planning area.

The BLM will evaluate identified issues to be addressed in the plan, and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;
2. Issues to be resolved through policy or administrative action; or
3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the draft RMP amendment/EA as to why an issue was placed in category two or three. The public is encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

Comments may be submitted in writing to the BLM at any public scoping meeting or through one of the methods listed in the **ADDRESSES** section above. 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Larry Claypool,

Acting State Director.

[FR Doc. 2014–10498 Filed 5–8–14; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD04000–2013–LL13110000–EJ0000]

Notice of Intent To Prepare an Environmental Impact Statement for the Bird Canyon Natural Gas Infill Project, Lincoln and Sublette Counties, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Rock Springs Field Office (RSFO) intends to prepare an environmental impact statement (EIS) for the Bird Canyon Natural Gas Infill Project and by this notice announces the opening of the scoping period. The plan of development for this project proposes that 348 natural gas wells be drilled on public lands in the 17,612 acre Bird Canyon project area.

DATES: Comments must be received by June 9, 2014. The BLM will hold two public meetings as part of the public comment period; these will be announced through the local news media and the BLM Web site at *www.blm.gov/wy/st/en/info/NEPA/documents/rsfo/birdcanyon.html* at least 15 days in advance. In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation as appropriate.

ADDRESSES: Written comments on issues and planning criteria may be submitted through any of the following methods:

- *Mail or Delivery:* BLM Rock Springs Field Office, Attn: Spencer Allred, 280 Highway 191 N., Rock Springs, WY 82901.
- *EMail: blm_wy_bird_canyon_eis@blm.gov* with ''Public Comment'' in the subject line.
- *Fax:* 307–352–0329.

All comments must include a legible full name and address on the envelope, letter, fax, postcard or email.

Documents pertinent to this proposal may be examined at the RSFO, 280 Highway 191 N., Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Spencer Allred, Natural Resource Specialist, at 307–352–0325. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Koch Exploration Company, LLC, and Memorial Resource Development, LLC, propose to drill 348 new natural gas wells within 17,612 acres of public land in the existing Bird Canyon Field, in Lincoln and Sublette counties, Wyoming. Drilling activities would occur over the next 10 to 20 years. The life of the project, including final reclamation, is projected to be approximately 55 years. The wells would be directionally drilled on expansions of existing well pads or on newly constructed multiple-well pads. Average well-pad spacing would be four pads per 640 acres. It is estimated that well pads would initially occupy 3.8 acres, which would then be reclaimed back to 1.1 acres after production facilities are installed. Total estimated initial disturbance for this project, including access roads, well pads and pipelines, is 392 acres. Following interim reclamation, including reclamation of 64 existing pads, total estimated long-term surface disturbance is 20 acres.

The proposed project is in an area designated as marginal nonattainment for ozone within the Upper Green River Basin by the Environmental Protection Agency (EPA) in July 2012.

Oil and gas development has occurred in the Bird Canyon Field since the 1960s. During that time, 90 wells have been drilled within the project area. Eighteen of those wells have been plugged or shut-in, leaving 72 wells in the field that are actively producing at this time.

An EIS will be prepared to analyze the impacts of the proposed project which the RSFO has preliminarily identified as socioeconomics, viewshed qualities, historical and cultural resources, wildlife habitat, air quality, water quality and livestock forage. Identification of opportunities to apply mitigation hierarchy strategies for on-site, regional, and compensatory

mitigation, and (appropriate to the size of the project) landscape-level conservation and management actions to achieve resource objectives] will be considered.

A critical part of the EIS process is gathering comments and concerns from the public to help the BLM understand the scope of the issues associated with this project. The BLM will utilize and coordinate the NEPA public comment process to comply with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). Native American tribal consultations will be conducted in accordance with BLM policy and sites of religious or cultural significance or other tribal concerns will be given due consideration. Federal, State and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed project, may request or be requested by the BLM to participate in the development of the EIS as a cooperating agency. Additional opportunities for public participation will be provided when the Draft EIS is published.

Comments can be submitted in writing to the BLM at any public scoping meeting or through one of the methods listed in the **ADDRESSES** section. 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7.

Larry Claypool,

Acting State Director.

[FR Doc. 2014–10489 Filed 5–8–14; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDC00000.14XL1109AF.L10200000. DS0000.LXSSD0090000.241A; 4500061279]

Notice of Availability of the Draft Cottonwood Resource Management Plan Amendment for Domestic Sheep Grazing and Supplemental Environmental Impact Statement, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) Amendment for Domestic Sheep Grazing and Supplemental Environmental Impact Statement (EIS) and by this notice is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Supplemental EIS within 90 days following the date the Environmental Protection Agency publishes a notice of availability of this document in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Draft RMP Amendment and Supplemental EIS by any of the following methods:

- *Web site: http://www.blm.gov/id/st/en/prog/nepa_register/cfo_SEIS-plan-amdt-sheep.html.*
- *Email: BLM_ID_SheepSEIS@blm.gov.*
- *Mail:* BLM Coeur d'Alene District, ATTN: Sheep SEIS, 3815 Schreiber Way, Coeur d'Alene, ID 83815.

The Draft RMP Amendment and Supplemental EIS is available on the project Web site at *http://www.blm.gov/id/st/en/prog/nepa_register/cfo_SEIS-plan-amdt-sheep.html,* in the BLM Coeur d'Alene District Office at the above address, and at the BLM Cottonwood Field Office, One Butte Drive, Cottonwood, ID 83522.

FOR FURTHER INFORMATION CONTACT: Scott Pavey, telephone 208–769–5059, BLM Coeur d'Alene District Office (address above); email: *BLM_ID_SheepSEIS@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM proposes to amend the 2008 Cottonwood RMP by providing new management direction and allocations for livestock grazing on 19,405 acres of BLM-managed lands within 4 BLM allotments in Idaho and Adams Counties of Idaho.

In August 2008, the BLM published the Proposed Cottonwood RMP and Final EIS and subsequently received a number of protests on the proposed decision. The BLM Director denied all protest points but one, which was in regard to the adequacy of the range of alternatives for management of domestic sheep grazing on four BLM allotments that are within bighorn sheep habitat. Specifically, the Director found that the Final EIS did not include an adequate range of alternatives to address potential disease transmission from domestic sheep and goats to bighorn sheep, and required that the State Director complete a supplemental EIS that would include a reasonable range of alternatives for managing livestock grazing and would analyze the impacts of domestic sheep and goat grazing within the four allotments. The Director further specified that the supplemental EIS be for the limited purpose of analyzing the impacts of domestic sheep and goat grazing within four allotments.

The Supplemental EIS identifies and analyzes three related planning issues:

(1) Bighorn sheep—Domestic sheep and goats may contact and transmit diseases to bighorn sheep, which may be a contributing factor to the downward trend in bighorn populations.

(2) Native American tribal interests and treaty rights—BLM management of livestock grazing, specifically domestic sheep and goats, may affect the availability of resources and uses (specifically related to bighorn sheep) that are important to the interests and rights of the Nez Perce Tribe.

(3) Livestock grazing and social and economic interests—Changes to BLM management of livestock grazing may affect the local economy.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Will Runnoe,

Cottonwood Field Manager.

[FR Doc. 2014–10507 Filed 5–8–14; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–15641; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before April 19, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by May 27, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 22, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

CALIFORNIA

San Benito County

Bear Valley School, E. side of CA 146, 1 mi. N. of jct. with CA 25, Paicines, 14000267

FLORIDA

Palm Beach County

Marina Historic District, Bounded by E. Atlantic Ave., Marine Way, SE. 3rd & 7th Sts., Delray Beach, 14000268

GEORGIA

Bibb County

Shirley Hills Historic District (Boundary Increase and Additional Documentation), Roughly bounded by Boulevard Ave., Woodland Dr., Waveland Cir., Nottingham, Briarcliff & Upper River Rds., Macon, 14000269

MARYLAND

Caroline County

Nanticoke Lodge No. 172, A.F. and A.M., 112–116 N. Main St., Federalsburg, 14000270

MASSACHUSETTS

Suffolk County

Blake and Amory Building, 59 Temple Pl., Boston, 14000272

MISSISSIPPI

Hancock County

Waveland Elementary School, 335 Coleman Ave., Waveland, 14000273

Jackson County

Old Ocean Springs Historic District (Boundary Increase and Decrease, Additional Documentation), Roughly bounded by L & N RR., Calhoun St., 1st, Ocean, Magnolia & Ward Aves., Ocean Springs, 14000274

Lauderdale County

Meridian Senior High School and Junior College, 2320 32nd St., Meridian, 14000275

Lee County

Downtown Tupelo Historic District, Roughly bounded by Jefferson, Madison. N. Front, & Kansas City Southern RR., Tupelo, 14000276

Oktibbeha County

Starkville Colored Cemetery, N. side of University Dr., W. of N. Nash & E. of Hartness Sts., Starkville, 14000277

Warren County

Christian and Brough Building, (Vicksburg MPS) 923 Washington St., Vicksburg, 14000278

In the interest of preservation a 3 day comment period has been requested for the following resource:

MASSACHUSETTS

Plymouth County

Commonwealth Shoe and Leather Co., 7 Marble St., Whitman, 14000271

A request to remove has been received for the following resource:

OKLAHOMA

Pittsburg County

Southern Ice and Cold Storage Company, 338 E. Choctaw Ave., McAlester, 79002023

[FR Doc. 2014–10643 Filed 5–8–14; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1209 (Final)]

Prestressed Concrete Steel Rail Tie Wire From Thailand; Termination of Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: On May 5, 2014, the Department of Commerce published notice in the **Federal Register** of a final determination of sales at not less than fair value in connection with the subject investigation concerning Thailand (79 FR 25574). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping duty investigation concerning prestressed concrete steel rail tie wire from Thailand (Inv. No. 731–TA–1209 (Final)) is terminated.

DATES: Effective: May 5, 2014.

FOR FURTHER INFORMATION CONTACT: Angela M. W. Newell (202–708–5409), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR § 201.10).

By order of the Commission.

Issued: May 5, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–10647 Filed 5–8–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0062]

Powered Industrial Trucks Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Powered Industrial Trucks Standard. The information collection requirements address truck design, construction and modification, as well as certification of training and evaluation for truck operators.

DATES: Comments must be submitted (postmarked, sent, or received) by July 8, 2014.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0062, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2011–0062) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (a)(4) of the Powered Industrial Trucks Standard requires employers to obtain the manufacturer's written approval before modifying a truck in a manner that affects its capacity and safe operation; if the manufacturer grants such approval, the employer must revise capacity, operation, and maintenance instruction plates, tags, and decals accordingly. For front-end attachments not installed by the manufacturer, paragraph (a)(5) mandates that employers provide a marker on the trucks that identifies the attachment, as well as the weight of both the truck and the attachment when the attachment is at maximum elevation with a laterally centered load. Paragraph (a)(6) specifies that employers must ensure that the markers required by paragraphs (a)(3) through (a)(5) remain affixed to the trucks and are legible.

Paragraphs (1)(4) and (1)(6) of the Standard contain the paperwork requirements necessary to certify the evaluation and training provided to powered industrial truck operators. Accordingly, these paragraphs specify the following requirements for employers.

- Paragraph (1)(4)(iii)—evaluate each operator's performance at least once every three years.
- Paragraph (l)(6)—Certify that each operator meets the training and evaluation requirements specified by paragraph (l). This certification must include the operator's name, the training date, the evaluation date, and the identity of the individual(s) who performed the training and evaluation.

Requiring labels (markings) on modified equipment notifies workers of the conditions under which they can safely operate powered industrial trucks, thereby preventing such hazards as fires and explosions caused by poorly designed electrical systems, rollovers/tipovers that result from exceeding a truck's stability characteristics, and falling loads that occur when loads exceed the lifting capacities of attachments. Certification of worker training and evaluation provides a means of informing employers that their workers received the training and demonstrated the performance necessary to operate a truck within its capacity and control limitations. By ensuring that workers operate only trucks that are in proper working order, and do so safely, employers prevent possible severe injury or death of truck operators and other workers who are in the vicinity of the trucks. Finally, these paperwork requirements are the most efficient means for an OSHA compliance officer to determine that an employer properly notified workers about the design and construction of, and modifications made to, the trucks they are operating, and that an employer provided them with the required training.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is proposing to decrease the existing burden hour estimate of the collection of information requirements specified by the Standard. In this regard, the Agency is proposing to decrease the current burden hour estimate from 888,244 hours to 393,702 hours, a total decrease of 494,542 hours. The reason for this reduction is the removal of burden hours associated with the requirement that employers provide training to workers.

Upon further analysis, OSHA has determined that these training provision is not considered to be a collection of information under PRA–95. In addition, the Agency was able to gather data updating the number of trucks and operators. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Powered Industrial Trucks (29 CFR 1910.178).

OMB Control Number: 1218–0242.

Affected Public: Business or other for-profits.

Number of Respondents: 1,106,552.

Number of Responses: 2,206,464.

Frequency of Reponses: On occasion; annually; triennially.

Average Time per Response: Ranges from two minutes (.03 hour) to mark an approved truck to 30 minutes (.50 hour) to perform an evaluation.

Estimated Total Burden Hours: 393,702.

Estimated Cost (Operation and Maintenance): $232,365.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0062). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on May 5, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–10648 Filed 5–8–14; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–040)]

NASA Advisory Council; Science Committee; Earth Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Earth Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, May 28, 2014, 8:30 a.m. to 4:30 p.m., and Thursday, May 29, 2014, 8:30 am to 3:30 pm, Local Time.

ADDRESSES: NASA Headquarters, Room 3H42 and 3J42, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will be available telephonically. Any interested person may call the USA toll free conference call number 800–988–9663, passcode 8015, to participate in this meeting by telephone. Please note, the conference call number and password is the same for both days of this meeting, May 28 and May 29, 2014.

The agenda for the meeting includes the following topics:

—Earth Science Division Update
—Sustained Land Imaging
—Climate Sensors
—Education and Public Outreach Policy and Approach
—NASA Activities in Support of the National Climate Assessments
—Arctic Science Coordination

—Earth Science Integration

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 358–2779.

U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Ann Delo.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–10659 Filed 5–8–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Comment Request: National Science Foundation Proposal/Award Information—NSF Proposal and Award Policies and Procedures Guide

AGENCY: National Science Foundation.

ACTION: Request for Comment Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. The primary purpose of this revision is to implement 2 CFR part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Uniform Guidance). NSF has requested and received from the Office of Management and Budget (OMB) approval to implement the Uniform Guidance through NSF's longstanding practice of implementing these requirements via use of a policy rather than regulation. In conjunction with the terms and conditions of the award, the Proposal and Award Policies and Procedures Guide (PAPPG), and its predecessors, have served as NSF's implementation vehicle for OMB Circular A–110 since its initial issuance in 1976. The draft NSF PAPPG is now available for your review and consideration on the NSF Web site at *http://www.nsf.gov/bfa/dias/policy/*.

To facilitate review, text has been highlighted in yellow throughout the document that implements the Uniform Guidance. Inclusion of this highlighting appears in the following cases:

- Use of specific references to the Uniform Guidance;
- Direct replication of text from the Uniform Guidance; and
- NSF's implementation of requirements from the Uniform Guidance that are imposed on agencies.

NSF is formally requesting deviations from OMB from the Uniform Guidance in only two areas:

- Limitation to two months salary compensation for faculty; and
- Alternative to the Federal Financial Report. Also highlighted throughout are policy changes that are being made independent of the Foundation's implementation of the Uniform Guidance. These changes are highlighted in blue.

In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on the PAPPG. NSF is particularly interested in public comment on NSF's implementation of 2 CFR part 200, as well as the policy changes that are identified in the PAPPG. Comments regarding the content of 2 CFR part 200 should not be submitted, as the Uniform Guidance was formally issued by OMB as final guidance on December 26, 2013 (see *http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf*). After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

In addition to the type of comments identified above, comments also are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by July 8, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by email to *splimpto@nsf.gov*. The draft NSF Proposal and Award Policies and Procedures Guide may be found at: *http://www.nsf.gov/bfa/dias/policy/*.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send email 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, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: ''National Science Foundation Proposal/Award Information—NSF Proposal and Award Policies and Procedures Guide''.

OMB Approval Number: 3145–0058.

Expiration Date of Approval: July 31, 2015.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Pub. L. 81–507) sets forth NSF's mission and purpose:

> To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense. . . .

The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

NSF's core purpose resonates clearly in everything it does: Promoting achievement and progress in science and engineering and enhancing the potential for research and education to

contribute to the Nation. While NSF's vision of the future and the mechanisms it uses to carry out its charges have evolved significantly over the last six decades, its ultimate mission remains the same.

Use of the Information: The regular submission of proposals to the Foundation is part of the collection of information and is used to help NSF fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 50,000 proposals annually for new projects, and makes approximately 11,000 new awards.

Support is made primarily through grants, contracts, and other agreements awarded to approximately 2,000 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on merit evaluations of proposals submitted to the Foundation.

The Foundation has a continuing commitment to monitor the operations of its information collection to identify and address excessive reporting burdens as well as to identify any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s).

Burden on the Public: The Foundation estimates that an average of 120 hours is expended for each proposal submitted. An estimated 50,000 proposals are expected during the course of one year for a total of 6,000,000 public burden hours annually.

Dated: May 6, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–10685 Filed 5–8–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal 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 3 years.

DATES: Written comments on this notice must be received by July 8, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone 703–292–7556; or send email to *splimpto@nsf.gov.* You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Graduate Research Fellowship Application.

OMB Approval Number: 3145–0023.

Expiration Date of Approval: September 30, 2017.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Abstract: Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available * * * scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, biological, engineering, social, and other sciences at accredited U.S. institutions selected by the recipient of such aid, for stated periods of time.''

The Graduate Research Fellowship Program has two goals:

- To select, recognize, and financially support individuals early in their careers with the demonstrated potential to be high achieving scientists and engineers;
- To broaden participation in science and engineering of underrepresented groups, including women, minorities, persons with disabilities, and veterans.

The list of GRFP Fellows sponsored by the Foundation may be found via FastLane through the NSF Web site: *http://www.fastlane.nsf.gov.* The GRF Program is described in the Solicitation available at: *http://www.nsf.gov/pubs/2013/nsf13584/nsf13584.pdf.*

Estimate of Burden: This is an annual application program providing three years of support to individuals, usable over a five-year fellowship period. The application deadline is in early November. It is estimated that each submission is averaged to be 16 hours per respondent, which includes three references (on average) for each application. It is estimated that it takes two hours per reference for each applicant.

Respondents: Individuals.

Estimated Number of Responses: 15,000.

Estimated Total Annual Burden on Respondents: 240,000 hours.

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden 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: May 6, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–10671 Filed 5–8–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–259, 50–260, 50–296; License Nos. DPR–33, DPR–52, DPR–68; EA–14–005; NRC–2014–0107]

In the Matter of Tennessee Valley Authority, Browns Ferry Nuclear Plant, Units 1, 2, and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a confirmatory order to Tennessee Valley Authority (TVA or Licensee), the holder of License Nos. DPR–33, DPR–52, DPR–68, authorizing the operation of Browns Ferry Nuclear Plant, Units 1, 2, and 3. The facility is located on the Licensee's site in Athens, Alabama. The order was

a result of Alternative Dispute Resolution between the NRC and TVA, and required TVA to complete a number of corrective actions to address the submittal of information to the NRC that was not complete and accurate in all material respects, and to address TVA's change to a license condition without submitting an amendment request. The order is related to control room staffing levels that were not sufficient to implement certain fire response procedures and achieve safe shutdown on the three-unit site during a postulated fire event.

DATES: Issue Date: May 1, 2014.

ADDRESSES: Please refer to Docket ID NRC–2014–0107 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0107. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For questions about this Order, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The Order is available in ADAMS under Accession No. ML14121A519.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Carolyn Evans, Region II, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 404–997–4414, email: *Carolyn.Evans@nrc.gov*.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Atlanta, Georgia, this 1st day of May 2014.

For the Nuclear Regulatory Commission.

Leonard D. Wert,

Deputy Regional Administrator for Operations.

Confirmatory Order

I

Tennessee Valley Authority (TVA or Licensee) is the holder of License Nos. DPR–33, DPR–52, and DPR–68, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50 on December 20, 1973, June 28, 1974, and July 2, 1976, respectively. The licenses authorize the operation of the Browns Ferry Nuclear Plant (BFN), Units 1, 2, and 3, in accordance with the conditions specified therein. The facility is located on the Licensee's site in Athens, Alabama.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on April 3, 2014.

II

On February 14, 2014, the NRC issued Inspection Report 05000259, 260, 296/2013005 to TVA, (IR) which documented the identification of two apparent violations that were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The first apparent violation involved two examples of TVA's submission of information that was not complete and accurate in all material respects, as required by 10 CFR 50.9, Completeness and Accuracy of Information. The information contained in TVA's letters was inaccurate because, contrary to their assertions, TVA's stated control room staffing levels were not sufficient to implement certain fire response procedures and achieve safe shutdown on the three-unit site during a postulated 10 CFR 50, Appendix R fire event.

The second apparent violation involved TVA's change to a license condition without submitting an amendment request, as required by 10 CFR 50.90, Amendment of License or Construction Permit at Request of Holder. In this case, from June 29, 2010, through October 30, 2013, the licensee inappropriately changed the requirements for site staffing, incorporated as part of license amendments 271, 300, and 259, without submission of a license amendment request. The licensee's actions to amend staffing levels via a commitment change resulted in bypassing the review and approval that would occur as part of the license amendment process.

III

On April 3, 2014, the NRC and TVA met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and TVA agreed that the issues described in NRC Inspection Report 05000259, 260, 296/2013005 represent violations of regulatory requirements. The violations are as follows:

a. 10 CFR 50.9(a) requires, in part, that information provided to the Commission by a licensee or information required by statute or by the Commission's regulations, orders or license conditions to be maintained by the licensee shall be complete and accurate in all material respects.

Contrary to the above, TVA provided information to the Commission that was not complete and accurate in all material respects as evidenced by the following two examples:

In a letter dated June 29, 2010, TVA provided inaccurate information to the NRC indicating that the minimum staffing levels stated in their licensing basis were not required to achieve safe shutdown on the three-unit site during an Appendix R fire event. TVA's letter stated, ''TVA has assessed the number of operators required to carry out the SSIs. The most demanding staffing is required by 0–SSI–16, ''Control Building Fire EL (elevation) 593 Through EL 617.'' The evaluation concludes that the minimum staffing of three USs (Unit Supervisors), six ROs (Reactor Operators), and eight AUOs (Auxiliary Unit Operators) is adequate for successful implementation of this SSI.'' This information was inaccurate because the licensee needed an additional SRO (Senior Reactor Operator) to successfully implement 0–SSI–16.

In a letter dated November 30, 2011, TVA provided inaccurate information to the NRC indicating that the minimum staffing levels stated in their licensing basis were not required to achieve safe shutdown on the three-unit site during an Appendix R fire event. TVA's letter stated, ''. . . Total staffing level is one Shift Manager (SM), *three* Unit Supervisors (US), Six ROs, and eight AUOs. *One of the US may be the STA (Shift Technical Advisor)* . . .'' This statement was inaccurate because the minimum staffing levels stated in their licensing basis were required to achieve safe shutdown on the three-unit site during an 10 CFR 50, Appendix R fire event.

The above information was material to the NRC because it was reviewed by

the NRC staff to determine compliance with regulatory requirements.

b. 10 CFR 50.90 requires, in part, that whenever a holder of an operating license under this part desires to amend the license or permit, application for an amendment must be filed with the Commission, as specified in 10 CFR 50.4, fully describing the changes desired, and following as far as applicable, the form prescribed for original applications.

Contrary to the above, from June 29, 2010 to October 30, 2013, the licensee inappropriately amended the requirements of their license without filing an application for an amendment as specified in 10 CRFR 50.4. Specifically, the licensee inappropriately changed the requirements for site staffing incorporated as part of license amendments 271, 300, and 259, without submission of a license amendment request. The licensee's actions to amend staffing levels via a commitment change resulted in bypassing the review and approval that would occur as part of the license amendment process.

2. Based on TVA's review of the incident and NRC's concerns with respect to precluding recurrence of the violations, TVA agrees to implement and continue to implement corrective actions and enhancements specified in Section V of this Confirmatory Order.

3. The NRC considers the corrective actions and enhancements discussed in Section V of this Confirmatory Order to be appropriately prompt and comprehensive to address the causes which gave rise to the incident discussed in the NRC's Inspection Report of February 14, 2014.

4. Based on the corrective actions and enhancements described above, NRC will conduct follow-up inspections using NRC Manual Chapter Inspection Procedure 92702 to confirm, among other things, the thoroughness and adequacy of the actions specified in Section V of this Confirmatory Order. Close out inspection of the corrective actions documented in this Confirmatory Order will make the need for additional follow up inspection of the violations unnecessary.

5. The NRC and TVA agree that the above elements will be incorporated into issuance of a Confirmatory Order.

6. In consideration of the commitments delineated above and in Section V of this Confirmatory Order, the NRC agrees to refrain from proposing a civil penalty or issuing a Notice of Violation for all matters discussed in the NRC's IR to TVA of February 14, 2014 (EA–14–005).

7. This agreement is binding upon successors and assigns of TVA.

On April 25, 2014, TVA consented to issuance of this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective 30 days after issuance and that it has waived its right to a hearing.

IV

Because the licensee has agreed to take additional actions to address NRC's concerns, as set forth in Section V of this Confirmatory Order, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that TVA's commitments, as set forth in Section V, are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety requires that TVA's commitments be confirmed by this Order. Based on the above and TVA's consent, this Confirmatory Order is effective 30 days after issuance.

V

Accordingly, pursuant to Sections 104b., 161b., 161i., 161o., 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, *it is hereby ordered, that license nos. DPR–33, DPR–52 AND DPR–68 are modified as follows:*

1. TVA agrees to implement, or continue to implement, the following corrective actions and enhancements:

a. Actions related to the violation of 10 CFR 50.9, Completeness and Accuracy of Information:

i. Fleet-wide:

1. By no later than September 1, 2014, TVA will revise and issue a fleet-wide procedure governing the preparation of information intended to support licensing submittals to the NRC. The procedure shall contain requirements for the preparation (including specifications for draft information), verification, and management oversight of this information, and will delineate acceptable validation documents. The procedure will include an overt discussion of the roles and responsibilities for individuals involved. BFN will provide training in accordance with the procedure change process.

ii. BFN-specific:

1. By no later than May 23, 2014, TVA will design, develop, and implement a BFN Integrated Completeness and Accuracy Review Evaluation Board (ICAREB). The ICAREB will be chartered to provide pre-submittal reviews of correspondence and supporting documentation for BFN licensing submittals to the NRC, including those prepared by BFN staff and Corporate Nuclear. Specific criteria for dissolution of the ICAREB will be established, but it will remain active, at a minimum, until a fleet-wide procedure governing the preparation of information intended to support licensing submittals to the NRC is active.

2. By no later than August 21, 2014, BFN Licensing will prepare a benchmarking report identifying industry best practices in the area of 10 CFR 50.9 compliance in the preparation and validation of inputs to NRC submittals. This report will be made available to the NRC for review. BFN will consider benchmarking results, as appropriate, for implementation.

b. Actions related to the violation of 10 CFR 50.90:

i. Fleet-wide:

1. By July 15, 2014, TVA will benchmark nuclear industry methodologies used to maintain Licensing Bases Documents. A report on this activity will be made available to the NRC for review. BFN will consider benchmarking results for implementation.

2. By no later than August 15, 2014, TVA will develop and issue a fleet-wide Licensing Compliance Review Procedure to establish the process for verifying that changes to NPG administrative and technical procedures not covered under the 10 CFR 50.59 review process are reviewed for conformance to the current licensing basis. BFN will provide training in accordance with the procedure change process.

3. By no later than August 15, 2014, TVA will revise NPG–SPP–01.1 and NPG–SPP–01.2 to incorporate the Licensing Compliance Review process, including verification of compliance.

4. By no later than September 26, 2014, TVA will convert NLDP–5 ''FSAR Management'' to an NPG Standard Programs and Processes (SPP) procedure. BFN will provide training in accordance with the procedure change process.

5. By no later than June 13, 2014, TVA will implement, via an independent entity, a review of the 10 CFR 50.9 and 10 CFR 50.90 Root Cause Analysis reports to assess the completeness and adequacy of the identified root/contributing causes, extent of cause, extent of condition and CAPRs/CAs. The deliverable from this review will be a report with documented recommendations. TVA will consider

these recommendations for implementation.

6. By no later than July 15, 2015, TVA will implement, via an independent entity, an effectiveness review of the corrective actions completed to date with regard to the 10 CFR 50.9 and 10 CFR 50.90 Root Cause Analyses.

ii. BFN-specific:

1. TVA completed a snapshot self-assessment to verify if commitments are being implemented accurately on March 25, 2014.

2. TVA acknowledges that there have been previous instances where repetitive PERs were submitted on the issue of adequate staffing and the issue was ineffectively resolved. BFN commits to close the CAP Fundamental Problem that was identified under the 95003 that resulted in significant programmatic and organizational changes in TVA's CAP by no later than April 9, 2014. In addition, the NRC recently closed the 95003 Tier 1 CAL Commitment in the BFN CAP.

3. By no later than May 2, 2014, TVA will develop and implement an Interim Licensing Compliance Review Checklist for use by procedure writing organizations and document reviewers to ensure the correct licensing basis documents are referenced when revising procedures. This Interim Licensing Compliance Review Checklist will be used until issuance of a revised Licensing Compliance Review Procedure. (b.i.2 Fleet-wide action above).

4. By no later than November 26, 2014, TVA will perform a detailed review of all procedures revised prior to August 15, 2014, during the Procedure Upgrade Project to ensure that the licensing basis information required by the revised SPP–01.1 and SPP–01.2 is identified. This review will include all licensing, administrative and governance procedures. The revised procedures will institutionalize the licensing review process and provide sustainability from that point forward in the Procedure Upgrade Project.

5. By no later than November 28, 2014, TVA will complete training of BFN Engineering, Licensing and licensed Operators regarding the scope and hierarchy of licensing basis documents, lessons learned from circumstances associated with EA–14–005, and the associated change process. The training material will be available for NRC review.

6. Through December 31, 2014, changes to BFN licensing commitments will be reviewed and approved by a second site licensing engineer in addition to review and approval by site licensing. The focus of this additional review will be to ensure that the correct regulatory change process(es) has/have been used. This action will be discontinued upon completion of the training encompassed in item 5 above.

7. By December 31, 2015, TVA will review a sample of facility changes, based on plant risk and complexity, that have occurred from 2004 to May 2014, to determine whether these changes have been appropriately incorporated into the licensing basis documents. TVA's method of selecting facility changes to be sampled will be provided to the NRC by July 15, 2014. Any identified discrepancies will be dispositioned through the corrective action process. The results of this review will be made available to the NRC.

8. By December 31, 2015, TVA will review a sample of BFN facility changes, based on plant risk and complexity, accomplished within the last 3 years and processed outside of the 10 CFR 50.59 process to determine whether these changes have been appropriately incorporated into the licensing basis documents. TVA's method of selecting facility changes to be sampled will be provided to the NRC by July 15, 2014. Any identified discrepancies will be dispositioned through the corrective action process. The results of this review will be made available to the NRC.

9. By December 31, 2014, TVA will make a presentation to the (1) Regulatory Issue Working Group and (2) the Regulating Utility Group regarding the circumstances of the violations discussed above and the importance of leadership attention to the effective management of the current licensing basis and complete and accurate communications with the NRC. The presentation will be made available to the NRC in advance.

c. Prior to July 15, 2014, TVA will perform, via an independent entity, a reevaluation of Operations minimum shift staffing. The results of that staffing evaluation will be documented as a reference to OPDP–1, ''Conduct of Operations.''

d. Upon completion of the terms of items of the Confirmatory Order, TVA will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by TVA of good cause.

VI

Any person adversely affected by this Order, other than TVA, may submit a written answer and/or request a hearing on this Order within 30 days from the date of this Order, pursuant to 10 CFR 2.302 and 10 CFR 2.309. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

If a hearing is requested by a person whose interest is adversely affected, the Commission will, if appropriate, issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

All documents filed in the NRC adjudicatory proceedings, including a request for a 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's E-Filing rule at 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or to physically deliver or mail a copy of documents on optical storage media. Participants may not submit paper copies of their filings unless they seek and receive an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital identification (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 certificate). Based on 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 the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System

requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the NRC'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 the Electronic Information Exchange System, users will be required to install a Web browser plug-in obtained from the NRC's 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 a hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's 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 email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's 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 document 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 NRC's adjudicatory E-Filing system may seek assistance by contracting the NRC Meta System Help Desk thorough the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc/gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll free call to 1–866–672–7640. 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 extension 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 the reason for the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd,* 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 submissions.

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated this 1st day of May 2014.

For the Nuclear Regulatory Commission.

Leonard D. Wert,

Deputy Regional Administrator for Operations.

[FR Doc. 2014–10717 Filed 5–8–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–0010; NRC–2010–0135]

RIN 3150–AI85

ESBWR Design Certification

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–1966, ''Final Safety Evaluation Report Related to the Certification of the Economic Simplified Boiling-Water Reactor Standard Design.'' On August 24, 2005, General Electric-Hitachi Nuclear Energy tendered its application for certification of the economic simplified boiling-water reactor (ESBWR) standard nuclear reactor design to the NRC. The application included the ESBWR design control document (DCD) and the ESBWR probabilistic risk assessment (PRA). On March 24, 2011, the NRC published the proposed rule in the **Federal Register**.

ADDRESSES: Please refer to Docket ID NRC 2010–0135 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search

for Docket ID NRC 2010–0135. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: David Misenhimer, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6590, email: *David.Misenhimer@nrc.gov*.

SUPPLEMENTARY INFORMATION: On August 24, 2005, General Electric-Hitachi Nuclear Energy tendered its application for certification of the ESBWR standard nuclear reactor design to the NRC. The applicant submitted this application in accordance with Part 52 of Title 10 of the *Code of Federal Regulations,* ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' Subpart B, ''Standard Design Certifications.'' The application included the ESBWR DCD and the ESBWR PRA.

On March 9, 2011, the staff issued the final safety evaluation report (ADAMS Accession Number ML103470210) and final design approval (ADAMS Accession Number ML110540310) for the ESBWR standard design. On March 24, 2011, the NRC published the proposed rule in the **Federal Register** (76 FR 16549). In late 2011, while the NRC staff was preparing the final rule, issues were identified with the ESBWR steam dryer, a non-safety related component. These issues called into question certain conclusions in the staff's safety review. Publication of NUREG–1966 was delayed while the steam dryer design methodology was under review. The NRC issued requests for additional information (RAIs). Resolution of these issues required additional analyses by the applicant and review by the NRC staff in order for the NRC staff to conclude the design is acceptable for certification. Responses to all RAIs were received in December 2013. An Advanced Supplemental FSER was issued to the ACRS on February 12, 2014 which became publicly available on April 17, 2014 (ADAMS Accession No. ML14043A134). The supplemental final safety evaluation report includes the NRC staff's safety review of the steam dryer issues. This notice announces the final safety evaluation report was published as NUREG–1966 in April 2014 (ADAMS Accession No. ML14100A304).

Dated at Rockville, Maryland, this 1st day of May 2014.

For the Nuclear Regulatory Commission.

Ronaldo Jenkins,

Chief, Licensing Branch 3, Division of New Reactor Licensing, Office of New Reactor.

[FR Doc. 2014–10716 Filed 5–8–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0160]

Revisions to Design of Structures, Components, Equipment, and Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-final section revision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing final revisions to the following sections in Chapter 3 of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Section 3.9.3, ''ASME Code Class 1, 2, and 3 Components and Component Supports, and Core Support Structures,'' and Section 3.12, ''ASME Code Class 1, 2, and 3 Piping Systems, Piping Components and their Associated Supports.''

DATES: The effective date of this Standard Review Plan (SRP) update is July 8, 2014.

ADDRESSES: Please refer to Docket ID NRC–2013–0160 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0160. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The final revisions and previously issued draft revisions for public use and comment are available in ADAMS under the following Accession Nos.:

SRP section	Final revision	Draft revision
3.9.3	ML14043A231	ML12334A360
3.12	ML14042A513	ML12334A376

The NRC posts its issued staff guidance on the NRC's external Web page: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/.*

FOR FURTHER INFORMATION CONTACT: Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone at 301–415–6992 or email at *Jonathan.DeGange@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 9, 2013 (78 FR 48727), the NRC staff issued the previously mentioned proposed revised SRP sections for public comment. The NRC staff received no comments on the proposed revisions. This guidance is being issued as final for use. There were no changes made to the guidance since it was issued for public comment. Details of specific changes between current SRP guidance and the final guidance being issued here are included at the end of each of the revised sections themselves, under the ''Description of Changes'' subsections.

II. Backfitting and Issue Finality

These SRP section revisions provide guidance to the staff for reviewing applications for a construction permit and an operating license under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) with respect to designs of structures, components, equipment, and systems. The SRP also provides guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR Part 52 with respect to those same subject matters.

Issuance of these SRP section revisions does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) nor is it inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. The SRP Positions Would Not Constitute Backfitting, Inasmuch as the SRP Is Internal Guidance to NRC Staff

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. The NRC Staff Has No Intention To Impose the SRP Positions on Existing Licensees Either Now or in the Future

The NRC staff does not intend to impose or apply the positions described in the SRP to existing licenses and regulatory approvals. Hence, the issuance of this SRP—even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52—does not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already-issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. Backfitting and Issue Finality Do Not—With Limited Exceptions Not Applicable Here—Protect Current or Future Applicant

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 1st day of May 2014.

For the Nuclear Regulatory Commission.

Stephen Koenick,

Acting Chief, Policy Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2014–10715 Filed 5–8–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting; Cancellation of Closed Session

DATE AND TIME: On April 22, 2014, the Board of Governors of the U.S. Postal Service filed a public announcement that it would meet in closed session on May 8, 2014, at 12:45 p.m., Eastern Daylight Time. That announcement further stated that the Board would meet in open session the following day, May 9, 2014, at 8:30 a.m., and would reconvene in closed session at 10:30 a.m. if needed to complete its closed session agenda. This announcement was published in the **Federal Register** on April 24, 2014, 79 FR 22837. The purpose of the present announcement is to inform the public that the closed session of the Board's meeting has been cancelled. The previously announced open session of the Board will begin as scheduled at 8:30 a.m. on May 9, 2014. Following the conclusion of the scheduled public agenda, in accordance with section 7.5(c)(2) of its Bylaws (39 CFR 7.5(c)(2)), the Board may vote to continue the meeting in a closed session to discuss appropriate matters.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2014–10865 Filed 5–7–14; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72095; File No. SR–Phlx–2014–29]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Mini Options Pricing

May 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 30, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Pricing Schedule to replace the reference to ''GOOG7'' to ''GOLG7'' with respect to pricing for Mini Options.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section A of the Pricing Schedule, regarding Mini Options pricing, to replace the reference to ''GOOG7'' to ''GOLG7.'' Today, the Exchange has pricing for the following Mini Options symbols: AAPL7, AMZN7, GLD7, GOOG7, SPY7. The Exchange is proposing to make this change because, on April 3, 2014, Google issued a new class of shares (class C) to its shareholders in lieu of a cash dividend payment. Additionally, these new class C shares were given the ticker, ''GOOG''; while the class A shares changed their ticker from ''GOOG'' to ''GOOGL''. The Exchange is proposing to change the Google ticker referenced in Section A of the Pricing Schedule from ''GOOG7'' to ''GOLG7.'' The suffix ''7'' identifies the Mini Options product.

Mini Options trade on a list of underlying securities outlined in Supplementary Material .13 to Rule 1012. This change is meant to continue the inclusion of class A shares of Google in the current list of underlying securities that will receive the pricing for Mini Options specified in Section A of the Pricing Schedule. As a result, the proposed change will also help avoid confusion.

In addition, the Exchange proposes to amend a typographical error in Section A to remove repetitive rule text which was inadvertently included in the Pricing Schedule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[3] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[4] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's pricing will not substantively change as a result of this rule change; rather the pricing for Mini Options applicable to GOLG7 will continue to remain in effect with the correction to the Pricing Schedule. The Exchange proposes to accurately reflect the symbol for GOLG7 to avoid investor confusion with respect to pricing. The Exchange believes that correcting the Pricing Schedule will ensure that members are aware of the symbol change. In addition, the Exchange is correcting a typographical error in the Pricing Schedule to ensure the accuracy of the Pricing Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change does not impose any burden on intramarket competition because it applies to all members and member organizations. There is no burden on intermarket competition as the proposed change is merely attempting to update the new ticker for Google class A for Mini Options. As a result, there will be no substantive changes to the Exchange's Pricing Schedule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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[6] and Rule 19b–4(f)(6)(iii) thereunder.[7]

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 accurately reflecting the underlying symbol change in the pricing schedule will avoid investor confusion with respect to pricing. For this reason, the Commission waives the operative delay and designates the proposed rule change to be operative upon filing.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] *Id.*

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[8] 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).

action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–Phlx–2014–29, and should be submitted on or before May 30, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10652 Filed 5–8–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72094; File No. SR–Phlx–2014–28]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to JBO Orders

May 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Pricing Schedule to assess joint back office (''JBO'')[3] participants pricing the same as Broker-Dealers[4] and require JBO participants to utilize a new origin code to identify JBO orders.

The Exchange proposes that the amendments become operative on July 1, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce a new origin code to its Pricing Schedule which will be used to indicate orders for a JBO account to be cleared into the Firm range at The Options Clearing Corporation (''OCC'') for purposes of pricing only. Further, the Exchange proposes to assess fees and pay rebates to JBO Orders the same as Broker-Dealers.

Currently, JBO orders clear in the Firm[5] range at OCC as do Firm orders. The Exchange is proposing to introduce an origin code for members and member organizations to identify orders for a JBO account. Today, the Exchange requires members and member organizations to notify the Exchange in writing and indicate which accounts are used to segregate orders of JBO participants from other Firm orders.[6]

The origin code will simplify the process of identifying JBO orders for purposes of pricing only. Members and member organizations would be required to mark their JBO orders in accordance with the technical specifications definitions which are provided by the Exchange. This rule change will not impact the manner in which JBO orders are treated for purposes of other Exchange Rules including but not limited to priority in the Exchange's trading system. With this proposal, JBO orders will continue to be cleared in the Firm range at OCC. Today, JBO orders are assessed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A JBO participant is a member, member organization or non-member organization that maintains a JBO arrangement with a clearing broker-dealer (''JBO Broker'') subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System. *See also* Exchange Rule 703.

[4] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[5] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

[6] *See* Securities Exchange Act Release No. 62661 (August 13, 2010), 75 FR 49544 (August 6, 2010) (SR–Phlx–2010–110).

transaction fees and paid rebates the same as Firms.

Non-member JBO orders are excluded from the Monthly Firm Fee Cap [7] and firm facilitation waiver.[8] While member JBO Orders are eligible for the Monthly Firm Fee Cap and firm facilitation waiver today, there are currently no members who send JBO orders that have met the qualifications for and have been afforded the benefit of either the Monthly Firm Fee Cap or Firm facilitation waiver. With this proposal, the Exchange proposes to exclude all JBO orders, member or non-member, from the Monthly Firm Fee Cap and Firm facilitation waiver. JBO participants would be assessed fees and paid rebates the same as Broker-Dealers as of July 1, 2014.

The Exchange proposes to amend the Exchange's Pricing Schedule to define the term JBO in the preface as follows: ''The term ''Joint Back Office'' or ''JBO'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer.'' Further a footnote describing a JBO is included in the Preface to the Pricing Schedule. JBO Orders may be entered electronically or on the Exchange's trading floor.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) of the Act [10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Adding an origin code to JBO orders is a more efficient manner in which to identify those orders separate and apart from other orders entered on Phlx. In addition, JBO orders will continue to clear in the Firm range at OCC as is the case today. The Exchange will more easily be able to discern the pricing associated with clearly identified JBO orders. This will eliminate any potential confusion, thereby removing a potential impediment to and perfecting the mechanism for a free and open market and a national market system, and, in general, protecting investors and the public interest. The Exchange believes that automating this process of manually identifying JBO Orders will promote just and equitable principles of trade by creating an identifiable method of distinguishing JBO orders entered into the Exchange's Trading System. The Exchange believes that automating this process is a more efficient manner in which to identify and bill these type of orders.

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that its proposal to assess pricing for JBO orders the same as for Broker-Dealers is reasonable because the Exchange believes that the business of a JBO is similar to that of an away market maker and other Broker-Dealers. A JBO participant maintains a JBO arrangement with a JBO Broker pursuant to Section 220.7 of Regulation T. A JBO participant could be a member, member organization or non-member organization. The transactions at issue are not being done for the member or member organization's proprietary account. Similarly, an away market maker is a member of another national securities exchange registered as a market maker in an options class(es). An away marker maker is considered to be a Broker-Dealer as the market maker is not subject to market making obligations on the Exchange similar to other Phlx Market Makers. The Chicago Board Options Exchange, Incorporated (''CBOE'') assesses manual equity option JBO orders fees the same as broker-dealer and electronic equity option JBO orders fees the same as a Professional.[13]

The Exchange believes that it is reasonable to assess the same fees and pay the same rebates on JBO orders as are paid and assessed to a Broker-Dealer because the Exchange believes a JBO participant's business is similar to that of a Broker-Dealer and should therefore be priced the same. The Exchange believes that its proposal to assess JBO orders pricing the same as Broker-Dealers is equitable and not unfairly discriminatory because the Exchange will uniformly assess JBO orders the same fees and pay the same rebates as today are assessed and paid to a Broker-Dealer.

The Exchange believes that it is reasonable to exclude all JBO orders (member and non-member) from the Monthly Firm Fee Cap and facilitation waiver because JBO Orders will be assessed fees and paid rebates the same as Broker-Dealers and therefore should not able to benefit from Firm pricing. The Exchange believes that it is equitable and not unfairly discriminatory to exclude all JBO orders (member and non-member) from the Monthly Firm Fee Cap and facilitation waiver because the Exchange will uniformly assess JBO orders the same fees and pay the same rebates as today are assessed and paid to a Broker-Dealer. All JBO Orders would be excluded from the Monthly Firm Fee Cap and facilitation waiver uniformly.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not

[7] Firms are subject to a maximum fee of $75,000 (''Monthly Firm Fee Cap''). Firm Floor Option Transaction Charges and QCC Transaction Fees, in the aggregate, for one billing month may not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in Section II) are excluded from the Monthly Firm Fee Cap. Reversal and conversion, jelly roll and box spread strategy executions (as defined in Section II) are included in the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. Member organizations must notify the Exchange in writing of all accounts in which the member is not trading in its own proprietary account. The Exchange does not make adjustments to billing invoices where transactions are commingled in accounts which are not subject to the Monthly Firm Fee Cap. JBO participant charges are not included in the Monthly Firm Fee Cap. *See* Securities Exchange Act Release No. 63780 (January 6, 2011), 76 FR 5846 (February 2, 2011) (SR–Phlx–2011–07).

[8] A facilitation occurs when a floor broker holds an option order for a public customer and a contra-side order for the same options series and, after providing an opportunity for all persons in the trading crowd to participate in the transaction, executes both orders as a facilitation cross. *See* Exchange Rule 1064. The Firm Floor Options Transaction Charges is waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges). The Firm Floor Options Transaction Charges is waived for the buy side of a transaction if the same member or its affiliates under Common Ownership represents both sides of a Firm transaction when such members are trading in their own proprietary account. In addition, the Broker-Dealer Floor Options Transaction Charge (including Cabinet Options Transaction Charges) is waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members would otherwise incur this charge for trading in their own proprietary account contra to a Customer (''BD-Customer Facilitation''), if the member's BD-Customer Facilitation average daily volume (including both FLEX and non-FLEX transactions) exceeds 10,000 contracts per day in a given month.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See* CBOE's Fees Schedule.

necessary or appropriate in furtherance of the purposes of the Act. The Exchange is assessing fees to all JBOs (member and non-member) in a similar manner with this proposal. JBO participants would be assessed fees and paid rebates the same as Broker-Dealers. The Exchange believes that assessing JBO Orders the same as Broker-Dealers does not impose a burden on competition because a JBO participant's business is similar to that of a Broker-Dealer and should therefore be priced the same. JBO Orders are not being transacted for the member or member organization's proprietary account. Rather, JBO participants maintain JBO arrangements with a JBO Broker pursuant to Section 220.7 of Regulation T. Also, today Firms and Broker-Dealer fees are the same.

Further, utilizing an origin code to identify JBO Orders does not impose an unfair burden on competition. The Exchange believes that automating the process of manually identifying JBO Orders by creating an identifiable method of distinguishing JBO orders entered into the Exchange's Trading System would assist the Exchange in regulating its market. In addition, CBOE utilizes an origin code today to identify JBO Orders.

The Exchange's proposal would exclude both member and non-member JBO Orders from the Monthly Firm Fee Cap and firm facilitation waiver. Today, member JBO Orders are eligible for the Monthly Firm Fee Cap and firm facilitation waiver, although there are currently no members who send JBO orders that have met the qualifications for and have been afforded the benefit of either the Monthly Firm Fee Cap or Firm facilitation waiver. The Exchange believes this proposal does not create an undue burden on competition because both member and non-member JBO Orders would be treated equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–Phlx–2014–28, and should be submitted on or before May 30, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10651 Filed 5–8–14; 8:45 am]

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[14] 15 U.S.C. 78s(b)(3)(a)(ii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72096; File No. SR–NASDAQ–2014–040]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the Shares of the Calamos Focus Growth ETF of the Calamos ETF Trust

May 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 21, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes to list and trade the shares of the Calamos Focus Growth ETF, formerly known as the Calamos Select Growth ETF (the ''Fund'') of the Calamos ETF Trust (the ''Trust'') under Nasdaq Rule 5735 (''Managed Fund Shares'').[3] The shares of the Fund are

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). There are already multiple actively-managed funds listed on the Exchange; *see* Securities Exchange Act Release No. 66175 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). Additionally, the

Continued

collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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 proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares [4] on the Exchange. The Fund will be an actively-managed exchange-traded fund (''ETF''). The Shares will be offered by the Trust, which was established as a Delaware business trust on June 17, 2013.[5] The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[6] The Fund is a series of the Trust.

Calamos Advisors LLC will be the investment adviser (''Adviser'') to the Fund. Foreside Fund Services, LLC (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. State Street Bank and Trust (''SSB'') will act as the administrator, accounting agent, custodian and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, paragraph (g) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, nonpublic information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer, although it is affiliated with Calamos Financial Services LLC, a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding such portfolio. The Adviser has no present intent or arrangement to become newly affiliated with any broker-dealer other than Calamos Financial Services LLC, and the Fund does not currently intend to use a sub-adviser.

Calamos Focus Growth ETF

Principal Investments

The Fund is a diversified, actively-managed ETF that intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

The Fund's primary investment objective is to achieve long-term capital growth. The Fund will pursue its objectives by investing primarily, *i.e.* at least 80% of its assets under normal market conditions,[8] in U.S. exchange-listed equity securities. Under normal market conditions, the Fund will invest primarily in companies with market capitalization of greater than $1 billion that the Adviser believes offer the best opportunities for growth.

When buying and selling growth-oriented securities, the Adviser will focus on the company's growth potential coupled with financial

Commission has previously approved the listing and trading of a number of actively-managed WisdomTree funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release No. 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR–NYSEArca–2011–21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a–1) (the ''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 30653 (August 20, 2013) (File No. 812–14169) (''Exemptive Order'').

[6] *See* Initial Registration Statement on Form N–1A for the Trust, dated September 13, 2013 (File Nos. 333–191151 and 811–22887). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with applicable federal securities laws as defined in Rule 204A–1(e)(4). Accordingly, procedures designed to prevent the communication and misuse of nonpublic information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] The term ''under normal market conditions'' as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. In periods of extreme market disturbance, the Fund may take temporary defensive positions, by overweighting its portfolio in cash/cash-like instruments; however, to the extent possible, the Adviser would continue to seek to achieve the Fund's investment objectives.

strength and stability. When selecting specific growth-oriented securities, the Adviser will combine its top-down macroeconomic views with individual security selection (referred to as a ''bottom-up approach'') based on qualitative and quantitative research. The equity securities held by the Fund may include small- and mid-cap sized companies. The Fund may invest in equity securities issued by other registered investment companies (including money market funds).

The Fund may invest up to 25% of its assets in foreign securities. The Fund's investment in such stocks may be in the form of direct investments in non-U.S. securities that are listed on non-U.S. exchanges or in the form of American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs'') and European Depositary Receipts (''EDRs'') (collectively, ''Depositary Receipts'').[9] With respect to its investments in exchange-listed common stocks and Depositary Receipts of non-U.S. issuers, the Fund will generally invest in such securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The Fund will generally invest in sponsored Depositary Receipts that are listed on ISG member exchanges and that the Adviser deems as liquid at time of purchase. In certain limited circumstances, the Fund may invest in unlisted or unsponsored Depositary Receipts, Depositary Receipts listed on non-ISG member exchanges, or Depositary Receipts that the Adviser deems illiquid at the time of purchase or for which pricing information is not readily available.[10] The issuers of unlisted or unsponsored Depositary Receipts are not obligated to disclose material information in the United States. Therefore, there may be less information available regarding such issuers and there may be no correlation between available information and the market value of the Depositary Receipts.

Other Investments

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities or other illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[11]

The Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction does not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other registered investment companies.[12]

While the Fund under normal circumstances will invest at least 80% of its assets in exchange-listed equity securities issued by U.S. companies, the Fund may invest the remaining assets in a variety of other securities and investments in support of its primary investment strategy, including, but not limited to: Equity securities traded over-the-counter,[13] convertible securities, synthetic convertible instruments, debt securities (including high yield fixed-income securities, loan participations and assignments, inflation-indexed bonds, municipal bonds, U.S. Government obligations (including stripped securities,[14]) and agency mortgage-backed securities), repurchase agreements, reverse repurchase agreements, exchange-traded options on exchange-traded securities, indexes and currencies, money market instruments,[15] foreign currency forward contracts, futures contracts on securities indices and options on futures contracts on securities indices, warrants, [sic] total return swaps related to individual exchange-traded securities or securities indices. The Fund does not intend to use these other investments to create a leveraged return on the Fund's portfolio.

The Shares

The Fund will issue and redeem Shares only in Creation Units at the net asset value (''NAV'')[16] next determined after receipt of an order on a continuous basis every day except weekends and specified holidays. The NAV of the Fund will be determined once each business day, normally as of the close of trading of the NYSE, generally, 4:00 p.m. Eastern time. Creation Unit sizes will be 50,000 Shares per Creation Unit.

[9] Depositary Receipts are receipts, typically issued by a bank or trust issuer, which evidence ownership of underlying securities issued by a non-U.S. issuer. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a non-U.S. issuer. For other forms of Depositary Receipts, the depository may be a non-U.S. or a U.S. entity, and the underlying securities may be issued by a non-U.S. or a U.S. issuer. Depositary Receipts are not necessarily denominated in the same currency as their underlying securities. Generally, ADRs, issued in registered form, are designed for use in the U.S. securities markets, and EDRs, issued in bearer form, are designed for use in European securities markets. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world.

[10] Not more than 10% of the net assets of the Fund, in the aggregate, will be invested in (1) unlisted or unsponsored Depositary Receipts; (2) Depositary Receipts not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (3) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

[11] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), FN 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[12] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[13] As noted previously, not more than 10% of the net assets of the Fund, in the aggregate, will be invested in certain Depositary Receipts or in unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

[14] The term ''stripped security,'' as used herein, means a security that evidences ownership in either the future interest payments or the future principal payments on underlying U.S. Government, mortgage and other debt obligations. These securities generally are structured to make a lump-sum payment at maturity and do not make periodic payments of principal or interest.

[15] The term ''money market instruments,'' as used herein, means (i) short-term obligations issued by the U.S. Government; (ii) short term negotiable obligations of commercial banks, fixed time deposits and bankers' acceptances of U.S. and foreign banks and similar institutions; (iii) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A–1+'' or ''A–1'' by Standard & Poor's or, if unrated, of comparable quality, as the Adviser of the Fund determines; and (iv) money market mutual funds.

[16] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange (''NYSE''), generally 4:00 p.m. Eastern time (the ''NAV Calculation Time''). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund's NAV, *see* Registration Statement.

The Trust will issue and sell Shares of the Fund only in Creation Units on a continuous basis through the Distributor, without a sales load (but subject to transaction fees), at their NAV per Share next determined after receipt of an order, on any business day, in proper form pursuant to the terms of the agreement executed with each Authorized Participant (as defined below).

The consideration for purchase of a Creation Unit generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the ''Deposit Securities'') per each Creation Unit and the Cash Component (as defined below), computed as described below or (ii) the cash value of all or a portion of the Deposit Securities (''Deposit Cash'') and the ''Cash Component,'' computed as described below. The Fund may, under certain circumstances, effect a portion of creations and redemptions for cash, rather than in-kind securities, in accordance with the Exemptive Order.

When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchaser. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component will constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The ''Cash Component'' will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. If the Cash Component is a positive number (*i.e.,* the NAV per Creation Unit exceeds the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component will be such positive amount. If the Cash Component is a negative number (*i.e.,* the NAV per Creation Unit is less than the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component will be such negative amount and the creator will be entitled to receive cash in an amount equal to the Cash Component. The Cash Component will serve the function of compensating for any difference between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

To be eligible to place orders with respect to creations and redemptions of Creation Units, an entity must be (i) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC'') or (ii) a Depository Trust Company (''DTC'') Participant (a ''DTC Participant''). In addition, each Participating Party or DTC Participant (each, an ''Authorized Participant'') must execute an agreement that has been agreed to by the Distributor and SSB with respect to purchases and redemptions of Creation Units.

SSB, through the NSCC, will make available on each business day, immediately prior to the opening of business on the Exchange's Regular Market Session (currently 9:30 a.m. Eastern time), the list of the names and the required number of shares of each Deposit Security and/or the required amount of Deposit Cash, as applicable, to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit, subject to any relevant adjustments, will be applicable in order to effect purchases of Creation Units of the Fund until such time as the next announced composition of the Deposit Securities and/or the required amount of Deposit Cash, as applicable, is made available.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through SSB and only on a business day.

With respect to the Fund, SSB, through the NSCC, will make available immediately prior to the opening of business on the Exchange (9:30 a.m. Eastern time) on each business day, the list of the names and share quantities of the Fund's portfolio securities (''Fund Securities'') and/or, if relevant, the required cash value thereof that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Fund Securities received on redemption may not be identical to Deposit Securities.

Redemption proceeds for a Creation Unit will be paid either in kind or in cash or a combination thereof, as determined by the Trust. With respect to in kind redemptions of the Fund, redemption proceeds for a Creation Unit will consist of Fund Securities as announced by SSB on the business day of the request for redemption received in proper form plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the ''Cash Redemption Amount''), less a fixed redemption transaction fee and any applicable additional variable charge as set forth in the Registration Statement. In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential will be required to be made by or through an Authorized Participant by the redeeming shareholder. Notwithstanding the foregoing, at the Trust's discretion, an Authorized Participant may receive the corresponding cash value of the securities in lieu of one or more Fund Securities.

The creation/redemption order cut off time for the Fund is expected to be 4:00 p.m. Eastern time for purchases of Shares. On days when the Exchange closes earlier than normal and in the case of custom orders, the Fund may require orders for Creation Units to be placed earlier in the day.

Net Asset Value

The NAV per Share for the Fund will be computed by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares outstanding, rounded to the nearest cent. Expenses and fees, including the management fees, will be accrued daily and taken into account for purposes of determining NAV. The NAV of the Fund will be calculated by SSB and determined at the close of the regular trading session on the NYSE (ordinarily 4:00 p.m. Eastern time) on each day that such exchange is open. In calculating the Fund's NAV per Share, investments will generally be valued by using market valuations. A market valuation generally means a valuation (i) obtained from an exchange, a pricing service, or a major market maker (or dealer) or (ii) based on a price quotation or other equivalent indication of value supplied by an exchange, a pricing service, or a major market maker (or dealer).[17]

Exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes or currencies; sponsored or unsponsored Depositary Receipts; or other exchange traded securities will be valued at the official closing price on their principal exchange or board of trade, or lacking any current reported sale at the time of valuation, at the mean between the most recent bid and asked quotations on its principal exchange or board of trade.

[17] Under normal market conditions, the Fund will obtain pricing information on all of its assets from these sources.

Portfolio securities traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities. Equity securities traded over-the-counter, convertible securities, synthetic convertible instruments, debt securities (including high yield fixed-income securities, loan participations and assignments, inflation-indexed bonds, municipal bonds, U.S. Government obligations (including stripped securities), and agency mortgage-backed securities) will be valued at the mean between the most recent bid and asked quotations received from pricing services; if the most recent bid and asked quotations are not available these securities will be valued in accordance with the Fund's fair valuation procedures. Repurchase agreements and reverse repurchase agreements are valued at cost. Money market instruments with maturities of less than 60 days will be valued at amortized cost; money market instruments with longer maturities will be valued at the mid-point of the bid-ask prices. Foreign currency forward contracts will be valued in U.S. dollars using an exchange price provided by a third party. Total return swaps related to individual exchange-traded securities or securities indices will be valued at the mean between bid and asked prices provided by a dealer (which may be the counterparty). Investment company shares will be valued at NAV, unless the shares are exchange-traded, in which case they will be valued at the last sale or official closing price on the market on which they primarily trade.

Notwithstanding the foregoing, in determining the value of any security or asset, the Fund may use a valuation provided by a pricing vendor employed by the Trust and approved by the Board. The pricing vendor may base such valuations upon dealer quotes, by analyzing the listed market, by utilizing matrix pricing, by analyzing market correlations and pricing and/or employing sensitivity analysis.

The Adviser may use various pricing services, or discontinue the use of any pricing service, as approved by the Trust Board from time to time. A price obtained from a pricing service based on such pricing service's valuation matrix may be considered a market valuation. Any assets or liabilities denominated in currencies other than the U.S. dollar will be converted into U.S. dollars at the current market rates on the date of valuation as quoted by one or more sources.

In the event that current market valuations are not readily available or such valuations do not reflect current market value, the Trust's procedures require the Adviser's Pricing Committee to determine a security's fair value if a market price is not readily available in accordance with the 1940 Act.[18] In determining such value the Adviser's Pricing Committee may consider, among other things, (i) price comparisons among multiple sources, (ii) a review of corporate actions and news events, and (iii) a review of relevant financial indicators. In these cases, the Fund's NAV may reflect certain portfolio securities' fair values rather than their market prices. Fair value pricing involves subjective judgments and it is possible that the fair value determination for a security is materially different than the value that could be realized upon the sale of the security.

Availability of Information

The Fund's Web site (*www.calamos.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[19] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session[20] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[21] On a daily basis, the Disclosed Portfolio will include each portfolio security and other financial instruments of the Fund with the following information on the Fund's Web site: (1) Ticker symbol (if applicable), (2) name of security and financial instrument, (3) number of shares (if applicable) (4) dollar value of securities and financial instruments held in the Fund and (5) percentage weighting of the security and financial instrument in the Fund. The Web site information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[22] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Intra-day, executable price quotations on the securities and other assets held by the Fund will be available from major broker-dealer firms. Intra-day price information on the securities and other assets held by the Fund will also be available through subscription or free services that can be

[18] The Valuation Committee of the Trust Board will be responsible for the oversight of the pricing procedures of the Fund and the valuation of the Fund's portfolio. The Valuation Committee has delegated day-to-day pricing responsibilities to the Adviser's Pricing Committee, which will be composed of officers of the Adviser. The Pricing Committee will be responsible for the valuation and revaluation of any portfolio investments for which market quotations or prices are not readily available. The Fund has implemented procedures designed to prevent the use and dissemination of material, nonpublic information regarding valuation and revaluation of any portfolio investments.

[19] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[20] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. Eastern time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. Eastern time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. Eastern time).

[21] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[22] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

accessed by Authorized Participants and other investors: (a) Pricing information for exchange-traded equity securities; investment company securities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; sponsored or unsponsored Depositary Receipts; or other exchange-traded securities will be publicly available from the Web sites of the exchanges on which they trade, on public financial Web sites, and through subscription services such as Bloomberg and Thompson Reuters; (b) pricing information regarding over-the-counter equities (including Depositary Receipts and certain investment company securities), convertible securities, synthetic convertible instruments, debt securities (including high yield fixed-income securities, loan participations and assignments, inflation-indexed bonds, municipal bonds, U.S. Government obligations (including stripped securities), and agency mortgage-backed securities), repurchase agreements, reverse repurchase agreements, money market instruments, and foreign currency forward contracts will be available through subscription services such as Markit, Bloomberg and Thompson Reuters; (c) pricing information on the reference index or security underlying total return swaps will be available on Bloomberg.

Premiums and discounts between the Intraday Indicative Value and the market price of the Fund's shares may occur. This should not be viewed as a ''real time'' update of the NAV per Share of the Fund, which is calculated only once a day.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

In addition, a basket composition file, which includes the security names, amounts and share quantities, as applicable, required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of Nasdaq via NSCC. The basket will represent one Creation Unit of the Fund.

Investors will also be able to obtain the Fund's Statement of Additional Information (''SAI''), the Fund's annual and semi-annual reports (together, ''Shareholder Reports''), and its Form N–CSR and Form N–SAR. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services and via the Consolidated Tape Association plans for the Shares. Similarly, quotation and last sale information for any underlying exchange-traded products will also be available via the quote and trade services of their respective primary exchanges, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans or through the Options Price Reporting Authority, or equivalent services related to futures, as applicable.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 [23] under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts and Trading Pauses

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt or pause trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m. Eastern time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[24] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. In addition, the

[23] *See* 17 CFR 240.10A–3.

[24] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

Exchange may obtain information from the Trade Reporting and Compliance Engine (''TRACE''), which is the FINRA-developed vehicle that facilitates mandatory reporting of over-the-counter secondary market transactions in eligible fixed income securities.[25]

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares; exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; exchange-listed investment companies; or other exchange-traded securities with other markets and other entities that are ISG members, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, exchange-traded equities, futures contracts on securities indices and options on futures contracts on securities indices, warrants, exchange-traded options on exchange-traded securities indexes or currencies, exchange-listed investment companies, or other exchange-traded securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares; exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; exchange-listed investment companies; or other exchange-traded securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[26] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

Not more than 10% of the net assets of the Fund, in the aggregate, will be invested in (1) unlisted or unsponsored Depositary Receipts; (2) Depositary Receipts not listed on an exchange that is not a member of ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (3) unlisted common stocks or commons stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange. All futures and options held by the Fund will be listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

In addition, the Exchange also has a general policy prohibiting the distribution of material, nonpublic information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act[27] in general and Section 6(b)(5) of the Act[28] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on Nasdaq during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

The exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; exchange-listed investment companies; or other exchange-traded securities in which the Fund may invest will be limited to U.S. exchanges that are members of the ISG, which includes all U.S. national securities exchanges and certain foreign exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information from TRACE, which is the FINRA-developed vehicle that facilitates mandatory reporting of over-the-counter secondary market transactions in eligible fixed income securities.

The Fund will pursue its objectives by investing primarily, *i.e.,* at least 80% of its assets under normal market conditions, in U.S. exchange-listed equity securities. The equity securities held by the Fund may include small- and mid-cap sized companies. The equity securities held by the Fund may also include publicly-traded exchange-listed common stocks of non-U.S. issuers in the form of Depositary Receipts.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities or other illiquid assets (calculated at the time of investment).

[25] All broker/dealers who are FINRA member firms have an obligation to report transactions in corporate bonds to TRACE.

[26] For a list of the current members of ISG, *see www.isgportal.org.*

[27] 15 U.S.C. 78f.

[28] 15 U.S.C. 78f(b)(5).

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry or group of industries. The Fund will not invest more than 25% of its net assets (valued at the time of purchase) in securities of foreign issuers.

Not more than 10% of the net assets of the Fund, in the aggregate, will be invested in (1) unlisted or unsponsored Depositary Receipts; (2) Depositary Receipts not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (3) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange. The Adviser is not a broker-dealer, but is affiliated with a broker-dealer, and has implemented a ''fire wall'' with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the Fund that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will also be available via Nasdaq proprietary quote and trade services and via the Consolidated Tape Association plans for the Shares. Similarly, quotation and last sale information for any underlying exchange-traded products will also be available via the quote and trade services of their respective primary exchanges, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans or through the Options Price Reporting Authority, or equivalent services related to futures, as applicable. Intra-day, executable price quotations of the securities and other assets held by the Fund will be available from major broker-dealer firms or on the exchange on which they are traded, if applicable. Intra-day price information will also be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

The Web site for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted or paused under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

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 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–040 and should be submitted on or before May 30, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10653 Filed 5–8–14; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Cannabusiness Group, Inc.; Order of Suspension of Trading

May 7, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cannabusiness Group, Inc. because of questions regarding the accuracy of publicly available information about the company's operations. Cannabusiness Group, Inc. is a Nevada corporation with its principal place of business located in Irvine, California. Its stock is quoted on OTC Link, operated by OTC Markets Group Inc., under the ticker: CBGI.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on May 7, 2014, through 11:59 p.m. EDT on May 20, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–10798 Filed 5–7–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Clear Skies Solar, Inc., Debut Broadcasting Corporation, Inc., Physicians Healthcare Management Group, Inc., Technipower Systems, Inc. (a/k/a Solomon Technologies, Inc.), Theater Xtreme Entertainment Group, Inc., WorldGate Communications, Inc., and YTB International, Inc. (a/k/a 1803 International, Inc.); Order of Suspension of Trading

May 7, 2014.

Clear Skies Solar, Inc. (CIK No. 1402857) is a void Delaware corporation located in Farmingdale, New York with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Clear Skies Solar, Inc. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2011, which reported a net loss of $3,163,652 for the prior nine months. As of May 1, 2014, the company's stock (symbol ''CSKH'') was quoted on OTC Link, had eight market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3). It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Clear Skies Solar, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

Debut Broadcasting Corporation, Inc. (CIK No. 1254371) is a defaulted Nevada corporation located in Nashville, Tennessee with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Debut Broadcasting Corporation, Inc. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2011, which reported a net loss of $411,205 for the prior nine months. As of May 1, 2014, the company's stock (symbol ''DBTB'') was quoted on OTC Link, had seven market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3). It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Debut Broadcasting Corporation, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

Physicians Healthcare Management Group, Inc. (CIK No. 1528006) is a Nevada corporation located in Miami, Florida with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Physicians Healthcare Management Group, Inc. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2011, which reported a net loss of $5,238,240 since the company's February 14, 2005 inception. Moreover, the company has never filed a Form 10–K. As of May 1, 2014, the company's stock (symbol ''PHYH'') was quoted on OTC Link, had eight market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3). It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Physicians Healthcare Management Group, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

Technipower Systems, Inc. (a/k/a Solomon Technologies, Inc.) (CIK No. 1240722) is a void Delaware corporation located in Danbury, Connecticut with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Technipower Systems is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2008, which reported a net loss of over $5,120,887 for the prior nine months. As of May 1, 2014, the company's stock (symbol ''TECZ'') was quoted on OTC Link, had six market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3). It appears to the Securities and Exchange Commission

that there is a lack of current and accurate information concerning the securities of Technipower Systems, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

Theater Xtreme Entertainment Group, Inc. (CIK No. 1089775) is a dissolved Florida corporation located in Newark, Delaware with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Theater Xtreme Entertainment Group is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2008, which reported a net loss of over $987,815 for the prior three months. As of May 1, 2014, the company's stock (symbol ''TXEGQ'') was quoted on OTC Link, had five market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3). It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Theater Xtreme Entertainment Group, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

WorldGate Communications, Inc. (CIK No. 1030058) is a forfeited Delaware corporation located in Trevose, Pennsylvania with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). WorldGate Communications, Inc. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2011, which reported a net loss of $4,470,000 for the prior nine months. As of May 1, 2014, the company's stock (symbol ''WGATQ'') was quoted on OTC Link, had ten market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3). It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of WorldGate Communications, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

YTB International, Inc. (a/k/a 1803 International, Inc.) (CIK No. 852766) is a Delaware corporation located in Wood River, Illinois with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). YTB International, Inc. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2011, which reported a net loss of $668,000 for the prior three months. As of May 1, 2014, the company's stock (symbol ''YTBLQ'') was quoted on OTC Link, had ten market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3). It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of YTB International, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 7, 2014, through 11:59 p.m. EDT on May 20, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–10797 Filed 5–7–14; 4:15 pm]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 8, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Statement Regarding Date of Birth and Citizenship—20CFR 404.716—0960–0016.* Section 205(a) of the Social Security Act (Act) gives the Commissioner of SSA the authority to make rules and regulations, and to establish procedures for collecting evidence from individuals applying for Social Security benefits. When individuals apply for Social Security benefits and cannot provide preferred methods of proving age or citizenship, SSA uses Form SSA–702 to establish these facts. Specifically, SSA uses the SSA–702 to establish age as a factor of entitlement to Social Security benefits, or U.S. citizenship as a payment factor. Respondents are individuals with knowledge about the date of birth or citizenship of applicants filing for one or more Social Security benefits who need to establish age or citizenship.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7157	1,200	1	10	200

2. *Disability Report-Appeal—20 CFR 404.1512, 416.912, 404.916(c), 416.1416(c), 422.140, 404.1713, 416.1513, 404.1740(b)(4), 416.1540(b)(4), and 405 Subpart C—0960–0144.* SSA requires disability applicants who wish to appeal an unfavorable disability determination to complete Form SSA–3441–BK, the associated Electronic Disability Collect System (EDCS) interview, or the Internet application, i3441. This allows claimants to disclose any changes to their disability or resources that might influence SSA's unfavorable determination. We may use the information to: (1) Reconsider and review an initial disability determination; (2) review a continuing disability; and (3) evaluate a request for a hearing. This information assists the State Disability Determination Services (DDS) and administrative law judges (ALJ) in preparing for the appeals and hearings, and in issuing a determination or decision on an individual's entitlement (initial or continuing) to disability benefits. In addition, the information we collect on the SSA–3441–BK facilitates SSA's collection of medical information to support the applicant's request for reconsideration; request for benefits cessation appeal; and request for a hearing before an ALJ. Respondents are individuals who appeal denial, reduction, or cessation of Social Security disability income and Supplemental Security Income (SSI) payments; who wish to request a hearing before an ALJ; or their representatives.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3441–BK	2,396	1	45	1,797
Electronic Disability Collect System (EDCS)	476,771	1	45	357,578
i3441 (Internet)	1,046,938	1	28	488,571
Totals	1,526,105			847,946

3. *Request for Hearing by Administrative Law Judge—20 CFR 404.929, 404.933, 416.1429, 404.1433, 418.1350, and 42 CFR 405.722—0960–0269.* When SSA denies applicants' or beneficiaries' requests for new or continuing benefits, the Act entitles those applicants or beneficiaries to request a hearing to appeal the decision. To request a hearing, individuals complete Form HA–501, the associated Modernized Claims System (MCS) or Modernized Supplemental Security Income Claims System (MSSICS) interview, or the Internet application (i501). SSA uses the information to determine if the individual: (1) Filed the request within the prescribed time; (2) is the proper party; and (3) took the steps necessary to obtain the right to a hearing. SSA also uses the information to determine: (1) The individual's reason(s) for disagreeing with SSA's prior determinations in the case; (2) if the individual has additional evidence to submit; (3) if the individual wants an oral hearing or a decision on the record; and (4) whether the individual has (or wants to appoint) a representative. The respondents are Social Security benefit applicants and recipients who want to appeal SSA's denial of their request for new or continued benefits, and Medicare Part B recipients who must pay the Medicare Part B Income-Related Monthly Adjustment Amount.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–501; Modernized Claims System (MCS); Modernized Supplemental Security Income Claims System (MSSICS)	25,953	1	10	4,326
I501 (Internet iAppeals)	643,516	1	5	53,626
Totals	669,469			57,952

4. *Application for Benefits under a U.S. International Social Security Agreement—20 CFR 404.1925—0960–0448.* Section 233(a) of the Act authorizes the President of the United States to broker international Social Security agreements (Totalization Agreements) between the United States and foreign countries. SSA collects information using Form SSA–2490–BK to determine entitlement to Social Security benefits from the United States, or from a country that enters into a totalization agreement with the United States. The respondents are individuals applying for Old Age, Survivors, and Disability Insurance benefits from the United States or from a Totalization Agreement country.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2490–BK (MCS)	14,175	1	30	7,088
SSA–2490–BK (paper)	2,025	1	30	1,013
Totals	16,200			8,101

5. *Information Collections Conducted by State Disability Determination Services on Behalf of SSA—20 CFR, subpart P, 404.1503a, 404.1512, 404.1513, 404.1514 404.1517, 404.1519; 20 CFR subpart Q, 404.1613, 404.1614, 404.1624; 20 CFR subpart I, 416.903a, 416.912, 416.913, 416.914, 416.917, 416.919 and 20 CFR subpart J, 416.1013, 416.1024, 416.1014—0960–0555.* State DDSs collect the information necessary to administer the Social Security Disability Insurance and SSI programs. They collect medical evidence from consultative examination (CE) sources, credential information from CE source applicants, and medical evidence of record (MER) from claimants' medical sources. The DDSs collect information from claimants regarding medical appointments and pain or other symptoms. The respondents are medical providers, other sources of MER, and disability claimants.

Type of Request: Revision of an OMB-approved information collection.

CE Collections

There are three CE information collections: (1) Medical evidence about claimants' medical condition(s) that DDS's use to make disability determinations when the claimant's own medical sources cannot or will not provide the required information, and proof of credentials from CE providers; (2) CE appointment letters; and (3) CE claimant reports sent to claimants' doctors.

(1) Medical Evidence and Credentials From CE Providers

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total estimated annual burden (hours)
CE Paper Submissions	1,400,000	1	30	700,000
CE Electronic Submissions	300,000	1	15	75,000
Totals	1,700,000			775,000

(2) CE Appointment Letters and (3) CE Claimants' Report to Medical Providers

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
(b) CE Appointment Letters	880,000	1	5	73,333
(c) CE Claimants' Report to Medical Providers	450,000	1	5	37,500
Totals	1,330,000			110,833

MER Collections

The DDS's collect MER information from the claimant's medical sources to determine a claimant's physical or mental status prior to making a disability determination.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total estimated annual burden (hours)
Paper Submissions	3,150,000	1	20	1,050,000
Electronic Submissions	9,450,000	1	12	1,890,000
Totals	12,600,000			2,940,000

Pain or Other Symptoms—Impairment Information From Claimants

The DDSs use information about pain or symptoms to determine how pain or symptoms affect the claimant's ability to do work-related activities prior to making a disability determination.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total estimated annual burden (hours)
Pain or Other Symptoms	2,100,000	1	20	700,000

The total estimated annual burden for all of the categories described in this information collection is 4,525,833 hours.

6. *Request for Reconsideration—20 CFR 404.907–404.921, 416.1407–*

416.1421, 408.1009, and 418.1325—0960–0622. Individuals use Form SSA–561–U2, the associated MCS interview, or the Internet application (i561) to initiate a request for reconsideration of a denied claim. SSA uses the information to document the request and to determine an individual's eligibility or entitlement to Social Security benefits (Title II), SSI payments (Title XVI), Special Veterans Benefits (Title VIII), Medicare (Title XVIII), and for initial determinations regarding Medicare Part B income-related premium subsidy reductions. The respondents are individuals filing for reconsideration of a denied claim.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–561 and MCS	550,370	1	8	73,383
I561 (Internet iAppeals)	911,330	1	5	75,944
Totals	1,461,700			149,327

7. *Teacher Questionnaire and Request for Administrative Information—20 CFR 416.1103(f)—0960–0646.* When determining the effects of a child's impairment for children applying for Title II childhood disability benefits, SSA obtains information about the child's functioning from teachers, parents, and others who observe the child on a daily basis. SSA obtains results of formal testing, teacher reports, therapy progress notes, individualized education programs, and other records of a child's educational aptitude and achievement using Forms SSA–5665–BK and SSA–5666. The respondents are parents, teachers, and other education personnel.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–5665–BK (electronic)	368,098	1	40	245,399
SSA–5665 (paper form)	2,562	1	40	1,708
SSA–5666 (electronic)	137,590	1	30	68,795
SSA–5666 (paper form)	1,843	1	30	922
Totals	510,093			316,824

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than June 9, 2014. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Request for Social Security Earnings Information—20CFR 404.810 & 401.100—0960–0525. The Act permits wage earners, or their authorized representative, to request Social Security earnings information from SSA using Form SSA–7050–F4. SSA uses the information to verify the requestor's right to access to the information and to produce the earnings statement. The respondents are wage earners and their authorized representatives.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7050–F4	66,800	1	11	12,247

Dated: May 6, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–10662 Filed 5–8–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 8723]

60-Day Notice of Proposed Information Collection: Certificate of Eligibility for Exchange Visitor Status (J-Visa)

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATE(S): The Department will accept comments from the public up to *July 8, 2014.*

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

• *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Public Notice 8723'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.

• Email: *JExchanges@State.gov.*

• Mail (paper, disk, or CD–ROM submissions): U.S. Department of State, ECA/EC, SA–5, Floor 5, 2200 C Street NW., Washington, DC 20522–0505, ATTN: **Federal Register** Notice Response.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Robin J. Lerner, Deputy Assistant Secretary for Private Sector Exchange, ECA/EC, SA–5, Floor 5, Department of State, 2200 C Street NW., Washington, DC 20522–0505, who may be reached on 202–632–3206 or at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* Certificate of Eligibility for Exchange Visitor Status (J-Visa).

• *OMB Control Number:* OMB No. 1405–0119.

• *Type of Request:* Revision of a Currently Approved Collection.

• *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Policy and Program Support (ECA/EC).

• *Form Number:* DS–2019.

• *Respondents:* U.S. Department of State designated sponsors.

• *Estimated Number of Respondents:* 1,400.

• *Estimated Number of Responses:* 325,000.

• *Average Time per Response:* 45 minutes.

• *Total Estimated Burden Time:* 243,750 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-visa) under the provisions of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.). The collection will undergo a name change to ''Certificate of Eligibility for Exchange Visitor Status (J-Visa).'' However, each completed form will continue to note whether it is for a J–1 or a J–2 recipient. In addition, there are updates to the Paperwork Reduction Act address listed on Form DS–2019 and to form usage information. Changes also have been made to the following fields in the electronic data-gathering portion: Email Address as a required field at the time of validation for all exchange visitors coming to the U.S. under the auspices of designated private sector exchange program sponsors; optional fields for U.S. Telephone Number and Mailing Address; and the field Current U.S. Address will be changed to Physical Address. The instruction section of Form DS–2019 also has been revised and updated to remove Flight Trainees as an exchange category, as these are no longer part of the program.

Methodology: Access to Form DS–2019 is made available to Department designated sponsors electronically via the Student and Exchange Visitor Information System (SEVIS).

Dated: May 1, 2014.

Robin J. Lerner,

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2014–10729 Filed 5–8–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8726]

Culturally Significant Objects Imported for Exhibition Determinations: ''Mark Rothko''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Mark Rothko,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with a foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Saint Louis Art Museum, Saint Louis, MO, from on or about May 23, 2014, until on or about September 14, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 5, 2014.

Evan M. Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–10738 Filed 5–8–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 8725]

Culturally Significant Object Imported for Exhibition Determinations: ''Night in Saint Cloud'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and

Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the object to be included in the exhibition ''Night in Saint Cloud,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Metropolitan Museum of Art, New York, NY, from on or about May 23, 2014, until on or about May 31, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 5, 2014.

Evan M. Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–10735 Filed 5–8–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8724]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on June 3 and 4, 2014. Pursuant to Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix), and 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(7)(E), it has been determined that the meeting will be closed to the public. The meeting will focus on an examination of corporate security policies and procedures and will involve extensive discussion of trade secrets and proprietary commercial information that is privileged and confidential, and will discuss law enforcement investigative techniques and procedures. The agenda will include updated committee reports, a global threat overview, and other matters relating to private sector security policies and protective programs and the protection of U.S. business information overseas.

For more information, contact Marsha Thurman, Overseas Security Advisory Council, U.S. Department of State, Washington, DC 20522–2008, phone: 571–345–2214.

Dated: April 25, 2014.

Bill A. Miller,

Director of the Diplomatic, Security Service, U.S. Department of State.

[FR Doc. 2014–10732 Filed 5–8–14; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2014–0050]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before July 8, 2014.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help'' or ''FAQ.''
- *Hand Delivery:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

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) or you may visit *http://www.dot.gov/privacy.html.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Glaceria Mason, Marketing Specialist, Office of Communications and Consumer Information (NPO–520), National Highway Traffic Safety Administration, 1200 New Jersey Ave SE., W52–211, Washington, DC 20590. Glaceria Mason's phone number is 202–366–5876 and her email address is *Glaceria.Mason@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB:

Title: Drunk Driver Segmentation Research

Requested Expiration Date of Approval: Three years from approval date.

Abstract: The National Highway Traffic Safety Administration (NHTSA) was established by the Highway Safety Act of 1970 (23 U.S.C. 101) to carry out a Congressional mandate to reduce the mounting number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. In support of this mission, NHTSA proposes to conduct an email survey among 2,000 licensed drivers who self-report having operated a motor vehicle or motorcycle (1,500 motor vehicle drivers and 500 motorcycle riders) after drinking amounts of alcohol that (in most circumstances) would render them legally drunk. (Note: for brevity, ''drivers'' and ''driving'' will refer to both motor vehicle and motorcycle operators in the remaining sections of this document). The survey will request information about their drunk driving behavior, rationale for that behavior, context details surrounding the behavior, and opinions about drunk driving enforcement, sanctions and other relevant issues. The findings will then be analyzed to generate descriptions of various segments of at-risk drinker/drivers that are based on common demographics, lifestyle traits, drinking contexts and opinions. By having these segments delineated, NHTSA's communications efforts to help curb drunk driving will be more focused, more relevant to the intended audience, and more cost-effective.

Summary of the Collection of Information: In this collection of information, NHTSA is seeking to understand useful and relevant characteristics (demography, lifestyle traits, drinking habits, environmental factors, and opinions/perceptions of how drunk driving is justified and enforcement of drunk driving laws) among people at high risk of driving drunk. Furthermore, once data are collected, cluster analyses will be applied to determine segments in which these individuals can be assigned based on common traits and opinions. By generating such segments, NHTSA can more effectively target meaningful messages to key segments with the goal of curbing drunk driving incidences, and therefore curbing the number of fatalities related to drunk driving.

Description of the Need for the Information and the Proposed Use of the Information: NHTSA has successfully conducted at-risk drunk driving segmentation studies previously; and by having these segments, NHTSA and state partners have been able to use marketing communications ''best practices'' to target the intended population(s) in communications efforts. However, no such study and segmentation analysis have been conducted since 2007. Since that time, population demography has changed, many state laws have changed as well as attitudes about enforcement of the laws, and the media landscape—due to rapid-pace development of digital-based media—has changed. As such, a segmentation study is needed to better shape and tailor the messaging and media strategies and tactics for addressing drunk driving. After the data collection and segmentation analysis is completed, NHTSA's Office of Communications and Consumer Information will be able to apply the segmentation to its planning and implementations of social norming and enforcement campaigns directed at people at high risk of driving drunk. Additionally, NHTSA will make the data and segmentations available to state partners, who can then complement and/or supplement NHTSA's national communications efforts.

Affected Public: NHTSA will conduct a national email survey among people in the targeted age cohort of adults 21–54. Through a provider of a national database of people in this age group who have previously ''opted-in'' to receive and respond to email research surveys, a brief series of screening questions will be posed to determine respondents who self-report drinking behavior prior to driving, and contingent on their answers, determine which individuals have driven and/or are apt to drive drunk After the screening, those individuals will be offered the complete survey, which is projected to take up to 20 minutes to complete. Ultimately, NHTSA will seek a total of 2,000 completed surveys. Participation by all respondents will be voluntary and anonymous and respondents will receive a token incentive for their participation. Such incentives are set and administered by the sample provider, and they sometimes take the form of cash in amounts that typically range from $3 to $6 per person; other sample providers' incentives take the form of points which respondents accumulate and trade for merchandise and/or cash.

Estimated Total Annual Burden: 2,342 hours.

Number of Respondents: Initial sample (pre-screening)—33,500. The completed survey sample (post-screening)—2,000, all of whom are among the initial sample of 33,500.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

John Donaldson,

Acting Senior Associate Administrator, Policy and Operations.

[FR Doc. 2014–10660 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0048; Notice 1]

Receipt of Petition for Decision That Nonconforming 2011–2014 Harley-Davidson FX, FL, XL, and VR Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of Receipt.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2011–2014 Harley-Davidson FX, FL, XL, and VR Motorcycles 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 (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are

capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 9, 2014.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. 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: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc (''WETL''), of Houston, Texas (Registered Importer R–09–005) has petitioned NHTSA to decide whether non-U.S. certified 2011–2014 Harley-Davidson FX, FL, XL, and VR motorcycles are eligible for importation into the United States. The vehicles that WETL believes are substantially similar are 2013 Harley-Davidson FX, FL, XL, and VR motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2011–2014 Harley-Davidson FX, FL, XL, and VR motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 2011–2014 Harley-Davidson FX, FL, XL, and VR motorcycles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2011–2014 Harley-Davidson FX, FL, XL, and VR motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 122 *Motorcycle Brake Systems.*

The petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of the following U.S.-model components: Headlamp, stop lamp, rear side mounted reflex reflectors, and rear center mounted reflex reflector. The petitioner states that the turn indicators and front side mounted reflex reflectors on the petition vehicles are identical to the U.S.-model.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* installation of a tire information placard. Inspection of rims for compliance with rim marking requirements.

Standard No. 123 *Motorcycle Controls and Displays:* installation of a U.S.-model speedometer/odometer unit.

Standard No. 205 *Glazing Materials:* Inspection for compliance with this standard.

Wallace further states that labels will be affixed to conform to requirements of 49 CFR Part 567 *Certification.*

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 1.95 and 501.8.

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–10711 Filed 5–8–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35818]

Dakota, Minnesota & Eastern Railroad Corporation—Trackage Rights Exemption—Rapid City, Pierre & Eastern Railroad, Inc.

Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E), pursuant to a written trackage rights agreement, has agreed to grant overhead trackage rights to Dakota, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific (DM&E) [1] between milepost 231.5+/− near Tracy, Minn., and milepost 378.4+/− near Wolsey, S.D., a distance of approximately 146.9 miles.[2]

Recently, RCP&E received authority to acquire from DM&E and to operate 670 miles of rail lines. *See Rapid City, Pierre & E.R.R.—Acquis. and Oper. Exemption Including Interchange Commitment—Dakota, Minn. & E.R.R.,* FD 35799 (STB served Mar. 27, 2014).[3] The purpose of this verified notice of exemption is to allow DM&E: (1) To continue to handle overhead grain trains in conjunction with BNSF Railway Company (BNSF) that are currently operating between Florence, Minn., and points on DM&E beyond Tracy; and (2) to handle non-revenue ballast trains, including the right to interchange those trains with BNSF or other carriers at Wolsey.

This transaction is proposed to be consummated on or after May 25, 2014, the effective date of the exemption (30 days after the exemption was filed), and after the consummation of the acquisition of the lines by RCP&E in Docket No. FD 35799.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by May 16, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35818, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on W. Karl Hansen, Stinson Leonard Street LLP, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: May 6, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–10714 Filed 5–8–14; 8:45 am]

BILLING CODE 4915–01–P

[1] In *Canadian Pacific Railway—Control—Dakota, Minnesota & Eastern Railroad,* FD 35081 (STB served Sept. 30, 2008), the Board approved an application allowing Canadian Pacific Railway Company to acquire indirect control of DM&E and DM&E's wholly owned rail subsidiary, Iowa, Chicago & Eastern Railroad Corporation.

[2] A redacted and unexecuted trackage rights agreement between RCP&E and DM&E was filed with the notice of exemption. An unredacted version was filed under seal along with a motion for protective order, which will be addressed in a separate decision.

[3] Recently, the Board received petitions seeking to revoke this exemption. The Board will address the petitions to revoke the exemption in a subsequent decision.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Actions Taken Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury Department.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing on OFAC's list of Specially Designated Nationals and Blocked Persons (''SDN List'') the names of eight entities, whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.'' The designations by the Acting Director of OFAC, pursuant to Executive Order 13382, were effective on April 29, 2014.

DATES: The designations by the Acting Director of OFAC, pursuant to Executive Order 13382, were effective on April 29, 2014.

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 (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

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 the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any

person whose property and interests in property are blocked pursuant to the Order.

On April 29, 2014, the Acting Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated eight entities whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

1. SUCCESS MOVE LTD., No. 1109 Zhongshan Road, Dalian, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].
2. DALIAN ZHONGCHUANG CHAR-WHITE CO., LTD., 2501–2508 Yuexiu Mansion, No. 82 Xinkai Road, Dalian, Liaoning Province 11601, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].
3. TEREAL INDUSTRY AND TRADE LIMITED, No. 9 Hongji Street, Xi Gang District, Dalian City, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].
4. DALIAN ZHENGHUA MAOYI YOUXIAN GONGSI (a.k.a. DALIAN ZENGHUA TRADING CO., LTD.), Dalian, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].
5. KARAT INDUSTRY CO., LTD., No. 110 Baiyun Street, Dalian, Liaoning, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].
6. MTTO INDUSTRY AND TRADE LIMITED, No. 9 Hongji Street, Xi Gang District, Dalian City, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].
7. SINOTECH INDUSTRY CO., LTD., No. 190 Changjiang Road, Dalian City, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].
8. SINOTECH DALIAN CARBON AND GRAPHITE MANUFACTURING CORPORATION, Dalian, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Dated: April 29, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–10445 Filed 5–8–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

United States Mint

Agency Information Collection Activity; Proposed Collection; U.S. Coinage Practices

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice and Comment.

SUMMARY: The United States Mint, a bureau of the Department of the Treasury, is announcing an opportunity for public comment on the proposed collection of certain information regarding the public's use of U.S. coins with special emphasis on the possible use of alternative metals in U.S. coinage. Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed information collection concerning U.S. coinage practices as required to determine the public's interest according to the Coin Modernization, Oversight, and Continuity Act of 2010 (Pub. L. 111–302).

DATES: Submit either electronic or written comments on the collection of information by 60 days after the notice is published.

ADDRESSES: Submit electronic comments on the collection of information to *U.S.Coinage PracticesAM@usmint.treas.gov.* Submit all written comments to U.S. Coinage Practices—Alternative Metals; Office of Coin Studies; United States Mint; 801 9th Street NW.; Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Yvonne Pollard; Compliance Branch; United States Mint; 801 9th Street NW.; 6th Floor; Washington, DC 20220; 202–354–8400 (this is not a toll-free number); *YPollard@usmint.treas.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 of the proposed collection of information before submitting the proposed collection of information to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information described in this document.

With respect to the following collection of information, the United States Mint invites comments on—(1) Whether the proposed collection of information is necessary for the proper performance of the United States Mint's functions, including whether the information will have practical utility; (2) the accuracy of the United States Mint's estimate of the burden of the proposed collection, 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.

U.S. Coinage Practices Survey

The Coin Modernization, Oversight, and Continuity Act of 2010, Public Law 111–302, section 2(b)(3), authorizes the Secretary of the Treasury to consider such factors he deems appropriate and in the public interest when preparing a report and recommendations to Congress on the Nation's circulating coins.

Understanding the public's use and perception of United States circulating coins and coin usage is necessary for the United States Mint to carry out its mission to mint and issue circulating coins in amounts that the Secretary of the Treasury determines are necessary to meet the needs of the United States and to prepare recommendations to Congress, as authorized by Public Law 111–302. The information collected will cover the following topics concerning the use of alternative metals in the production of circulating coins:

1. Metallic content
2. color
3. design change
4. height/relief of elements
5. density/weight
6. related savings to taxpayer
7. related cost to industry

The data will be used to understand the public's use and perception of circulating coins and specific factors relating to alternative metal materials under consideration. The purpose is to analyze options and propose recommendations for possible changes to the nation's circulating coins. To obtain this information, the United States Mint will conduct both qualitative and quantitative research.

Qualitative Research

Focus Groups

Focus groups provide an important role in gathering information because they allow for a more in-depth understanding of the public's attitudes, motivations, and feelings than do

quantitative studies. Focus groups serve the narrowly defined need for direct and informal opinion on a specific topic and as a qualitative research tool for these purposes:

- To obtain information that is useful for developing variables and measures for quantitative studies,
- To better understand the public's attitudes and emotions in response to topics and concepts, and,
- To refine additional quantitative study.

The United States Mint will use the focus group findings to test and refine quantitative studies and will conduct further research before making important recommendations regarding alternative metals used in the production of coins and policy concerning circulating coins. The focus groups will also allow the United States Mint to gauge consumers' responses to the physical characteristics of alternative metal coins when they experience them in person.

The United States Mint estimates the burden of this collection of information as follows:

Activity	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Focus Group Interviews	90	1	90	1.5	135

There are no capital costs or operating and maintenance costs associated with this collection of information.

For the purpose of studying the Nation's coinage practices, the United States Mint projects the need for one focus group study using 10 focus groups with an average of nine persons per group, and lasting an average of 1.5 hours each.

Quantitative Research

Online Survey

The online survey will randomly sample individuals, 18 years of age and older, in the United States, who are members of the Ipsos i-Say panel, an online, opt-in panel of approximately 600,000 individuals. These individuals have provided their email addresses and demographic information, allowing the sample to be selected so that the demographics of survey participants will reflect those of the general population.

The survey will be used to conduct a discrete choice experiment where individuals will be asked to compare and rate different scenarios of possible metallic composition of circulating coins. This exercise will be used to assist in establishing the public's policy preferences regarding different changes in the metallic composition of circulating coins. The survey will also gather demographic and psychographic data to better understand the characteristics correlated with different preferences, and will include attitudinal and behavioral questions that allow survey responses to be calibrated to the findings of a nationally representative telephone survey being carried out by the United States Mint. This information will help the United States Mint analyze the implications of different policy options and propose recommendations for possible changes to the Nation's circulating coins.

The estimated total number of respondents and the estimated amount of time for an average respondent to respond: 1,200 respondents averaging 12 minutes per response.

The estimated total public burden (in hours) associated with the collection: 240 annual burden hours.

Telephone Survey

The data will be used to understand the public's use and perception of specific U.S. circulating coinage for the purpose of analyzing options and proposing recommendations for possible changes to the Nation's circulating coins.

To obtain this information, the United States Mint will conduct a nationally representative random-digit-dial survey of 1,000 U.S. adults. The proposed survey will include both landline (700 interviews) and cellular (300 interviews) telephones. Interviewing will be conducted in both English and Spanish. Up to seven attempts will made to reach each sampled household. The questionnaire should take 12 minutes to complete, including two minutes to screen for eligible participants (adults in the cellular telephone sample, the adult with the most recent birthday in the household in the landline telephone survey). The United States Mint estimates the burden of this collection of information will be as described in the table below.

Survey component	Estimated time to complete (minutes)	Population	Total burden
Screener	2	1250	41.67
Main survey	10	1000	166.67

Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval.

Authority: 31 U.S.C. 5112(p)(3)(A); Public Law 111–302, section 2(b)(3).

Dated: May 5, 2014.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2014–10723 Filed 5–8–14; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 79 Friday,

No. 90 May 9, 2014

Part II

Department of Health and Human Services

Office of Inspector General

42 CFR Parts 1000, 1001, 1002, et al.

Medicare and State Health Care Programs: Fraud and Abuse; Revisions to the Office of Inspector General's Exclusion Authorities; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Parts 1000, 1001, 1002, and 1006

RIN 0936–AA05

Medicare and State Health Care Programs: Fraud and Abuse; Revisions to the Office of Inspector General's Exclusion Authorities

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations relating to exclusion authorities under the authority of the Office of Inspector General (OIG) of the Department of Health and Human Services (HHS or the Department). The proposed rule would incorporate statutory changes, propose early reinstatement procedures, and clarify existing regulatory provisions.

DATES: To ensure consideration, comments must be delivered to the address provided below by no later than 5 p.m. Eastern Standard Time on July 8, 2014.

ADDRESSES: In commenting, please reference file code OIG–403–P2. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. However, you may submit comments using one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* (Attachments should be in Microsoft Word, if possible.)

2. *By regular, express, or overnight mail.* You may mail your printed or written submissions to the following address: Patrice Drew, Office of Inspector General, Department of Health and Human Services, Attention: OIG–403–P2, Cohen Building, 330 Independence Avenue SW., Room 5541C, Washington, DC 20201.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* You may deliver, by hand or courier, before the close of the comment period, your printed or written comments to: Patrice Drew, Office of Inspector General, Department of Health and Human Services, Attention: OIG–403–P2, Cohen Building, 330 Independence Avenue SW., Room 5541C, Washington, DC 20201.

Because access to the interior of the Cohen Building is not readily available to persons without Federal Government identification, commenters are encouraged to schedule their delivery with one of our staff members at (202) 619–1368.

Inspection of Public Comments: All comments received before the end of the comment period will be posted on *http://www.regulations.gov* for public viewing. Hard copies will also be available for public inspection at the Office of Inspector General, Department of Health and Human Services, Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, Monday through Friday from 9:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (202) 619–1368.

FOR FURTHER INFORMATION CONTACT: Susan Gillin, (202) 619–0335, Office of Counsel to the Inspector General.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose of the Regulatory Action

A. Need For Regulatory Action

The Affordable Care Act of 2010 (Patient Protection and Affordable Care Act, Pub. L. 111–148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. 111–152, 124 Stat. 1029 (2010), hereafter ACA) significantly expanded OIG's authority to protect Federal health care programs from fraud and abuse. OIG proposes to update its regulations to codify the changes made by ACA in the regulations. At the same time, OIG proposes updates pursuant to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and other statutory authorities, as well as technical changes to clarify and update the regulations.

B. Legal Authority

The legal authority, laid out later in the preamble, for this regulatory action is found in the Social Security Act (the Act), as amended by ACA. The legal authority for the proposed changes is listed by the parts of Title 42 of the Code of Federal Regulations that we propose to modify:

1000: 42 U.S.C. 1302 and 1395hh.

1001: 42 U.S.C. 1302; 1320a–7; 1320a–7b; 1395u(j); 1395u(k); 1395w–104(e)(6); 1395y(d); 1395y(e); 1395cc(b)(2)(D), (E), and (F); 1395hh; 1842(j)(1)(D)(iv); 1842(k)(1), and sec. 2455, Public Law 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

1002: 42 U.S.C. 1302, 1320a–3, 1320a–5, 1320a–7, 1396(a)(4)(A), 1396a(p), 1396a(a)(39), 1396a(a)(41), and 1396b(i)(2).

1006: 42 U.S.C. 405(d), 405(e), 1302, 1320a–7, and 1320a–7a.

II. Summary of Major Provisions

A. Exclusion Authorities

We propose changes to the exclusion regulations at 42 CFR part 1001 to codify authorities under the MMA and ACA and make technical changes to existing regulations. Specifically, section 949 of MMA and section 6402(k) of ACA amended section 1128(c)(3)(B) of the Act to expand OIG's waiver authorities. Also, ACA provided that exclusion may be imposed for:

- Conviction of an offense in connection with Obstruction of an audit;
- Failure to supply payment information (ACA expanded this provision to apply to individuals who ''order, refer for furnishing, or certify the need for'' items or services for which payment may be made under Medicare or any State health care program); and
- Making, or causing to be made, any false statement, omission, or misrepresentation of a material fact in applications to participate as a provider of services or supplier under a Federal health care program.

ACA also established a new authority at section 1128(f)(4) of the Act for OIG to issue testimonial subpoenas in investigations of exclusion cases under section 1128 of the Act.

In addition to the changes under the ACA, and pursuant to section 1128(g)(1) of the Act, we propose a modification to the reinstatement rules for individuals excluded as a result of losing their licenses to allow them to rejoin the programs earlier when appropriate.

III. Costs and Benefits

There are no significant costs associated with the proposed regulatory revisions that would impose any mandates on State, local, or tribal governments or the private sector.

Social Security Act citation	United States Code citation
205	42 U.S.C. 405.
1102	42 U.S.C. 1302.
1124	42 U.S.C. 1320a–3
1126	42 U.S.C. 1320a–5.
1128	42 U.S.C. 1320a–7.
1128A	42 U.S.C. 1320a–7a.
1128B	42 U.S.C. 1320a–7b.
1128C	42 U.S.C. 1320a–7c.
1128E	42 U.S.C. 1320a–7e.
1128J	42 U.S.C. 1320a–7k.
1140	42 U.S.C. 1320b–10.
1814	42 U.S.C. 1395f.
1833	42 U.S.C. 1395l.

Social Security Act citation	United States Code citation
1835	42 U.S.C. 1395n.
1842	42 U.S.C. 1395u.
1851	42 U.S.C. 1395w–21.
1852	42 U.S.C. 1395w–22.
1857	42 U.S.C. 1395w–27.
1860D–12	42 U.S.C. 1395w–112.
1860D–14A	42 U.S.C. 1395w–114A.
1861	42 U.S.C. 1395x.
1862	42 U.S.C. 1395y.
1866	42 U.S.C. 1395cc.
1867	42 U.S.C. 1395dd.
1876	42 U.S.C. 1395mm.
1877	42 U.S.C. 1395nn.
1882	42 U.S.C. 1395ss.
1886	42 U.S.C. 1395ww.
1892	42 U.S.C. 1395ccc.
1902	42 U.S.C. 1396a.
1903	42 U.S.C. 1396b.
1915	42 U.S.C. 1396n.
1927	42 U.S.C. 1396r–8.
1929	42 U.S.C. 1396t.

I. Background

A. Exclusion Authority

OIG's exclusion authorities are intended to protect the Federal health care programs and their beneficiaries from untrustworthy health care providers, *i.e.,* individuals and entities who pose a risk to program beneficiaries or to the integrity of these programs. These authorities encompass both mandatory exclusions (section 1128(a) of the Act) and permissive exclusions (section 1128(b) of the Act). The mandatory exclusion authorities require OIG to exclude from Federal health care program participation any individual or entity convicted of a ''program-related'' crime; a crime related to patient abuse or neglect; or certain felonies related to health care delivery, governmental health care programs, or controlled substances. Mandatory exclusions are for a period of at least 5 years. The permissive authorities do not require the imposition of an exclusion, and may either be (1) ''derivative'' exclusions that are based on actions previously taken by a court or other law enforcement or regulatory agency or (2) ''affirmative'' exclusions that are based on OIG-initiated determinations of misconduct, *e.g.,* poor quality of care, kickbacks, or submission of false claims to a Federal health care program. While there is no 5-year minimum term for permissive exclusions, some permissive authorities have varying minimum or benchmark exclusion terms.

Over the years, several statutory and regulatory provisions have amended or further clarified OIG's exclusion authorities. Specifically, in 1996, provisions within the Health Insurance Portability and Accountability Act of 1996 (HIPAA) revised or expanded OIG's authorities to (1) mandate a 5-year minimum exclusion period for felony convictions relating to health care fraud, even if governmental programs were not involved, and for certain felony convictions relating to controlled substances; (2) establish minimum or benchmark periods of exclusion from 1 to 3 years for certain permissive exclusions; and (3) establish a new permissive exclusion authority applicable to individuals who have an ownership interest in, or have control over, the operations of an entity that has been convicted of a program-related offense. The Balanced Budget Act (BBA) of 1997 further amended OIG's exclusion authorities by (1) extending the scope of an OIG exclusion beyond Medicare and State health care programs to all Federal health care programs; (2) establishing permanent exclusions for persons convicted of three or more health care-related crimes and 10-year exclusions for persons convicted of two health care-related crimes; and (3) allowing for the exclusion of entities owned or controlled by a family or household member of an excluded individual when a transfer of ownership was made in anticipation of, or following, a conviction. On March 18, 2002, OIG also published several revisions and technical corrections to 42 CFR part 1001 with respect to, among other things, (1) the reinstatement procedures relating to exclusions resulting from a default on health education or scholarship obligations made or secured by the Secretary and (2) expansion of the scope of exclusion to all Federal health care programs.

1. Changes Made by MMA

MMA amended OIG's authority to waive mandatory exclusions in several ways. First, section 949 of MMA amended section 1128(c)(3)(B) of the Act by expanding the waiver provision of the Act to allow waiver requests for individuals excluded under either of the two mandatory exclusion authorities that were added in HIPAA, sections 1128(a)(3) and (a)(4) of the Act. Second, prior to MMA, a waiver request could be made only by the administrator of a State agency for a waiver of the State health care program. Section 949 of MMA expanded the mandatory exclusion waiver provision by permitting the administrator of any Federal health care program to request a waiver for the respective Federal health care program. Third, MMA added a provision requiring the requesting Federal health care program administrator to determine whether the exclusion would impose a hardship on Medicare beneficiaries, in addition to the existing requirement that the requesting administrator determine whether the individual or entity for whom the waiver was requested be the sole community physician or sole source of essential specialized services in a community.

2. Changes Made by ACA

Section 6402(k) of ACA further amended the Act's waiver provisions to permit the administrator of a Federal health care program to request a waiver if the administrator determines that exclusion would impose a hardship on any beneficiary or beneficiaries eligible to receive items or services under a Federal health care program, which broadened the waiver request beyond only Medicare beneficiaries as provided in MMA.

In addition, section 6408(c) of ACA amended section 1128(b)(2) of the Act by expanding the application of the permissive exclusion authority to include individuals convicted of an offense in connection with the obstruction of an audit. Section 6406(c) of ACA broadened the scope of the permissive exclusion authority found in section 1128(b)(11) of the Act to apply to individuals who not only furnish but also ''order, refer for furnishing, or certify the need for'' items or services for which payment may be made under Medicare or any State health care program and fail to provide payment information. Section 6402(d) of ACA established a new permissive exclusion authority under section 1128(b)(16) of the Act applicable to any individual or entity that knowingly makes, or causes to be made, any false statement, omission, or misrepresentation of a material fact in any application, agreement, bid, or contract to participate or enroll as a provider of services or supplier under a Federal health care program. Finally, section 6402(e) of ACA established a new authority at section 1128(f)(4) of the Act for OIG to issue testimonial subpoenas in investigations of exclusion cases under section 1128 of the Act.

We propose changes to the OIG regulations at 42 CFR parts 1001 and 1006 to reflect the revised provisions set forth in MMA and ACA.

3. Proposed Policy Changes and Clarifying Changes

We propose a number of changes to the regulations to correct omissions from previous regulatory issuances, to update certain dollar figures related to aggravating factors, and to clarify existing regulatory provisions. We also propose several policy changes. These

include proposals to: (1) Create early reinstatement procedures for exclusions pursuant to the loss of a health care license; (2) expand the ''pay the first claim rule'' in § 1001.1901(c) so that it would apply to Medicare Parts C and D; and (3) clarify that no statute of limitations period applies to exclusions imposed under section 1128(b)(7) of the Act.

Part 1002 provides direction to State Medicaid agencies when they exercise their program integrity responsibilities by independently initiating exclusion actions. The regulatory provisions place certain requirements on State agencies when they undertake such exclusions—requirements that are substantially consistent with OIG procedures and are designed to ensure adequate due process. The proposed revisions to part 1002 consist of minimal reorganization, several new headings to clarify the applicability of certain provisions, language to clarify existing Federal requirements, and a listing of the statutory underpinnings of the provisions in part 1002.

II. Provisions of the Proposed Rule

A. Exclusion Authorities

We propose changes to the OIG regulations at 42 CFR parts 1000, 1001, 1002, and 1006.

1. Changes to Part 1000

1000.10 Definitions of ''Directly,'' ''Furnished,'' and ''Indirectly''

We propose a number of technical revisions to the definitions of ''directly'' and ''indirectly'' as used in the definition of ''furnished.'' First, we propose adding the word ''supply'' to the definitions of ''directly'' and ''indirectly'' because the definition of ''furnished'' includes both the provision and supply of items and services.

Next, we propose to remove the phrase ''submit claims to'' and replace it with ''request or receive payment from'' immediately preceding ''Federal health care programs'' in the definitions of ''directly'' and ''indirectly.'' We would replace the phrase for clarity's sake, and the revised wording would be consistent with the False Claims Act's broad definition of ''claim'' (31 U.S.C. 3729(b)). This proposed change would appropriately encompass all current and future payment methodologies.

We further propose removing the redundant sentence within the definition of ''indirectly'' stating that the word ''indirectly'' does not include the direct submission of claims by another individual or entity because that clarification is already present within the definition of ''directly.''

In addition, OIG has always interpreted the definition of ''indirectly'' at 42 CFR 1000.10, regarding furnishing items or services, to cover any employee or contractor of a provider that receives payment from any Federal health care program related to such items or services. Therefore, we propose adding the word ''provided'' (with conforming technical edits) within the first part of the definition of ''indirectly'' to read as follows: ''*Indirectly,* as used in the definition of 'furnished' in this section, means the provision or supply of items and services manufactured, distributed, supplied, or otherwise *provided* by individuals or entities.''

We propose to move the definitions of ''ALJ,'' ''Exclusion,'' ''State,'' and ''State health care program'' from parts 1001 and 1003 to part 1000. The proposed definitions of ''ALJ'' and ''State'' are currently found in part 1003. The proposed definitions of ''Exclusion'' and ''State health care program'' are currently found in part 1001. The proposed definition of ''State health care program'' includes minor revisions to the definition currently found in part 1001 to include Title XXI, the Children's Health Insurance Program. The BBA added Title XXI to the statutory definition of ''State health care program'' under section 1128(h) of the Act. We also propose minor revisions to the current part 1000 definitions of ''QIO'' and ''Secretary'' because we are removing those definitions from parts 1001 and 1003, respectively.

Lastly, we propose making a technical revision to the definition of ''furnished.'' The current definition includes part of the definition of ''indirectly.'' This is both redundant and somewhat confusing. Therefore, we propose to streamline the definition of ''furnished'' by removing this language.

1000.20 and 1000.30 Definitions Pertaining to Medicare and Medicaid

We propose removing the definitions currently found at §§ 1000.20 and 1000.30 from part 1000. These definitions are not, and have never been, applicable to the OIG regulations in 42 CFR chapter V. These programmatic definitions, which apply to Medicare and Medicaid (Titles XVIII and XIX of the Act), were originally included in chapter V for ease of reference, not because they defined terms in chapter V. They are no longer useful, even as a reference source, because exclusions imposed under chapter V are from all Federal health care programs, not only from Medicare and State health care programs as was the case until 1996. Definitions specific to Medicare are at 42 CFR 400.202, and definitions specific to Medicaid are at 42 CFR 400.203. We are retaining the definitions at § 1000.10 that continue to apply to the regulations in chapter V, which were created pursuant to OIG's authorities under Title XI of the Act.

2. Changes to Part 1001

1001.2 Definition of ''Ownership or Control Interest''

We propose moving the definition of ''ownership or control interest'' and its related definitions, including the definition of ''managing employee,'' to the definitions section at § 1001.2. Currently, the definitions are at § 1001.1001, the regulation section related to exclusion of entities owned or controlled by a sanctioned person.

In addition, because we have proposed that the definition of ''ownership or control interest'' and its related definitions apply to all of part 1001, we would remove references to the statutory definition of these terms. Therefore, with respect to ''ownership or control interest,'' we propose removing the phrase ''as defined in section 1124(a)(3) of the Act'' from §§ 1001.101(d) and 1001.401(a). With respect to ''managing employee,'' we also propose removing the phrase ''as defined in section 1126(b) of the Act'' from §§ 1001.101(d), 1001.401(a), and 1001.1051(a).

We also propose to remove the definitions of ''Exclusion,'' ''OIG,'' ''QIO,'' and ''State health care program.'' As discussed above, we propose to move the definitions of ''Exclusion'' and ''State health care program'' from part 1001 to part 1000. We propose to remove the definitions of ''OIG'' and ''QIO'' from part 1001 because those definitions are included in part 1000.

1001.101 and 1001.401 Application of Certain Exclusions to Health Care Providers

At §§ 1001.101(d) and 1001.401(a)(1), respectively, we currently restrict the imposition of mandatory exclusions under section 1128(a)(4) of the Act and permissive exclusions under section 1128(b)(3) of the Act by limiting the applicability of these provisions to those individuals or entities that: (1) Are, or have ever been, health care practitioners, providers, or suppliers; (2) hold or held ownership or control interests, or are or have been officers, directors, or managing employees, in health care entities; or (3) are or have ever been employed in any capacity in the health care industry. To continue to protect the programs and their beneficiaries, but not expend OIG's

limited resources to unnecessarily exclude people who do not participate in Federal health care programs, we propose to further narrow the application of sections 1128(a)(4) and 1128(b)(3) of the Act to reference the time of the offense. Under our proposal, those individuals subject to exclusion would be either (1) current health care practitioners, providers, suppliers, those who furnish items or services, owners, managing employees, or those who are employed in any capacity in the health care industry; or (2) individuals who were health care practitioners, providers, suppliers, those who furnished items or services, owners, managing employees, or those who were employed in any capacity in the health care industry at the time of the offense.

1001.102(b)(1), 201(b)(2), and 701(d)(2)(iv) Financial Loss Aggravating Factors

With respect to the length of an exclusion, §§ 1001.102(b)(1) and 1001.201(b)(2)(i) list, as an aggravating factor, whether the acts resulting in the conviction, or similar acts, caused or were intended to cause, a financial loss of $5,000 or more. The regulations related to certain affirmative exclusions at § 1001.701(d)(2)(iv) reference a financial loss of $1,500 or more. These provisions were last updated in 2002 and 1998, respectively. To update the regulations, we propose increasing the aggravating factor to $15,000. We believe this updated amount is an appropriate threshold that is consistent with rationale behind the original amount and provides a realistic marker for determining whether someone is untrustworthy. In addition, we propose a grammatical correction by removing the word ''that'' from the first sentence. Finally, we propose substituting the term ''entire'' for ''total'' to be consistent throughout the regulations. Thus, the provision would state: ''The acts resulting in the conviction or similar acts, caused, or were intended to cause, a financial loss to a Government program or to one or more entities of $15,000 or more. (The entire amount of financial loss will be considered, including any amounts resulting from similar acts not adjudicated, regardless of whether full or partial restitution has been made).''

1001.102(b)(7) Aggravating Factor Related to Overpayments

We propose removing the aggravating factor relating to an individual or entity being overpaid by Medicare, Medicaid, or other Federal health care programs as a result of improper billings at § 1001.102(b)(7) because it is duplicative of § 1001.102(b)(1), which provides for an increase in the exclusion period for causing a financial loss to a Government program. In general, being overpaid by Federal health care programs for improper billings is substantially the same as causing a loss to a Government program. Therefore, we propose removing this aggravating factor. This change will require a renumbering of the remaining aggravating factors.

1001.102(b)(9), 1001.201(b)(2)(vi), 1001.301(b)(2)(vi), and 1001.401(c)(2)(v) Other Offenses and Adverse Actions

The aggravating factor set forth for various exclusion authorities at §§ 1001.102(b)(9), 1001.201(b)(2)(vi), 1001.301(b)(2)(vi), and 1001.401(c)(2)(v), which considers other offenses besides those that form the basis for the exclusions, involves two separate concepts: Convictions for offenses other than the one resulting in exclusion and adverse actions by governmental entities other than the one resulting in exclusion. Therefore, we propose separating this factor into two separate aggravating factors, renumbering them accordingly, and putting them both in the present perfect tense to more accurately reflect the purpose of the aggravating factor. Accordingly, new §§ 1001.102(b)(8), 1001.201(b)(2)(vi), 1001.301(b)(2)(vi), and 1001.401(c)(2)(v) would read: ''Whether the individual or entity has been convicted of other offenses besides those that formed the basis for the exclusion,'' and new §§ 1001.102(b)(9), 1001.201(b)(2)(vii), 1001.301(b)(2)(vii), and 1001.401(c)(2)(vi) would read: ''Whether the individual or entity has been the subject of any other adverse action by any Federal, State or local government agency or board, if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion.''

1001.102(c)(1) Mitigating Factor Relating to Misdemeanor Offenses and Loss to Government Programs

We propose updating this mitigating factor, which considers whether an individual or entity was convicted of three or fewer misdemeanor offenses and caused losses to Medicare or any other governmental health program of less than $1,500. First, we propose to clarify that this factor applies only to section 1128(a)(1) of the Act. This factor does not apply to section 1128(a)(2) of the Act because section 1128(a)(2) pertains to patient abuse and neglect, and financial loss is irrelevant. In addition, this mitigating factor does not apply to sections 1128(a)(3) and (4) because each of these exclusions requires a felony conviction. Finally, we propose to increase the loss amount to $5,000. We believe this updated amount is an appropriate threshold that is consistent with rationale behind the original amount.

1001.102(d) Effect of Additional Previous Convictions on Term of Exclusion

We propose correcting an inconsistency between the regulatory and statutory language with respect to section 1128(c)(3)(G) of the Act relating to increased minimum exclusion periods for repeat offenders. The statute requires a minimum 10-year period of exclusion for individuals who have been convicted on one previous occasion of one or more offenses for which an exclusion may be effected under section 1128(a) of the Act (whether or not an exclusion was ever imposed) and permanent exclusion for individuals convicted on two or more previous occasions. However, the current regulation at § 1001.102(d) provides for a minimum 10-year period of exclusion for individuals who have been convicted on one other occasion of one or more offenses for which an exclusion may be effected under section 1128(a) of the Act and permanent exclusion for individuals convicted on two or more other occasions. We propose replacing the word ''other'' with ''previous'' to be consistent with the statute and to clarify that if an individual has been previously convicted of an offense that would have mandated exclusion, regardless of whether the individual had been excluded previously, section 1128(c)(3)(G) of the Act requires OIG to exclude for a minimum 10-year period or permanently if the individual has been convicted on two or more previous occasions.

1001.201, 1001.301, 1001.401, 1001.501, 1001.601, 1001.701, 1001.801, 1001.951, 1001.1101, 1001.1201, 1001.1601, and 1001.1701 Mitigating Factor Relating to Alternative Sources

We propose removing the mitigating factor for determining the length of exclusion under various permissive exclusion authorities that considers whether alternative sources of the type of health care items or services furnished by the individual are not available. On the basis of our experience, we believe that this factor could be considered by OIG in determining whether a permissive exclusion should be imposed and whether a waiver is appropriate, but does not relate to the length of

exclusion. Therefore, we propose removing this factor.

1001.201(b)(3)(i) Mitigating Factor Relating to Other Offenses and Loss to Government Programs

As in § 1001.102(c)(1), we propose updating the mitigating factor relating to permissive exclusions by increasing the threshold financial loss amount OIG will consider as a mitigating factor under § 1001.201(b)(3)(i) to $5,000.

1001.301 Expanded Application of a Specific Permissive Exclusion Authority

Prior to ACA, section 1128(b)(2) of the Act permitted the Secretary to exclude any individual or entity that had been convicted of an offense in connection with the obstruction of an investigation into any criminal offense described under any of the mandatory exclusion authorities or under the permissive exclusion authority related to health care fraud or fraud in a governmental program. However, if an individual or entity was convicted of an offense in connection with the obstruction of an audit, the Secretary did not have a basis to exclude the individual or entity under section 1128(b)(2) of the Act. Section 6408(c) of ACA expanded the authority by allowing the Secretary to exclude an individual or entity that has been convicted of an offense in connection with the obstruction of an investigation or audit related to any criminal offense under the mandatory provisions of the exclusion statute; under the permissive provision related to health care fraud or fraud in a governmental program; or in cases when the investigation or audit related to the use of Federal health care program funds received, directly or indirectly. This new provision under ACA applies to acts committed on or after January 1, 2010.

Accordingly, we propose to revise § 1001.301 to reflect the changes in ACA by adding ''or audit'' to the title. In addition, we propose to add a new paragraph reflecting the changes made by section 6408 of ACA.

In addition, we propose adding the financial loss aggravating factor under the permissive exclusion authority related to obstruction of investigations and audits as permitted under section 1128(c)(3)(D) of the Act. The financial loss factor is considered by OIG under most of the mandatory exclusion authorities and other permissive exclusion authorities. Adding this aggravating factor would allow OIG to increase the period of exclusion if the acts, or similar acts, that resulted in the obstruction conviction caused a financial loss of $15,000 or more.

1001.401 Correction of a Cross-Reference for Aggravating and Mitigating Factors

We propose correcting a cross-reference within the regulatory language at § 1001.401(c). Specifically, § 1001.401(c) mistakenly states: ''The aggravating or mitigating factors listed in paragraphs (b)(2) and (b)(3) of this section,'' when it should state ''the aggravating or mitigating factors listed in paragraphs (c)(2) and (c)(3) of this section.''

1001.501 and 1001.601 Aggravating and Mitigating Factors Relating to Exclusions Based on the Loss of a Health Care License or Suspension or Exclusion by a Federal or State Health Care Program

We propose removing all the aggravating and mitigating factors found at §§ 1001.501(b) and 601(b), which permit OIG to lengthen periods of exclusion based on the loss of an individual's or entity's health care license and exclusion or suspension from a Federal or State health care program. Because exclusions under sections 1128(b)(4) and (b)(5) of the Act are derivative of a licensing board action or Federal or State health care program action, respectively, OIG generally imposes exclusions under these sections for the same period as that of the licensing board's or agency's action. As a result, individuals are generally eligible for reinstatement once they regain their health care licenses or are allowed to participate in the Federal or State health care program. Our proposed removal of these aggravating and mitigating factors would make the regulations consistent with OIG's general practice under these sections. In addition, because exclusions under § 1001.601 are based on actions by either a Federal or a State health care program, we would clarify § 1001.601(b) by adding references to Federal health care programs. Therefore, we propose to revise §§ 1001.501(b) and 1001.601(b) accordingly.

1001.501 Early Reinstatement

For several reasons, we are considering instituting a process for early reinstatement for individuals excluded under section 1128(b)(4) of the Act. OIG has discretionary authority to exclude individuals or entities under section 1128(b) of the Act. Specifically, section 1128(b)(4) of the Act permits OIG to exclude individuals from participation in all Federal health care programs because of the loss of their health care licenses for reasons bearing on their professional competence, professional performance, or financial integrity.

Prior to the enactment of section 1128(c)(3)(E) of the Act, the regulations allowed for reinstatement when an individual who had been excluded under section 1128(b)(4) of the Act due to the loss of a health care license in one State fully and accurately disclosed the circumstances surrounding this action to a licensing authority of a different State and when that State granted the individual or entity a new license or took no significant adverse action as to a currently held license. However, upon the enactment of section 1128(c)(3)(E) of the Act in 1997, this provision was removed from the regulations. Thus, under current regulations, an individual excluded under section 1128(b)(4) of the Act is not eligible to be reinstated to Federal health care programs until the license that was originally lost, in the same State where it was lost, has been restored.

Section 1128(g) of the Act allows an excluded individual to apply for reinstatement in the manner specified by the Secretary in regulations and at the minimum period of exclusion provided under paragraph (c)(3) and ''at such other times as the Secretary may provide.'' Moreover, courts have held that the purpose and effect of the exclusion period is remedial and is intended to protect the Federal health care programs from fraud and abuse and to protect citizens who rely on the integrity of program participants.

OIG excludes a significant number of individuals under section 1128(b)(4) of the Act. Many of these individuals either lose their licenses permanently, move to another State and obtain a license there, or do not intend to seek reinstatement of their health care license. Under current regulations, the excluded individuals may never become eligible for reinstatement even though the exclusion may no longer be necessary to protect patients or the programs. For example, we have seen many cases in which a medical board permanently revoked a physician's license, making that physician permanently ineligible for reinstatement. This permanent ineligibility exists under current regulations even though another State or another licensing board subsequently granted the physician a license. In addition, we regularly are contacted by individuals who have changed professions and never intend to regain their original licenses but for whom the exclusion is a permanent obstacle to practicing a new health-care related profession.

In contrast, OIG is required to exclude individuals or entities convicted of certain health-care-related offenses under section 1128(a) of the Act for a minimum of 5 years. Absent any aggravating factors, exclusions under the mandatory provisions of the Act require only a 5-year period of exclusion. Many permissive exclusions under section 1128(b)(4) of the Act result in permanent exclusions, even though the individuals were never charged with or convicted of criminal offenses. To serve the remedial purpose and intent of the statute, we are considering an alternative reinstatement process.

For special instances, such as when OIG imposes a permissive exclusion on the basis of a licensing board action and subsequently determines that the individual poses little or no threat to patients or the programs and when license reinstatement by the original licensing board is extremely unlikely, OIG is considering a process for ''early reinstatement'' pursuant to OIG's authority under section 1128(g) of the Act and the discretion inherent in the permissive exclusion provisions in section 1128(b) of the Act. Thus, we propose to amend the regulations to allow for early reinstatement, and to include a list of factors OIG will consider in determining whether early reinstatement is appropriate. Specifically, we would add a section entitled ''(c) Early Reinstatement,'' which would have two subparts. The first subpart would allow an excluded individual to request early reinstatement if, after fully and accurately disclosing the circumstances surrounding the original license action that formed the basis for the exclusion, the individual obtained a health care license, was allowed to retain a health care license in another State, or retained a different health care license in the same State. The second subpart would allow an excluded individual to request early reinstatement if he or she did not have a valid health care license of any kind provided that the individual could demonstrate that he or she would no longer pose a threat to Federal health care programs and their beneficiaries. In proposed § 1001.501, we state a number of factors OIG would consider in making this determination. We are also considering alternative approaches, and solicit comments on these and any additional factors that should be considered. For example, we are considering applying the same 3-year benchmark exclusion period that applies to other permissive exclusions under sections 1128(b)(1), (2), and (3) of the Act for exclusions under section 1128(b)(4) of the Act. The excluded individual would be eligible to apply for reinstatement when the 3-year period ends or when the individual regains his or her health care license, whichever comes first. We solicit comments on whether this approach would appropriately protect Federal health care programs and their beneficiaries.

1001.701, 1001.801, and 1001.1701 Correction of Subsection Headings

Throughout the regulations, the paragraph headings are italicized. However, in §§ 1001.701, 1001.801, and 1001.1701, paragraph headings were not italicized. We therefore propose to correct this omission. For example, paragraph heading (a) in all three sections would now be italicized and read as: ''(a) *Circumstance for exclusion.''*

1001.901(c) Period of Limitations on Affirmative Exclusions

To address questions regarding whether a limitations period applies to exclusions imposed under section 1128 of the Act, we propose adding paragraph (c) to § 1001.901, which would provide that there is no time limitation to exclusions imposed under this authority, even when the exclusion is based on violations of another statute that might have a specific limitations period. In 2002, we issued a final rule stating that we had proposed a regulation stating that there would be no time limitation on OIG's imposition of a program exclusion, that we had received comments on this proposal, and that the comments led us not to finalize the proposed regulation. *See* 67 FR 11928, 11929 (March 18, 2002).

We believe strong policy and legal justifications support our interpretation that there is no limitations period applicable to exclusions imposed under section 1128(b)(7) of the Act. The 2002 comments raised concerns that (1) if an exclusion is based on a violation of another statute, the individual or entity could be excluded for conduct that occurred years before and that does not bear on the person's current trustworthiness or integrity and (2) after the passage of significant time, evidence becomes difficult or impossible to gather. However, it is significant that no limitations period is specified in section 1128 of the Act. In addition, we do not believe that the reference in section 1128(b)(7) of the Act to other sections of the Act means that a limitations period applicable to another section of the Act should be incorporated into section 1128(b)(7). The referenced sections, which describe acts for which CMPs and criminal prosecutions may be pursued, do not include periods of limitations. Instead, section 1128A(c) sets forth a period of limitations for CMP actions and states that the ''Secretary may not initiate an action under this section'' more than 6 years after the underlying conduct. The criminal actions in section 1128B of the Act are limited by a period of limitations applicable to Federal noncapital criminal cases in 18 U.S.C. 3282.

We agree that, as a general matter, recent acts are more indicative of current trustworthiness than acts that took place in the distant past. Nevertheless, we believe that conduct that is more than 6 years old may sometimes form a proper basis to conclude that a person should be excluded. The age of the conduct is a factor in determining the weight the conduct should be afforded, not whether the exclusion should be imposed at all. We do not believe the passage of time will prejudice the person subject to exclusion. For example, exclusions under section 1128(b)(7) of the Act often arise in the context of related civil False Claims Act proceedings, because the elements of the False Claims Act are essentially identical to false claims provisions of section 1128A. Many False Claims Act cases are resolved through settlement or litigation significantly later than 6 years after the underlying conduct. In most cases, the OIG determines whether to seek an exclusion only when the settlement terms are set or there is a judgment. In most cases, the settlement resolves both False Claims Act and section 1128(b)(7) liability simultaneously in one settlement agreement. When determining whether to seek an exclusion under section 1128(b)(7), the OIG considers whether the provider has agreed to pay appropriate restitution, fines, or penalties and whether it will agree to appropriate compliance measures. See 62 **Federal Register** 67392 (December 24, 1997). Until a settlement agreement is reached, the OIG cannot know whether the provider will agree to make such payments or subject itself to appropriate compliance measures. Therefore, in most cases it makes sense for the OIG to decide whether to impose an exclusion based on the facts and circumstances at the time of the potential settlement. If the case does not settle and there is litigation under the False Claims Act, the OIG generally waits to see what the civil findings are before determining whether to seek an exclusion.

If section 1128(b)(7) is subject to a six year statute of limitations, then the OIG will often be forced to file exclusion actions prematurely. In False Claims Act cases where the conduct is 6 years old, the OIG may need to file a notice of proposed exclusion in order to toll the statute of limitations. Such an action would need to be taken without the benefit of knowing whether the defendant would agree to a settlement including appropriate payment and compliance measures. It may result in the exclusion of providers who otherwise might be deemed by the OIG to be trustworthy enough to participate in the programs. The filing of exclusion actions while False Claims Act cases are still pending would require the OIG, the defendant, and the DAB to devote resources to cases that would otherwise settle. Further, the filing of exclusion actions during the pendency of a False Claims Act investigation or settlement discussion may disrupt the civil case. Therefore, we believe that in such cases, it is appropriate for us to consider exclusion based on conduct that is more than 6 years old.

1001.1001 Exclusion of Entities Owned or Controlled by a Sanctioned Person

As described above, we propose to move all the definitions in § 1001.1001 to § 1001.2 to create a definition of ''ownership or control interest'' that applies to both the exclusions and CMP regulations. As a result of this removal, we propose to remove §§ 1001.1001(a)(1)(ii)(A) and (B) and revise paragraph (a)(2) to read as follows: ''(2) Such a person has a direct or indirect ownership or control interest in the entity or formerly held an ownership or control interest in the entity, but no longer holds an ownership or control interest because of a transfer of the interest to an immediate family member or a member of the person's household in anticipation of or following a conviction, assessment of a CMP, or imposition of an exclusion.''

1001.1051 Exclusion of Individuals With Ownership or Control Interest in Sanctioned Entities

With regard to exclusions imposed under section 1128(b)(15) of the Act, we propose clarifying the circumstances pertaining to the length of exclusion imposed on individuals with ownership or control interests in sanctioned entities to make the regulations more consistent with the statute. Specifically, we propose amending § 1001.1051(c)(1) to state that the length of the individual's exclusion will be for the same period as that of the sanctioned entity with which the individual has or had the prohibited relationship. We believe this proposed clarification would be consistent with the intent of the statute, which allows OIG to exclude individuals who have ownership or control interests in sanctioned entities. The proposed change would clarify that if an individual terminated the relationship with the sanctioned entity after it has been excluded, the individual would nonetheless remain excluded for the same period that the sanctioned entity is excluded.

1001.1201 Broadened Scope of a Permissive Exclusion Authority

Section 1128(b)(11) of the Act permits OIG to exclude an individual or entity ''furnishing items or services for which payment may be made'' under Medicare or a State health care program that fails to supply certain payment information as required by the Secretary or the State agency. Section 6406(c) of ACA broadened the scope of the permissive exclusion under section 1128(b)(11) of the Act by revising the first phrase as follows: ''Any individual or entity furnishing, ordering, referring for furnishing, or certifying the need for items or services. . . .'' Accordingly, we would amend § 1001.1201 by adding the phrase ''orders, refers for furnishing, or certifies the need for'' after ''furnishes.''

1001.1301 Exclusion for Failure To Grant Immediate Access

We propose several technical changes to this section. First, we clarify that OIG may request access to materials other than paper documents, such as electronically stored data, including any tangible thing upon which data is stored. This change conforms to clarifications made to the Inspector General's authorities in section 9 of the Inspector General Reform Act of 2008, Public Law 110–409. Second, we propose several technical changes to make the terms used in the regulation more consistent.

1001.1501 Exclusion for Default on Health Education Assistance Loans (HEAL Loans)

We propose to amend this section in two ways. First, it has come to OIG's attention that a significant amount of the health education-related financial assistance available to physicians, dentists, nurses, and other health care professionals from HHS is in the form of loan repayment programs (LRP). Under these programs, some of which are administered by the Indian Health Service, the National Health Service Corps, and the National Institutes of Health (NIH), a health care professional agrees to the service obligations required by the LRP in return for the repayment by the program of outstanding loan obligations incurred by the individual in connection with his or her health education. Although section 1128(b)(14) does not specifically refer to loan repayment programs, we have concluded that these programs fall within the scope of the statute. They are essentially a type of scholarship awarded by HHS after an individual's health education is completed rather than in advance, a scholarship in the form of loan repayment rather than an upfront payment of tuition. We believe that this interpretation is consistent with the broad language of the statute and with congressional intent in enacting section 1128(b)(14), which was to provide HHS with a significant remedy when those who have received health education assistance from an HHS program default on their repayment obligations. To clarify that section 1128(b)(14) also applies to those who default on LRP obligations, we propose to amend the regulation to specifically reference them.

In addition, we propose a technical amendment to this regulatory provision. The regulations currently reference the Public Health Service (PHS) as the organization responsible for determining whether an individual is in default on his or her loans or scholarship obligations. However, other HHS organizations, such as the Indian Health Service and NIH, also administer health education loans, scholarship programs, and loan repayment programs. Therefore, we propose amending the regulation to make it consistent with the broad language of the statute by replacing ''PHS'' with ''the administrator of the health education loan, scholarship, or loan repayment program,'' where applicable.

1001.1751 Establishment of a New Permissive Exclusion Authority

Section 6402(d) of ACA granted a new permissive exclusion authority to the Secretary under section 1128(b) of the Act. Under the newly enacted section 1128(b)(16) of the Act, the Secretary may exclude any individual or entity that knowingly makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, agreement, bid, or contract to participate or enroll as a provider of services or supplier under a Federal health care program. Accordingly, we propose adding a new section at § 1001.1751 entitled ''Making false statements or misrepresentation of material facts.'' Under this proposal, we would determine whether to impose an

exclusion under this section on the basis of information from various sources, including, but not limited to, the Centers for Medicare & Medicaid Services (CMS), Medicaid State agencies, fiscal agents or contractors, private insurance companies, State or local licensing or certification authorities, and law enforcement agencies. In determining the period of exclusion, we propose to consider what the repercussions of the false statement are and whether the individual or entity has a documented history of criminal, civil, or administrative wrongdoing.

1001.1801 Expansion of Waiver Provisions in MMA and ACA

Prior to MMA, OIG could consider waiver requests made under section 1128(c)(3)(B) of the Act and § 1001.1801 of the regulations for exclusions imposed under section 1128(a)(1) of the Act if the Secretary determined that the individual or entity was the sole community physician or sole source of essential specialized services in a community. Congress originally limited the possibility of waiver to those excluded under section 1128(a)(1) because the only other mandatory exclusion authority was section 1128(a)(2), which applied to convictions related to patient abuse or neglect. The legislative history indicates that Congress did not intend for exclusions imposed under section 1128(a)(2) to be waived.

HIPAA added sections 1128(a)(3) and (a)(4) of the Act, two new 5-year mandatory exclusion authorities. Section 949 of MMA updated the waiver provision of the Act to allow waiver requests for exclusions under sections 1128(a)(3) and 1128(a)(4) of the Act. In addition, section 949 of MMA permitted the administrator of a Federal health care program who determines that the exclusion would impose a hardship on a Medicare beneficiary to request a waiver. Section 6402(k) of ACA amended this hardship provision to permit the administrator of a Federal health care program to request a waiver if the administrator determines that exclusion would impose a hardship on *any* beneficiary eligible to receive items or services under a Federal health care program, thus removing MMA's requirement that an exclusion could be waived only if it imposed a hardship on Medicare beneficiaries.

The regulations have not been revised since before the enactment of MMA. In accordance with section 949 of MMA and section 6402(k) of ACA, we propose to revise § 1001.1801 to reflect these changes. With respect to individuals authorized to make a waiver request, we would remove references to the administrator of State health care programs and replace them with the administrator of ''Federal health care programs.'' In addition, we would amend § 1001.1801 to reflect the statutory change in MMA, which allows waiver requests to be made on behalf of individuals or entities excluded under sections 1128(a)(1), (a)(3), or (a)(4) of the Act. Lastly, we would amend § 1001.1801 to reflect that a Federal health care program administrator may request a waiver if the administrator determined that the exclusion would impose a hardship on any beneficiaries. Finally, we propose removing § 1001.1801(g) as it is no longer applicable.

1001.1901 Scope and Effect of Exclusion

Section 1862(e)(1) of the Act (42 U.S.C. 1395y(e)(1)) states that ''[n]o payment may be made under this title with respect to any item or service . . . furnished—(A) by an individual or entity during the period when such individual or entity is excluded . . . from participation in the program under this title; or (B) at the medical direction or on the prescription of a physician during the period when he is excluded . . . from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after notice has been furnished to the person).'' We propose to renumber § 1001.1901(b) to more closely track the numbering of section 1862(e)(1) of the Act.

We also propose to amend § 1001.1901(c) to make it more consistent with section 1862(e)(2) of the Act. Section 1862(e)(2) authorizes CMS to pay claims submitted by a Medicare enrollee, if otherwise payable, when the items or services are furnished by an excluded individual if the enrollee does not know or have reason to know of the exclusion. The statute requires Medicare to notify the enrollee and not to pay claims after a reasonable time after such notification. By its terms, the statute applies this exception to ''individual[s] eligible for benefits under this title.'' The current regulation, § 1001.1901(c), limits this payment exception to enrollees in Medicare Part B. This is most likely because at the time the regulation was promulgated, Parts C and D of Medicare had not been enacted and because enrollees do not submit claims under Medicare Part A. We propose to amend the regulation to make it applicable to enrollees in Parts C and D, as well as Part B.

While the statute was designed to provide some protection to Medicare enrollees who received items or services from a physician not knowing that the physician was excluded, we realize that the practical reach of the statute is quite limited since enrollees rarely submit claims directly to Medicare. Instead, claims are normally submitted by providers or suppliers, who then receive reimbursement directly from Medicare contractors. We are aware that Part D enrollees have at times been unable to refill prescriptions written by an excluded physician when the enrollee was unaware of the exclusion. However, since the pharmacy, not the enrollee, is submitting the claim for reimbursement to the Medicare Part D plan sponsor, we believe that section 1862(e)(1)(B) bars Medicare payments to the pharmacy for items prescribed by an excluded physician after a reasonable time period after notice to the pharmacy of the physician's exclusion. This statutory prohibition appears to apply regardless of whether the enrollee is aware of the exclusion. We realize that there are times when an enrollee whose prescription was written by a physician who was subsequently excluded may urgently need a prescription refill (for example, for blood pressure medication or insulin) and may be unable to see another physician quickly. We are concerned that in some cases, the resulting delay in getting medication could pose a risk to the enrollee's health. For this reason, we are soliciting comments on how, within the law, we could craft a regulation that would protect the enrollees in this limited circumstance.

1001.2001(b) Opportunity To Present Oral Argument

We propose allowing individuals or entities whom OIG proposes to exclude under the newly enacted section 1128(b)(16) of the Act to request an opportunity to present oral argument to an OIG official prior to imposition of the exclusion. This process is currently available to individuals who are considered for exclusion under section 1128(b)(6) of the Act and is set forth at § 1001.2001(b). Section 1128(b)(16) of the Act is similar to section 1128(b)(6) of the Act in that it requires OIG to make factual findings or determinations; therefore, we propose to also allow these individuals and entities to present oral argument. For this reason, we propose to amend § 1001.2001(b) to add a reference to § 1001.1751, the proposed regulation section for section 1128(b)(16) of the Act.

1001.2001–1001.2003 Notice of Intent To Exclude and Notice of Exclusion

Under the current regulations, when OIG proposes to exclude an individual or entity under sections 1128(b)(7), 1842(j)(1)(D)(iv) (42 U.S.C. 1395u(j)(1)(D)(iv)), or 1842(k)(1) of the Act, OIG is required to send both a written notice of its intent to exclude under § 1001.2001 and a notice of proposal under § 1001.2003. The notice of intent to exclude and the notice of proposed exclusion both allow the individual or entity to respond to OIG with written argument concerning whether the exclusion is warranted before the exclusion goes into effect. Because the notice of proposed exclusion allows the individual or entity to request a hearing with an ALJ, we believe it would be sufficient in these cases for OIG to issue only a notice of proposed exclusion. As a result, we propose modifying § 1001.2001 to eliminate the requirement that OIG send a written notice of intent to exclude prior to sending a notice of proposal to exclude. Correspondingly, we would add §§ 1001.901, 1001.951, 1001.1601, and 1001.1701, the applicable regulation sections pertaining to these exclusions, to the list of exceptions to the notice of intent to exclude in § 1001.2001(c).

In addition, consistent with longstanding practice, OIG will continue to mail the notices of intent to exclude and all other notices relating to the imposition of exclusion via first-class mail.

Section 1001.2001 currently uses the word ''proposes'' in connection with the notice of intent to exclude. We propose clarifying the language in § 1001.2001 to make it clear that the notice of intent to exclude under that paragraph is different from the notice of proposal to exclude under § 1001.2003 by replacing the word proposes with the word intends.

Finally, we propose to begin sending notices of intent to exclude individuals pursuant to section 1128(b)(14) of the Act. Section 1128(b)(14) provides that in determining whether to exclude a physician, OIG will consider access of beneficiaries to physician services. Thus, to allow physicians the opportunity to provide information about beneficiary access to physician services before the proposed exclusion goes into effect, we propose removing the reference to § 1001.1501, the applicable regulation section pertaining to exclusions under section 1128(b)(14) of the Act, from the list of exceptions in § 1001.2001(c).

As a result of these changes, § 1001.2001(c) would read as follows: ''(c) Exception. If OIG proposes to exclude an individual or entity under the provisions of §§ 1001.901, 1001.951, 1001.1301, 1001.1401, 1001.1601, or 1001.1701 of this part, paragraph (a) will not apply.''

1001.2004–1001.2006 Notice of Exclusion by HHS

We propose clarifying that HHS will notify State agencies, State licensing agencies, and the public about the exclusion actions it takes. In light of the following proposed revision requiring indirect providers, such as companies that manufacture or distribute pharmaceuticals or devices, to notify their customers of their exclusion, we propose clarifying that §§ 1001.2004 through 1001.2006 pertain to notice by HHS. Therefore, we propose renaming the headings to include the phrase ''Notice . . . by HHS.''

1001.3001 Reinstatement Procedures

Earlier in the preamble, we discussed our proposal to add, at § 1001.501(b) and § 1001.501(c), early reinstatement procedures for individuals excluded under section 1128(b)(4) of the Act. We therefore propose to add references to these regulation sections to the reinstatement procedures at § 1001.3001(a)(1) to accurately reflect all reinstatement procedures. Lastly, we propose renumbering § 1001.3001. Currently, subparagraphs (3) and (4) are placed under paragraph (a), which relates to timing of reinstatement, but subparagraphs (3) and (4) relate to method of request. We propose redesignating current subparagraphs (3) and (4) as new paragraphs (b) and (c) and redesignating the current paragraph (b) as paragraph (d).

1001.3002 Criteria for Reinstatement

We propose to clarify that the factors OIG will consider for a reinstatement determination, set forth at § 1001.3002(b), will be considered under § 1001.3002(a). We propose to add the following underlined language to § 1001.3002(b): ''In making the reinstatement determination *described in paragraph (a) of this section,* OIG will consider. . . .'' In addition, we propose amending the current language in § 1001.3002(b)(6) and renumbering it as § 1001.3002(b)(5) to clarify that even when an individual or entity has received a program provider number while excluded, OIG, in deciding whether to reinstate the individual or entity, may consider the fact that the individual or entity submitted claims or caused claims to be submitted while excluded.

1001.3005 Withdrawal of Exclusion

We propose clarifying that OIG will withdraw exclusions that are derivative of convictions that are later reversed or vacated on appeal. The reinstatement procedures currently provide for reinstatement in such situations, but our proposed change to § 1001.3005(a) would make clear that these reinstatements would be the result of OIG's withdrawal of the exclusion.

3. Changes to Part 1002

1002.1 Scope and Purpose

We propose to revise the list of authorities currently at § 1002.1 to clarify the statutory basis and scope of these regulations. In addition, we propose to add a new § 1002.2 to identify related Federal regulations that establish disclosure requirements for providers and State agencies and exclusion requirements for managed care organizations. This would require a renumbering of the current §§ 1002.2 and 1002.3 as §§ 1002.3 and 1002.4, respectively. Finally, we propose to simplify the description of Federal health care programs in § 1002.3(a) by removing the reference to Medicare and Medicaid, because both programs are included in the definition of ''Federal health care program.''

1002.4 Disclosure by Providers and State Medicaid Agencies

We propose to renumber § 1002.3 as § 1002.4 and amend it to clarify that the Medicaid agency may refuse to enter into or renew a provider agreement because of a criminal conviction related to any Federal health care program listed at section 1128 of the Act, not just to Medicare, Medicaid, or Title XX programs.

1002.5 State Plan Requirement

We propose to move the provisions currently found in § 1002.100 to a new section, § 1002.5.

1002.6 Payment Prohibitions

We propose to move the provisions currently found in § 1002.211 to a new section, § 1002.6, and to rename the new section ''Payment Prohibitions,'' which more accurately describes its contents.

1002.6(a) Conforming Change To Mirror Scope and Effect of Exclusion Section

We propose to amend new § 1002.6(a) to clarify that payment is prohibited for items or services furnished at the medical direction or on the prescription of an excluded physician or other

authorized individual. This revision conforms more closely to the language in revised § 1001.1901(b) defining the scope and effect of exclusion.

Subpart B—Rename as ''State Exclusion of Certain Managed Care Entities''

We propose to rename Subpart B of part 1002 (currently ''Mandatory Exclusion'') as ''State Exclusion of Certain Managed Care Entities'' to clarify that it pertains only to State exclusion of certain managed care entities and not more broadly to mandatory exclusions in general.

1002.203 Mandatory Exclusion

We propose to clarify that Federal regulations require States to exclude managed care organizations or entities that have ownership or control interests that could subject them to Federal exclusion by OIG. We also propose to update § 1002.203 by replacing the term ''HMO'' with the term ''managed care organization'' to more closely conform to the language of the Act at section 1902(p)(2) (42 U.S.C. 1396a(p)(2)). The BBA changed the terminology in Title XIX, using the term ''managed care organization'' to refer to entities previously labeled ''health maintenance organizations''(HMOs).

Subpart C—Rename as ''Procedures for State-Initiated Exclusions''

We propose to rename Subpart C (currently ''Permissive Exclusions'') as ''Procedures for State-Initiated Exclusions'' to clarify that it pertains to procedures for State-initiated exclusions.

4. Changes to Part 1006

1006.1 Testimonial Subpoena Authority in Section 1128 Cases

Section 6402(e) of ACA granted the Secretary testimonial subpoena authority in investigations of section 1128 cases at section 1128(f)(4) of the Act. Prior to the enactment of ACA, OIG's testimonial subpoena authority was limited to cases in which OIG was pursuing CMPs under section 1128A of the Act. The expanded testimonial subpoena authority gives OIG an additional investigative tool under section 1128 of the Act for pursuing exclusions for conduct such as submitting improper claims.

In accordance with section 6402(e) of ACA, we propose to revise § 1006.1 of these proposed regulations to include a reference to the newly enacted section 1128(f)(4) of the Act and add ''section 1128'' to § 1006.1(b) to reflect that OIG may issue testimonial subpoenas in investigations of potential cases involving the exclusion statute.

III. Regulatory Impact Statement

We have examined the impact of this proposed rule as required by Executive Order 12866, the Regulatory Flexibility Act (RFA) of 1980, the Unfunded Mandates Reform Act of 1995, and Executive Order 13132.

Executive Order Nos. 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulations are necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866. A regulatory impact analysis must be prepared for major rules with economically significant effects, *i.e.,* $100 million or more in any given year. This is not a major rule as defined at 5 U.S.C. 804(2); it is not economically significant because it does not reach that economic threshold.

This proposed rule is designed to propose implementation of new statutory provisions, including new exclusion authorities. It is also designed to clarify the intent of existing statutory requirements. The vast majority of providers and Federal health care programs would be minimally impacted, if at all, by these proposed revisions.

The proposed changes to the exclusion regulations would have little economic impact. On average, OIG excludes approximately 3,500 health care providers per year. Historically, fewer than 10 waivers of exclusion have been granted in any given year, and fewer than two falls affirmative exclusion cases are filed in court. Thus, we believe that any aggregate economic effect of the proposed exclusion regulatory provisions would be minimal. Additionally, over the past 3 fiscal years, OIG has on average returned approximately $16.6 million per year to the Medicare Trust Fund. This return under the $100 million threshold.

Accordingly, we believe that the likely aggregate economic effect of these regulations would be significantly less than $100 million.

Regulatory Flexibility Act

The RFA and the Small Business Regulatory Enforcement and Fairness Act of 1996, which amended the RFA, require agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and Government agencies. Most providers are considered small entities by having revenues of $5 million to $25 million or less in any one year. For purposes of the RFA, most physicians and suppliers are considered small entities.

The aggregate economic impact of the exclusion provisions on small entities would be minimal, directly affecting only those limited number of excluded individuals and entities that are sole community physicians or sole sources of essential specialized services in the community. We believe any resulting impact would be a positive one on the health care community.

In summary, we have concluded that this proposed rule should not have a significant impact on the operations of a substantial number of small providers and that a regulatory flexibility analysis is not required for this rulemaking.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditures in any one year by State, local, or tribal Governments, in the aggregate, or by the private sector, of $110 million. As indicated above, these proposed revisions comport with statutory amendments and clarify existing law. As a result, we believe that there would be no significant costs associated with these proposed revisions that would impose any mandates on State, local, or tribal Governments or the private sector, that will result in an expenditure of $110 million or more (adjusted for inflation) per year and that a full analysis under the Unfunded Mandates Reform Act is not necessary.

Executive Order 13132

Executive Order 13132, Federalism, establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirements or costs on State and local Governments, preempts State law, or otherwise has Federalism implications. In reviewing this rule under the threshold criteria of Executive Order 13132, we have determined that this proposed rule would not significantly

affect the rights, roles, and responsibilities of State or local Governments.

IV. Paperwork Reduction Act

These proposed changes to Parts 1000, 1001, 1002 and 1006 impose no new reporting requirements or collections of information. Therefore, a Paperwork Reduction Act review is not required.

List of Subjects

42 CFR Part 1000

Administrative practice and procedure, Grant programs—health, Health facilities, Health professions, Medicaid, Medicare.

42 CFR Part 1001

Administrative practice and procedure, Fraud, Grant programs—health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare.

42 CFR Part 1002

Fraud, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping.

42 CFR Part 1006

Administrative practice and procedure, Fraud, Investigations, Penalties.

Accordingly, 42 CFR parts 1000, 1001, 1002, and 1006 are proposed to be amended as set forth below:

PART 1000—INTRODUCTION: GENERAL DEFINITIONS

■ 1. The authority citation for part 1000 continues to read as follows:

Authority: 42 U.S.C. 1320 and 1395hh.

■ 2. Section 1000.10 is amended by:
■ a. Republishing the introductory text
■ b. Adding a definition of ''ALJ'';
■ c. Revising the definition of ''Directly'';
■ d. Adding a definition of ''Exclusion'';
■ e. Revising the definitions of ''Furnished'', ''Indirectly'', ''QIO'', and ''Secretary''; and
■ f. Adding definitions of ''State'' and ''State health care program''.

The additions and revisions read as follows:

§ 1000.10 General definitions.

In this chapter, unless the context indicates otherwise—

* * * * *

ALJ means an Administrative Law Judge.

* * * * *

Directly, as used in the definition of ''furnished'' in this section, means the provision or supply of items and services by individuals or entities (including items and services provided or supplied by them, but manufactured, ordered, or prescribed by another individual or entity) who request or receive payment from Medicare, Medicaid, or other Federal health care programs.

* * * * *

Exclusion means that items and services furnished, ordered, or prescribed by a specified individual or entity will not be reimbursed under Medicare, Medicaid, or any other Federal health care programs until the individual or entity is reinstated by the OIG.

* * * * *

Furnished refers to items or services provided or supplied, directly or indirectly, by any individual or entity.

* * * * *

Indirectly, as used in the definition of ''furnished'' in this section, means the provision or supply of items and services manufactured, distributed, supplied, or otherwise provided by individuals or entities that do not directly request or receive payment from Medicare, Medicaid, or other Federal health care programs, but that provide items and services to providers, practitioners, or suppliers who request or receive payment from these programs for such items and services.

* * * * *

QIO means a quality improvement organization as that term is used in section 1152 of the Act (42 U.S.C. 1320c-1) and its implementing regulations.

Secretary means the Secretary of the Department or his or her designees.

* * * * *

State includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

State health care program means:

(1) A State plan approved under Title XIX of the Act (Medicaid),

(2) Any program receiving funds under Title V of the Act or from an allotment to a State under such title (Maternal and Child Health Services Block Grant program),

(3) Any program receiving funds under subtitle A of Title XX of the Act or from any allotment to a State under such subtitle (Block Grants to States for Social Services), or

(4) A State child health plan approved under Title XXI (Children's Health Insurance Program).

* * * * *

§§ 1000.20 and 1000.30 [Removed]

■ 3. Sections 1000.20 and 1000.30 are removed.

PART 1001—PROGRAM INTEGRITY—MEDICARE AND STATE HEALTH CARE PROGRAMS

■ 5. The authority citation for part 1001 is revised to read as follows:

Authority: 42 U.S.C. 1302; 1320a–7; 1320a–7b; 1395u(j); 1395u(k); 1395w–104(e)(6), 1395y(d); 1395y(e); 1395cc(b)(2)(D), (E), and (F); 1395hh; 1842(j)(1)(D)(iv), 1842(k)(1), and sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

■ 6. Section 1001.2 is amended by:
■ a. Adding introductory text;
■ b. Adding a definition of ''Agent'';
■ c. Redesignating paragraphs (a) and (b) under ''Controlled substance'' as paragraphs (1) and (2), paragraphs (a) through (d) under ''Convicted'' as paragraphs (1) through (4) (and (a)(1) and (2) as (1)(i) and (ii));
■ d. Removing the definition of ''Exclusion'';
■ e. Adding definitions of ''Immediate family member'', ''Indirect ownership interest'', ''Managing employee'', ''Member of household'';
■ f. Removing the definition of ''OIG'';
■ g. Adding definitions of ''Ownership interest'' and ''Ownership or control interest''; and
■ h. Removing the definitions of ''QIO'' and ''State health care program''.

The additions read as follows:

§ 1001.2 Definitions.

For purposes of this part:

Agent means any person who has express or implied authority to obligate or act on behalf of an entity.

* * * * *

Immediate family member means a person's husband or wife; natural or adoptive parent; child or sibling; stepparent, stepchild, stepbrother or stepsister; father-, mother-, daughter-, son-, brother- or sister-in-law; grandparent or grandchild; or spouse of a grandparent or grandchild.

* * * * *

Indirect ownership interest includes an ownership interest through any other entities that ultimately have an ownership interest in the entity in issue. (For example, an individual has a 10-percent ownership interest in the entity at issue if he or she has a 20-percent ownership interest in a corporation that wholly owns a subsidiary that is a 50-percent owner of the entity in issue.)

Managing employee means an individual (including a general manager, business manager, administrator or director) who exercises

operational or managerial control over the entity or part thereof or directly or indirectly conducts the day-to-day operations of the entity or part thereof.

Member of household means, with respect to a person, any individual with whom the person is sharing a common abode as part of a single family unit, including domestic employees and others who live together as a family unit. A roomer or boarder is not considered a member of household.

* * * * *

Ownership interest means an interest in:

(1) The capital, the stock, or the profits of the entity, or

(2) Any mortgage, deed, trust or note, or other obligation secured in whole or in part by the property or assets of the entity.

Ownership or control interest means, with respect to an entity, a person who

(1) Has a direct or an indirect ownership interest (or any combination thereof) of 5 percent or more in the entity,

(2) Is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property assets thereof, if such interest is equal to or exceeds 5 percent of the total property and assets of the entity;

(3) Is an officer or a director of the entity;

(4) Is a partner in the entity if the entity is organized as a partnership;

(5) Is an agent of the entity; or

(6) Is a managing employee of the entity.

* * * * *

■ 7. Section 1001.101 is amended by republishing the introductory text and by revising paragraph (d) to read as follows:

§ 1001.101 Basis for liability.

The OIG will exclude any individual or entity that—

* * * * *

(d) Has been convicted, under Federal or State law, of a felony that occurred after August 21, 1996, relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance, as defined under Federal or State law. This applies to any individual or entity that—

(1) Is now, or was at the time of the offense, a health care practitioner, provider, or supplier or furnished or furnishes items or services;

(2) Holds, or held at the time of the offense, a direct or an indirect ownership or control interest in an entity that furnished or furnishes items or services or is, or has ever been, an officer, a director, an agent or a managing employee of such an entity; or

(3) Is now, or was at the time of the offense, employed in any capacity in the health care industry.

■ 8. Section 1001.102 is amended by:

■ a. Republishing paragraph (b) introductory text;

■ b. Revising paragraph (b)(1);

■ c. Removing paragraph (b)(7);

■ d. Redesignating paragraph (b)(8) as paragraph (b)(7);

■ e. Redesignating paragraph (b)(9) and paragraph (b)(8) and revising it;

■ f. Adding new paragraph (b)(9);

■ g. Republishing paragraph (c) introductory text;

■ h. Revising paragraph (c)(1); and

■ i. Revising paragraph (d).

The revisions read as follows:

§ 1001.102 Length of exclusion.

* * * * *

(b) Any of the following factors may be considered to be aggravating and a basis for lengthening the period of exclusion—

(1) The acts resulting in the conviction, or similar acts, caused, or were intended to cause, a financial loss to a government agency or program or to one or more other entities of $15,000 or more. (The entire amount of financial loss to such government agencies or programs or to other entities, including any amounts resulting from similar acts not adjudicated, will be considered regardless of whether full or partial restitution has been made);

* * * * *

(7) The individual or entity has previously been convicted of a criminal offense involving the same or similar circumstances;

(8) The individual or entity has been convicted of other offenses besides those that formed the basis for the exclusion; or

(9) The individual or entity has been the subject of any other adverse action by any Federal, State or local government agency or board if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion.

* * * * *

(c) Only if any of the aggravating factors set forth in paragraph (b) of this section justifies an exclusion longer than 5 years, may mitigating factors be considered as a basis for reducing the period of exclusion to no less than 5 years. Only the following factors may be considered mitigating—

(1) In the case of an exclusion under § 1001.101(a), whether the individual or entity was convicted of three or fewer misdemeanor offenses and the entire amount of financial loss (both actual loss and intended loss) to Medicare or any other Federal, State, or local governmental health care program due to the acts that resulted in the conviction, and similar acts, is less than $5,000;

* * * * *

(d) In the case of an exclusion under this subpart, based on a conviction occurring on or after August 5, 1997, an exclusion will be—

(1) Not less than 10 years if the individual has been convicted on one previous occasion of one or more offenses for which an exclusion may be effected under section 1128(a) of the Act. (The aggravating and mitigating factors in paragraphs (b) and (c) of this section can be used to impose a period of time in excess of the 10-year mandatory exclusion) or

(2) Permanent if the individual has been convicted on two or more previous occasions of one or more offenses for which an exclusion may be effected under section 1128(a) of the Act.

■ 9. Section 1001.201 is amended by:

■ a. Republishing paragraph (b)(1) introductory text;

■ b. Revising paragraphs (b)(2)(i) and (vi);

■ c. Adding paragraph (b)(2)(vii);

■ d. Republishing paragraph (b)(3) introductory text;

■ e. Revising paragraphs (b)(3)(i) through (iii); and

■ f. Removing paragraph (b)(3)(iv).

The revisions and addition read as follows:

§ 1001.201 Conviction relating to program or health care fraud.

* * * * *

(b) *Length of exclusion.* (1) An exclusion imposed in accordance with this section will be for a period of 3 years, unless aggravating or mitigating factors listed in paragraphs (b)(2) and (b)(3) of this section form a basis for lengthening or shortening that period.

(2) Any of the following factors may be considered to be aggravating and a basis for lengthening the period of exclusion—

(i) The acts resulting in the conviction, or similar acts, caused or reasonably could have been expected to cause, a financial loss of $15,000 or more to a government agency or program or to one or more other entities or had a significant financial impact on program beneficiaries or other individuals. (The entire amount of financial loss will be considered, including any amounts resulting from similar acts not adjudicated, regardless

of whether full or partial restitution has been made);

* * * * *

(vi) Whether the individual or entity has been convicted of other offenses besides those that formed the basis for the exclusion; or

(vii) Whether the individual or entity has been the subject of any other adverse action by any Federal, State, or local government agency or board if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion.

(3) Only the following factors may be considered as mitigating and a basis for reducing the period of exclusion—

(i) The individual or entity was convicted of three or fewer offenses, and the entire amount of financial loss (both actual loss and reasonably expected loss) to a government agency or program or to other individuals or entities due to the acts that resulted in the conviction and similar acts is less than $5,000;

(ii) The record in the criminal proceedings, including sentencing documents, demonstrates that the court determined that the individual had a mental, an emotional, or a physical condition, before or during the commission of the offense, that reduced the individual's culpability; or

(iii) The individual's or entity's cooperation with Federal or State officials resulted in—

(A) Others being convicted or excluded from Medicare, Medicaid, or any other Federal health care program;

(B) Additional cases being investigated or reports being issued by the appropriate law enforcement agency identifying program vulnerabilities or weaknesses; or

(C) The imposition of a civil money penalty against others.

■ 10. Section 1001.301 is amended by:

■ a. Revising the section heading

■ b. Revising paragraph (a);

■ c. Republishing paragraphs (b)(1) and (2);

■ d. Revising paragraphs (b)(2)(i), (ii), and (vi);

■ e. Adding paragraphs (b)(2)(vii) and (viii);

■ f. Republishing the paragraph (b)(3) introductory text;

■ g. Revising paragraphs (b)(3)(i) and (ii); and

■ h. Removing (b)(3)(iii).

The revisions and addition read as follows:

§ 1001.301 Conviction relating to obstruction of an investigation or audit.

(a) *Circumstance for exclusion.* The OIG may exclude an individual or entity that has been convicted, under Federal or State law, in connection with the interference with or obstruction of any investigation or audit related to:

(1) Any offense described in § 1001.101 or § 1001.201; or

(2) The use of funds received, directly or indirectly, from any Federal health care program (as defined in section 1128(B)(f) of the Act).

(b) *Length of exclusion.* (1) An exclusion imposed in accordance with this section will be for a period of 3 years, unless aggravating or mitigating factors listed in paragraphs (b)(2) and (b)(3) of this section form the basis for lengthening or shortening that period.

(2) Any of the following factors may be considered to be aggravating and a basis for lengthening the period of exclusion—

(i) The interference or obstruction caused the expenditure of significant additional time or resources;

(ii) The interference or obstruction had a significant adverse mental, physical or financial impact on program beneficiaries or other individuals or on the Medicare, Medicaid or other Federal health care programs;

* * * * *

(vi) Whether the individual or entity has been convicted of other offenses besides those that formed the basis for the exclusion;

(vii) Whether the individual or entity has been the subject of any other adverse action by any Federal, State or local government agency or board if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion; or

(viii) The acts resulting in the conviction, or similar acts, caused, or reasonably could have been expected to cause, a financial loss of $15,000 or more to a government agency or program or to one or more other entities or had a significant financial impact on program beneficiaries or other individuals. (The entire amount of financial loss or intended loss identified in the investigation or audit will be considered, including any amounts resulting from similar acts not adjudicated, regardless of whether full or partial restitution has been made).

(3) Only the following factors may be considered to be mitigating and a basis for reducing the period of exclusion—

(i) The record of the criminal proceedings, including sentencing documents, demonstrates that the court determined that the individual had a mental, emotional, or physical condition, before or during the commission of the offense, that reduced the individual's culpability or

(ii) The individual's or entity's cooperation with Federal or State officials resulted in—

(A) Others being convicted or excluded from Medicare, Medicaid and all other Federal health care programs;

(B) Additional cases being investigated or reports being issued by the appropriate law enforcement agency identifying program vulnerabilities or weaknesses; or

(C) The imposition of a civil money penalty against others.

■ 11. Section 1001.401 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraphs (c) introductory text and (c)(2)(iv) and (v);

■ c. Adding paragraph (c)(2)(vi); and

■ d. Revising paragraph (c)(3).

The revisions and addition read as follows:

§ 1001.401 Conviction relating to controlled substances.

(a) *Circumstance for exclusion.* The OIG may exclude an individual or entity convicted under Federal or State law of a misdemeanor relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance, as defined under Federal or State law. This section applies to any individual or entity that—

(1) Is now, or was at the time of the offense, a health care practitioner, provider, or supplier or furnished or furnishes items or services;

(2) Holds, or held at the time of offense, a direct or indirect ownership or control interest in an entity that is a health care provider or supplier; or

(3) Is now, or was at the time of the offense, employed in any capacity in the health care industry.

* * * * *

(c) *Length of exclusion.* (1) An exclusion imposed in accordance with this section will be for a period of 3 years unless aggravating or mitigating factors listed in paragraphs (c)(2) and (3) of this section form a basis for lengthening or shortening that period.

(2) * * *

(iv) Whether the individual or entity has a documented history of criminal, civil, or administrative wrongdoing;

(v) Whether the individual or entity has been convicted of other offenses besides those that formed the basis for the exclusion; or

(vi) Whether the individual or entity has been the subject of any other adverse action by any Federal, State or local government agency or board if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion.

(3) Only the following factor may be considered to be mitigating and to be a basis for shortening the period of exclusion—Whether the individual's or entity's cooperation with Federal or State officials resulted in—

(i) Others being convicted or excluded from Medicare, Medicaid and all other Federal health care programs;

(ii) Additional cases being investigated or reports being issued by the appropriate law enforcement agency identifying program vulnerabilities or weaknesses; or

(iii) The imposition of a civil money penalty against others.

■ 12. Section 1001.501 is amended by revising paragraphs (b)(1) and (2) and adding paragraph (c) to read as follows:

§ 1001.501 License revocation or suspension.

* * * * *

(b) * * *

(1) Except as provided in paragraph (b)(2) of this section, an exclusion imposed in accordance with this section will not be for a period of time less than the period during which an individual's or entity's license is revoked, suspended, or otherwise not in effect as a result of, or in connection with, a State licensing agency action.

(2) When an individual or entity has been excluded under this section, the OIG will consider a request for reinstatement in accordance with § 1001.3001 if:

(i) The individual or entity obtains the license in the State where the license was originally revoked, suspended, surrendered, or otherwise lost or

(ii) The individual meets the conditions for early reinstatement set forth in paragraph (c) of this section.

(c) *Consideration of early reinstatement.* (1) If an individual or entity that is excluded in accordance with this section fully and accurately discloses the circumstances surrounding the action that formed the basis for the exclusion to a licensing authority of a different State or to a different licensing authority in the same State and that licensing authority grants the individual or entity a new license or has decided to take no adverse action as to a currently held license, the OIG will consider a request for early reinstatement. The OIG will consider the following factors in determining whether a request for early reinstatement under this paragraph (c)(1) will be granted:

(i) The circumstances that formed the basis for the exclusion;

(ii) Evidence that the second licensing authority was aware of the circumstances surrounding the action that formed the basis for the exclusion;

(iii) Whether the individual has demonstrated that he or she has satisfactorily resolved any underlying problem that caused or contributed to the basis for the initial licensing action;

(iv) The benefits to the Federal health care programs and program beneficiaries of early reinstatement;

(v) The risks to the Federal health care programs and program beneficiaries of early reinstatement;

(vi) Any additional or pending license actions in the same State or in any other State;

(vii) Any ongoing investigations involving the individual; and

(viii) All the factors set forth in § 1001.3002(b).

(2) If an exclusion has been imposed under this section and the individual does not have a valid health care license of any kind in any State, that individual may request the OIG to consider whether he or she may be eligible for early reinstatement. The OIG will consider the following factors in determining whether a request for early reinstatement under paragraph (c)(2) will be granted:

(i) The length of time the individual has been excluded. The OIG will apply a presumption against early reinstatement under this paragraph (c)(2) if the person has been excluded for less than 5 years;

(ii) The circumstances that formed the basis for the exclusion;

(iii) Whether the individual has demonstrated that he or she has satisfactorily resolved any underlying problem that caused or contributed to the basis for the initial licensing action;

(iv) The benefits to the Federal health care programs and program beneficiaries of early reinstatement;

(v) The risks to the Federal health care programs and program beneficiaries of early reinstatement;

(vi) Any additional or pending license actions in the same State or in any other State;

(vii) Any ongoing investigations involving the individual;

(viii) The reasons the individual is seeking reinstatement;

(ix) Whether the individual is seeking, or intends to seek, employment in an unlicensed health care position; and

(x) All the factors set forth in 1001.3002(b).

(3) Except for § 1001.3002(a)(1)(i), all the provisions of Subpart F (§§ 1001.3001 through 1001.3005) apply to early reinstatements under this section.

■ 13. Section 1001.601 is amended by revising paragraph (b)(2) to read as follows:

§ 1001.601 Exclusion or suspension under a Federal or State health care program.

* * * * *

(b) * * *

(2) If the individual or entity is eligible to apply for reinstatement in accordance with § 1001.3001 of this part and the sole reason why the State or Federal health care program denied reinstatement to that program is the existing exclusion imposed by the OIG as a result of the original State or Federal health care program action, the OIG will consider a request for reinstatement.

* * * * *

■ 14. Section 1001.701 is amended by revising the headings for paragraphs (a) and (c) and revising paragraphs (d)(2)(iv) and (d)(3) to read as follows:

§ 1001.701 Excessive claims or furnishing of unnecessary or substandard items and services.

(a) *Circumstance for exclusion.* * * *

* * * * *

(c) *Exceptions.* * * *

(d) * * *

(2) * * *

(iv) The violation resulted in financial loss to Medicare, Medicaid and any other Federal health care program of $15,000 or more; or

* * * * *

(3) Only the following factor may be considered mitigating and a basis for reducing the period of exclusion—Whether there were few violations and they occurred over a short period of time.

■ 15. Section 1001.801 is amended by revising the heading for paragraph (a), removing paragraph (c)(3)(ii), and redesignating paragraph (c)(3)(iii) as paragraph (c)(3)(ii).

The revision reads as follows:

§ 1001.801 Failure of HMOs and CMPs to furnish medically necessary items and services.

(a) *Circumstance for exclusion.* * * *

* * * * *

■ 16. Section 1001.901 is amended by adding paragraph (c) to read as follows:

§ 1001.901 False or improper claims.

* * * * *

(c) An exclusion under this section is neither time barred nor subject to any statute of limitations period, even when the exclusion is based on violations of another statute that may have a specified limitations period.

■ 17. Section 1001.951 is amended by revising paragraph (b)(2) to read as follows:

§ 1001.951 Fraud and kickback and other prohibited activities.

* * * * *

(b) * * *

(2) It will be considered a mitigating factor if—

(i) The individual had a documented mental, emotional, or physical

condition before or during the commission of the prohibited act(s) that reduced the individual's culpability for the acts in question; or

(ii) The individual's or entity's cooperation with Federal or State officials resulted in the—

(A) Sanctioning of other individuals or entities, or

(B) Imposition of a civil money penalty against others.

■ 18. Section 1001.1001 is amended by revising paragraph (a) introductory text, (a)(1), and (a)(2) to read as follows:

§ 1001.1001 Exclusion of entities owned or controlled by a sanctioned person.

(a) *Circumstance for exclusion.* The OIG may exclude an entity:

(1) If a person with a relationship with such entity—

(i) Has been convicted of a criminal offense as described in sections 1128(a) and 1128(b) (1), (2), or (3) of the Act;

(ii) Has had civil money penalties or assessments imposed under section 1128A of the Act; or

(iii) Has been excluded from participation in Medicare or any of the State health care programs and

(2) Such a person has a direct or indirect ownership or control interest in the entity, or formerly held an ownership or control interest in the entity, but no longer holds an ownership or control interest because of a transfer of the interest to an immediate family member or a member of the person's household in anticipation of or following a conviction, assessment of a CMP, or imposition of an exclusion.

* * * * *

■ 19. Section 1001.1051 is amended by revising paragraph (c)(1) to read as follows:

§ 1001.1051 Exclusion of individuals with ownership or control interest in sanctioned entities.

* * * * *

(c) * * *

(1) If the entity has been excluded, the length of the individual's exclusion will be for the same period as that of the sanctioned entity with which the individual has or had the prohibited relationship.

* * * * *

■ 20. Section 1001.1101 is amended by republishing paragraph (b) introductory text, revising paragraph (b)(4), removing paragraph (b)(5), and redesignating paragraph (b)(6) as paragraph (b)(5).

The revision reads as follows:

§ 1001.1101 Failure to disclose certain information.

* * * * *

(b) *Length of exclusion.* The following factors will be considered in determining the length of an exclusion under this section—

* * * * *

(4) Any other facts that bear on the nature or seriousness of the conduct; and

* * * * *

■ 21. Section 1001.1201 is amended by revising paragraph (a) introductory text, republishing paragraph (b) introductory text, revising paragraphs (b)(3) and (4), and removing paragraph (b)(5).

The revisions read as follows:

§ 1001.1201 Failure to provide payment information.

(a) *Circumstance for exclusion.* The OIG may exclude any individual or entity that furnishes, orders, refers for furnishing, or certifies the need for items or services for which payment may be made under Medicare or any of the State health care programs and that:

* * * * *

(b) *Length of exclusion.* The following factors will be considered in determining the length of an exclusion under this section—

* * * * *

(3) The amount of the payments at issue; and

(4) Whether the individual or entity has a documented history of criminal, civil, or administrative wrongdoing (The lack of any prior record is to be considered neutral).

* * * * *

■ 22. Section 1001.1301 is amended by revising paragraphs (a)(1)(iii) and (a)(3) to read as follows:

§ 1001.1301 Failure to Grant Immediate Access

(a) * * *

(1) * * *

(iii) The OIG for reviewing records, documents, and other material or data in any medium (including electronically stored information and any tangible thing) necessary to the OIG's statutory functions; or

* * * * *

(3) For purposes of paragraphs (a)(1)(iii) and (a)(1)(iv) of this section, the term–

Failure to grant immediate access means:

(A) The failure to produce or make available for inspection and copying the requested material upon reasonable request, or to provide a compelling reason why they cannot be produced, within 24 hours of such request, except when the OIG or State Medicaid Fraud Control Unit (MFCU) reasonably believes that the requested material is about to be altered or destroyed, and

(B) When the OIG or MFCU has reason to believe that the requested material is about to be altered or destroyed, the failure to provide access to the requested material at the time the request is made.

Reasonable request means a written request, signed by a designated representative of the OIG or MFCU and made by a properly identified agent of the OIG or a MFCU during reasonable business hours, where there is information to suggest that the person has violated statutory or regulatory requirements under Titles V, XI, XVIII, XIX, or XX of the Act. The request will include a statement of the authority for the request, the person's rights in responding to the request, the definition of ''reasonable request'' and ''failure to grant immediate access'' under part 1001, and the effective date, length, and scope and effect of the exclusion that would be imposed for failure to comply with the request, and the earliest date that a request for reinstatement would be considered.

* * * * *

■ 23. Section 1001.1501 is amended by revising paragraphs (a)(1) and (2) and (b) to read as follows:

§ 1001.1501 Default of health education loan or scholarship obligations.

(a) * * *

(1) Except as provided in paragraph (a)(4) of this section, the OIG may exclude any individual that the administrator of the health education loan, scholarship, or loan repayment program determines is in default on repayments of scholarship obligations or loans, or the obligations of any loan repayment program, in connection with health professions education made or secured in whole or in part by the Secretary.

(2) Before imposing an exclusion in accordance with paragraph (a)(1) of this section, the OIG must determine that the administrator of the health education loan, scholarship, or loan repayment program has taken all reasonable administrative steps to secure repayment of the loans or obligations. When an individual has been offered a Medicare offset arrangement as required by section 1892 of the Act, the OIG will find that all reasonable steps have been taken.

* * * * *

(b) *Length of exclusion.* The individual will be excluded until the administrator of the health education loan, scholarship, or loan repayment program notifies the OIG that the default has been cured or that there is no longer an outstanding debt. Upon such notice, the OIG will inform the individual of his or her right to apply for reinstatement.

■ 21. Section 1001.1601 is amended by republishing paragraph (b)(1) introductory text, revising paragraphs (b)(1)(iii) and (iv), and removing paragraph (b)(1)(v).

The revisions read as follows:

§ 1001.1601 Violations of the limitations on physician charges.

(b) *Length of exclusion.* (1) In determining the length of an exclusion in accordance with this section, the OIG will consider the following factors—

* * * * *

(iii) The amount of the charges that were in excess of the maximum allowable charges; and

(iv) Whether the physician has a documented history of criminal, civil, or administrative wrongdoing (the lack of any prior record is to be considered neutral).

* * * * *

■ 25. Section 1001.1701 is amended by republishing paragraph (c)(1) introductory text, revising paragraphs (c)(1)(iv) and (v), and removing paragraph (c)(1)(vi).

The revisions read as follows:

§ 1001.1701 Billing for services of assistant at surgery during cataract operations.

* * * * *

(c) *Length of exclusion.* (1) In determining the length of an exclusion in accordance with this section, the OIG will consider the following factors—

* * * * *

(iv) Whether approval for the use of an assistant was requested from the QIO or carrier; and

(v) Whether the physician has a documented history of criminal, civil, or administrative wrongdoing (the lack of any prior record is to be considered neutral).

* * * * *

■ 26. Section 1001.1751 is added to subpart C to read as follows:

§ 1001.1751 Making false statements or misrepresentation of material facts.

(a) *Circumstance for exclusion.* The OIG may exclude any individual or entity that it determines has knowingly made or caused to be made any false statement, omission, or misrepresentation of a material fact in any application, agreement, bid, or contract to participate or enroll as a provider of services or supplier under a Federal health care program (as defined in section 1128B(f)), including Medicare Advantage organizations under part C of Medicare, prescription drug plan sponsors under part D of Medicare, Medicaid managed care organizations, and entities that apply to participate as providers of services or suppliers in such managed care organizations and such plans.

(b) *Definition of ''material.''* For purposes of this section, the term ''material'' means having a natural tendency to influence or be capable of influencing the decision to approve or deny the request to participate or enroll as a provider of services or supplier under a Federal health care program.

(c) *Sources of information.* The OIG's determination under paragraph (a) of this section will be made on the basis of information from the following sources:

(1) CMS;

(2) Medicaid State agencies;

(3) Fiscal agents or contractors, or private insurance companies;

(4) Law enforcement agencies;

(5) State or local licensing or certification authorities;

(6) State or local professional societies; or

(7) Any other sources deemed appropriate by the OIG.

(d) *Length of exclusion.* In determining the length of an exclusion imposed in accordance with this section, the OIG will consider the following factors—

(1) What were the actual or potential repercussions of the false statement, omission, or misrepresentation of a material fact and

(2) Whether the individual or entity has a documented history of criminal, civil, or administrative wrongdoing.

■ 24. Section 1001.1801 is amended by revising paragraphs (a) and (b) and by removing paragraph (g).

The revisions read as follows:

§ 1001.1801 Waivers of exclusions.

(a) The OIG has the authority to grant or deny a request from the administrator of a Federal health care program (as defined in section 1128B(f) of the Act) that an exclusion from that program be waived with respect to an individual or entity, except that no waiver may be granted with respect to an exclusion under § 1001.101(b). The request must be in writing and from an individual directly responsible for administering the Federal health care program.

(b) With respect to exclusions under § 1001.101(a), (c), or (d), a request from a Federal health care program for a waiver of the exclusion will be considered only if the Federal health care program administrator determines that:

(1) The individual or entity is the sole community physician or the sole source of essential specialized services in a community; and

(2) The exclusion would impose a hardship on beneficiaries (as defined in section 1128A(i)(5) of the Act) of that program.

* * * * *

■ 25. Section 1001.1901 is amended by revising paragraphs (b), (c) introductory text, (c)(1), (c)(2), and (c)(4) to read as follows:

§ 1001.1901 Scope and effect of exclusion.

* * * * *

(b) *Effect of exclusion on excluded individuals and entities.* (1) Unless and until an individual or entity is reinstated into the Medicare, Medicaid, and other Federal health care programs in accordance with subpart F of this part, no payment will be made by Medicare, including Medicare Advantage and Prescription Drug Plans, Medicaid, or any other Federal health care program for any item or service furnished, on or after the effective date specified in the notice—

(i) By an excluded individual or entity; or

(ii) At the medical direction or on the prescription of a physician or an authorized individual who is excluded when the person furnishing such item or service knew, or had reason to know, of the exclusion.

(2) This section applies regardless of whether an individual or entity has obtained a program provider number or equivalent, either as an individual or as a member of a group, prior to being reinstated.

(3) An excluded individual or entity may not take assignment of an enrollee's claim on or after the effective date of exclusion.

(4) An excluded individual or entity that submits, or causes to be submitted, claims for items or services furnished during the exclusion period is subject to civil money penalty liability under section 1128A(a)(1)(D) of the Act and criminal liability under section 1128B(a)(3) of the Act and other provisions. In addition, submitting claims, or causing claims to be submitted or payments to be made, for items or services furnished, ordered, or prescribed, including administrative and management services or salary, may serve as the basis for denying reinstatement to the programs.

(c) *Exceptions to paragraph (b) of this section.* (1) If a Medicare enrollee submits an otherwise payable claim for items or services furnished by an excluded individual or entity, or under the medical direction or on the prescription of an excluded physician or authorized individual, after the effective date of exclusion, CMS, a Medicare Advantage Plan, or a Prescription Drug Plan will pay such claim submitted by

the enrollee and will immediately notify the enrollee of the exclusion.

(2) CMS, Medicare Advantage Plans, and Prescription Drug Plans will not pay an enrollee for items or services furnished by an excluded individual or entity, or under the medical direction or on the prescription of an excluded physician or other authorized individual, more than 15 days after the date on the notice to the enrollee.

* * * * *

(4) CMS will not pay any claims submitted by a supplier for items or services ordered or prescribed by an excluded provider for dates of service 15 days or more after the notice of the provider's exclusion was mailed to the supplier.

* * * * *

■ 29. Section 1001.2001 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 1001.2001 Notice of intent to exclude.

(a) Except as provided in paragraph (c) of this section, if the OIG intends to exclude an individual or entity in accordance with subpart C or this part, or in accordance with subpart B of this part where the exclusion is for a period exceeding five years, it will send a written notice of its intent, the basis for the proposed exclusion and the potential effect of exclusion. Within 30 days of receipt of notice, which can be deemed to be 5 days after the date on the notice, the individual or entity may submit documentary evidence and written argument concerning whether the exclusion is warranted and any related issues.

(b) If the OIG intends to exclude an individual or entity under the provisions of § 1001.701, § 1001.801, or § 1001.1751, in conjunction with the submission of documentary evidence and written argument, an individual or entity may request an opportunity to present oral argument to an OIG official.

(c) *Exception.* If the OIG intends to exclude an individual or entity under the provisions of § 1001.901, § 1001.951, § 1001.1301, § 1001.1401, § 1001.1601, or § 1001.1701 of this part, paragraph (a) of this section will not apply.

* * * * *

■ 30. Section 1001.2004 is amended by revising the section heading to read as follows:

1001.2004 Notice to State agencies by HHS.

* * * * *

■ 31. Section 1001.2005 is amended by revising the section heading to read as follows:

1001.2005 Notice to State licensing agencies by HHS.

* * * * *

■ 32. Section 1001.2006 is amended by revising the section heading to read as follows:

1001.2006 Notice to others regarding exclusion by HHS.

* * * * *

■ 33. Section 1001.3001 is amended by revising paragraphs (a)(1) and (2) and redesignating paragraphs (a)(3), (a)(4), and (b) as paragraphs (b), (c), and (d), respectively.

The revisions read as follows:

§ 1001.3001 Timing and method of request for reinstatement.

(a)(1) Except as provided in paragraph (a)(2) of this section or in § 1001.501(b)(2), § 1001.501(c), or § 1001.601(b)(4) of this part, an excluded individual or entity (other than those excluded in accordance with §§ 1001.1001 and 1001.1501) may submit a written request for reinstatement to the OIG only after the date specified in the notice of exclusion. Obtaining a program provider number or equivalent does not reinstate eligibility.

(2) An entity excluded under § 1001.1001 may apply for reinstatement prior to the date specified in the notice of exclusion by submitting a written request for reinstatement that includes documentation demonstrating that the standards set forth in § 1001.3002(c) have been met.

* * * * *

■ 34. Section 1001.3002 is amended by revising paragraphs (a), (b), and (c) introductory text to read as follows:

§ 1001.3002 Basis for reinstatement.

(a) The OIG will authorize reinstatement if it determines that—

(1) The period of exclusion has expired;

(2) There are reasonable assurances that the types of actions that formed the basis for the original exclusion have not recurred and will not recur; and

(3) There is no additional basis under sections 1128(a) or (b) or 1128A of the Act for continuation of the exclusion.

(b) In making the reinstatement determination described in paragraph (a) of this section, the OIG will consider—

(1) Conduct of the individual or entity occurring prior to the date of the notice of exclusion, if not known to the OIG at the time of the exclusion;

(2) Conduct of the individual or entity after the date of the notice of exclusion;

(3) Whether all fines and all debts due and owing (including overpayments) to any Federal, State, or local government that relate to Medicare, Medicaid, and all other Federal health care programs have been paid or satisfactory arrangements have been made to fulfill obligations;

(4) Whether CMS has determined that the individual or entity complies with, or has made satisfactory arrangements to fulfill, all the applicable conditions of participation or supplier conditions for coverage under the statutes and regulations;

(5) Whether the individual or entity has, during the period of exclusion, submitted claims, or caused claims to be submitted or payment to be made by any Federal health care program, for items or services the excluded party furnished, ordered, or prescribed, including health care administrative services. This section applies regardless of whether an individual or entity has obtained a program provider number or equivalent, either as an individual or as a member of a group, prior to being reinstated; and

(c) If the OIG determines that the criteria in paragraphs (a)(2) and (3) of this section have been met, an entity excluded in accordance with § 1001.1001 will be reinstated upon a determination by the OIG that the individual whose conviction, exclusion, or civil money penalty was the basis for the entity's exclusion—

* * * * *

■ 35. Section 1001.3005 is amended by revising the section heading and paragraph (a) introductory text to read as follows:

§ 1001.3005 Withdrawal of exclusion for reversed or vacated decisions.

(a) An exclusion will be withdrawn and an individual or entity will be reinstated into Medicare, Medicaid, and other Federal health care programs retroactive to the effective date of the exclusion when such exclusion is based on—

* * * * *

PART 1002—[AMENDED]

■ 36. The authority citation for part 1002 is revised to read as follows:

Authority: 42 U.S.C. 1302, 1320a–3, 1320a–5, 1320a–7, 1396(a)(4)(A), 1396a(p), 1396a(a)(39), 1396a(a)(41), and 1396b(i)(2).

■ 37. Section 1002.1 is revised to read as follows:

§ 1002.1 Basis and scope.

(a) *Statutory basis.* This part implements sections 1902(a)(4), 1902(a)(39), 1902(a)(41), 1902(p), 1903(i)(2), 1124, 1126, and 1128 of the Act.

(1) Under authority of section 1902(a)(4) of the Act, this part sets forth methods of administration and procedures the State agency must follow to exclude a provider from participation in the State Medicaid program. State-initiated exclusion from Medicaid may lead to OIG exclusion from all Federal health care programs.

(2) Under authority of sections 1124 and 1126 of the Act, this part requires the Medicaid agency to obtain and disclose to the OIG certain provider ownership and control information, along with actions taken on a provider's application to participate in the program.

(3) Under authority of sections 1902(a)(41) and 1128 of the Act, this part requires the State agency to notify the OIG of sanctions and other actions the State takes to limit a provider's participation in Medicaid.

(4) Section 1902(p) of the Act permits the State to exclude an individual or entity from Medicaid for any reason the Secretary can exclude and requires the State to exclude certain managed care entities that could be excluded by the OIG.

(5) Sections 1902(a)(39) and 1903(i)(2) of the Act prohibit State payments to providers and deny FFP in State expenditures for items or services furnished by an individual or entity that has been excluded by the OIG from participation in Federal health care programs.

(b) *Scope.* This part specifies certain bases upon which the State may, or in some cases must, exclude an individual or entity from participation in the Medicaid program and the administrative procedures the State must follow to do so. These regulations specifically address the authority of State agencies to exclude on their own initiative, regardless of whether the OIG has excluded an individual or entity under part 1001 of this chapter. In addition, this part delineates the States' obligation to obtain certain information from Medicaid providers and to inform the OIG of information received and actions taken.

§§ 1002.2 and 1002.3 [Redesignated as §§ 1002.3 and 1002.4]

■ 38. Sections 1002.2 and 1002.3 are redesignated as § 1002.3 and 1002.4, respectively.

■ 39. A new § 1002.2 is added to read as follows:

§ 1002.2 Other applicable regulations.

(a) Part 455, subpart B, of this title sets forth requirements for disclosure of ownership and control information to the State Medicaid agency by providers and fiscal agents.

(b) Part 438, subpart J, of this title sets forth payment and exclusion requirements specific to Medicaid managed care organizations.

■ 40. Newly designated § 1002.3 is amended by revising paragraph (a) to read as follows:

§ 1002.3 General authority.

(a) In addition to any other authority it may have, a State may exclude an individual or entity from participation in the Medicaid program for any reason for which the Secretary could exclude that individual or entity from participation in Federal health care programs under sections 1128, 1128A or 1866(b)(2) of the Act.

* * * * *

■ 41. Newly designated § 1002.4 is amended by revising paragraph (c)(1) to read as follows:

§ 1002.4 Disclosure by providers and State Medicaid agencies.

* * * * *

(c) * * *

(1) The Medicaid agency may refuse to enter into or renew an agreement with a provider if any person who has an ownership or control interest, or who is an agent or managing employee of the provider, in the provider has been convicted of a criminal offense related to that person's involvement in any program established under Medicare, Medicaid, Title V, Title XX, or Title XXI of the Act.

* * * * *

§ 1002.100 [Redesignated as § 1002.5]

■ 42. Section 1002.100 is redesignated as § 1002.5 in subpart A.

§ 1002.211 [Redesignated as § 1002.6]

■ 43. Section 1002.211 is redesignated as § 1002.6 in subpart A.

■ 44. Newly designated § 1002.6 is revised to read as follows:

§ 1002.6 Payment prohibitions.

(a) *Denial of payment by State agencies.* Except as provided for in §§ 1001.1901(c)(3), (c)(4), and (c)(5)(i) of this chapter, no payment may be made by the State agency for any item or service furnished on or after the effective date specified in the notice:

(1) by an individual or entity excluded by the OIG or

(2) at the medical direction or on the prescription of a physician or other authorized individual who is excluded by the OIG when a person furnishing such item or service knew, or had reason to know, of the exclusion.

(b) *Denial of Federal financial participation (FFP).* FFP is not available for any item or service for which the State agency is required to deny payment under paragraph (a) of this section. FFP will be available for items and services furnished after the excluded individual or entity is reinstated in the Medicaid program.

■ 45. The subpart heading for subpart B is revised to read as follows:

Subpart B—State Exclusion of Certain Managed Care Entities

■ 46. Section 1002.203 is amended by revising the section heading and paragraph (a) to read as follows:

§ 1002.203 State exclusion of certain managed care entities.

(a) The State agency, in order to receive FFP, must provide that it will exclude from participation any managed care organization (as defined in section 1903(m) of the Act), or entity furnishing services under a waiver approved under section 1915(b)(1) of the Act, if such organization or entity—

(1) Has a prohibited ownership or control relationship with any individual or entity that could subject the managed care organization or entity to exclusion under § 1001.1001 or § 1001.1051 of this chapter or

(2) Has, directly or indirectly, a substantial contractual relationship with an individual or entity that could be excluded under § 1001.1001 or § 1001.1051 of this chapter.

* * * * *

■ 47. The subpart heading for subpart C is revised to read as follows:

Subpart C—Procedures for State-Initiated Exclusions

■ 48. Section 1002.210 is amended by revising the section heading to read as follows:

§ 1002.210 General authority.

* * * * *

§ 1002.211 [Removed and Reserved]

■ 49. Section 1002.211 is removed and reserved.

PART 1006—[AMENDED]

■ 50. The authority citation for part 1006 is revised to read as follows:

Authority: 42 U.S.C. 405(d), 405(e), 1302, 1320a–7, and 1320a–7a.

■ 51. Section 1006.1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1006.1 Scope.

(a) The provisions in this part govern subpoenas issued by the Inspector General, or his or her delegates, in accordance with sections 205(d),

1128A(j), and 1128(f)(4) of the Act and require the attendance and testimony of witnesses and the production of any other evidence at an investigational inquiry.

(b) Such subpoenas may be issued in investigations under section 1128 or 1128A of the Act or under any other section of the Act that incorporates the provisions of sections 1128(f)(4) or 1128A(j).

* * * * *

Dated: January 7, 2014.

Daniel R. Levinson,

Inspector General.

Approved: January 16, 2014.

Kathleen Sebelius,

Secretary.

[FR Doc. 2014–10390 Filed 5–8–14; 8:45 am]

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